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**Author**

Kushner, James A.

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# The Reagan Urban Policy: Centrifugal Force in the Empire\*

James A. Kushner\*\*

## I.

### INTRODUCTION

Western cities, like their Eastern and Mid-western cousins, have experienced urbanization, growth, more growth and decentralization. Urbanologists suggest that the trend of urbanization followed by decentralization, the movement of the economic and population base to the suburbs and beyond, is a terminal urban condition.<sup>1</sup> While the Western cities do not display the distinct signs of distress exhibited by the older snow belt towns,<sup>2</sup> they are

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\*\* Professor of Law, Southwestern University. The author wishes to express gratitude to Roger S. Ahlbrandt, Jr., Robert Beaudry, Isidoro Berkman, Richard Gannon, Daniel R. Mandelker, Yale Rabin, and Bernice Urich, for their helpful comments on an earlier draft of this article. Responsibility for content must rest with the author.

1. Berry, *Urbanization and Counterurbanization in the United States*, 451 ANNALS 13 (1980); Drewitt, *Changing Urban Structures in Europe*, 451 ANNALS 52 (1980); Hall, *New Trends in Europe*, 451 ANNALS 52 (1980); Hall, *New Trends in European Urbanization*, 451 ANNALS 45 (1980); Rabin, *Federal Urban Transportation Policy and the Highway Planning Process in Metropolitan Areas*, 451 ANNALS 21 (1980) (Professor Rabin suggests that fundamental change in the system of land planning and control is necessary to achieve results different from the past). *But see* G. STERNLIEB & J. HUGHES, *ENERGY CONSTRAINTS AND DEVELOPMENT PATTERNS IN THE 1980'S* (1979) (holding out a ray of hope for revitalization).

2. The standards of physical and economic distress used by the Urban Development Action Grant (UDAG) program of HUD to determine which cities and urban counties are potentially eligible for funds include poverty level, income growth rate, population growth rate, age of housing and the unemployment rate. Under the current UDAG distress criteria: (1) 33.38% of year-round housing units must be pre-1940; (2) the net increase in per-capita income for the period 1969-1977 must be less than \$2,694; (3) the rate of population growth between 1960 and 1978 must be 17.78% or less; (4) there must have been an average rate of unemployment in 1979 of 5.64% or more; (5) the growth rate in retail and manufacturing employment from 1972-1977 cannot have increased more than 6.74%; and (6) the population below the poverty level on the 1970 census must have been at least 10.92%. *Updated UDAG Distress Standards Cut 35 Cities, Counties From Program*, 8 HOUS. & DEV. REP. (BNA) 948

nevertheless experiencing, in varying degrees, a growth of urban problems that unless checked could ripen into the pathology of the East.

While the cities and states are hardly blameless for allowing the fabric of their communities to unravel, the primary causes of urban decline have been the programs and policies of the federal government.<sup>3</sup> This pervasive role, often unwittingly portrayed by politicians and bureaucrats, whether democratic or republican, suggests that a reversal of policies will be required to counteract the effects of past initiatives. The policies and programs of the Reagan Administration, and what appears to be a Reagan-controlled Congress, will determine whether the trends of decentralization and decline will continue unabated, or whether sufficient changes in program and policy impact can counteract past trends and begin to repair the carnage of urban madness in the twentieth century.

Part II presents an overview of the historical pattern of community development since the advent of federal involvement in planning and development. The overview emphasizes the relocation of economic activities from the urban core to the suburban ring and from the snow belt to the sun belt and West, relocation which has resulted in urban distress and racial isolation. Part III presents a policy matrix of those matters that are critical to policies for urban revitalization. The matrix is offered primarily for ease of analysis and organization, since the concerns of the matrix are interrelated. The four offered areas are economic condition and revitalization, the physical city (focusing on housing and

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(1981); Distressed Communities, 24 C.F.R. § 570.452 (1981); Urban Development Action Grants; Revised Minimum Standards for Large Cities and Urban Counties, 46 Fed. Reg. 21,140 (1981).

The General Accounting Office has questioned the use of some of the UDAG distress criteria. It recommends using pre-1940 rental housing, as opposed to all housing, as it more accurately measures condition as well as age and thus is a better criterion for the UDAG program. It also recommends use of retail sales rather than retail employment as local unemployment statistics are unreliable. GENERAL ACCOUNTING OFFICE, CRITERIA FOR PARTICIPATION IN THE URBAN DEVELOPMENT ACTION GRANT PROGRAM SHOULD BE REFINED, CED-80-80 (Mar. 20, 1980). On the cause and nature of the financial problems that face cities, see CITIES UNDER STRESS: THE FISCAL CRISIS OF URBAN AMERICA (R. Burchell & D. Listokin eds. 1981).

3. J. KUSHNER, APARTHEID IN AMERICA (1980) [hereinafter cited as APARTHEID], also published as Kushner, *Apartheid in America: An Historical and Legal Analysis of Contemporary Racial Residential Segregation in the United States*, 22 HOW. L.J. 547 (1979); R. VAUGHAN, A. PASCAL, & M. VAIANA, THE URBAN IMPACTS OF FEDERAL POLICIES (1980) (Rand Corporation Report; 4 volume study emphasizing the pervasive role of federal housing policy).

neighborhood condition), transportation, and racial segregation. The article, in each area, will consider the potential impact of the still-emerging "Reagan" urban policy<sup>4</sup> and suggest the initiatives necessary to improve the national urban condition. Part IV will consider the federal role in urban land-use planning. Part V concludes that the Reagan urban policy is not likely to present the response to urban distress needed to revitalize urban areas and transform urban America.

## II.

### CHANGING CITIES: DECENTRALIZATION AND CENTRAL- CITY DECLINE

Federal involvement in urban development prior to the New Deal was limited to modest agricultural and homesteading policies,<sup>5</sup> the development of canals, roads and the rails,<sup>6</sup> and immigration policies that supplied the labor for the industrialization of America.<sup>7</sup> The New Deal established the principle of federal participation in the planning and implementation of programs to address the needs of states, cities and their inhabitants.<sup>8</sup>

When the affluent left the cities for the cleaner and quieter suburbs in the 1920s,<sup>9</sup> a new pattern of consumer preference calling for single-family housing with spacious lawns and quiet streets in the suburbs emerged. Policies were established and pursued with suburbanization as a goal. The Federal Housing Administration,<sup>10</sup> and later the Veterans Administration,<sup>11</sup> made homeown-

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4. Although subject to criticism for delay, in fairness to President Reagan, no urban policy has yet been unveiled. Letter from Roger S. Ahlbrandt, Jr., Deputy Assistant Secretary for Policy Development and Research, United States Department of Housing and Urban Development, to the author (Oct. 16, 1981). Nevertheless, a belief that "programs" don't work and a reliance on tax-cut generated economic activities to produce jobs and housing with a social safety net seems to be the Reagan program.

5. G. WRIGHT, *PERSPECTIVES ON NATIONAL GROWTH AND DEVELOPMENT: A COMPACT HISTORY* (1976), reprinted in part in D. HAGMAN, *PUBLIC PLANNING AND CONTROL OF URBAN AND LAND DEVELOPMENT* 64 (1980) [hereinafter cited as HAGMAN].

6. *Id.*

7. *Id.*; APARTHEID, *supra* note 3, at 11-13 n.25.

8. Lepawsky, *The Planning Apparatus: A Vignette of the New Deal*, 42 J. AM. INST. PLAN. 16 (1976); M. LEVIN, *COMMUNITY AND REGIONAL PLANNING* xiv-xvii (1977); WRIGHT, *supra* note 5 in HAGMAN, at 65.

9. APARTHEID, *supra* note 3, at 21 n.47.

10. *Id.* at 20-23.

11. *Id.*

ership accessible and affordable and encouraged the development of large suburban subdivisions where land could be assembled cheaply in large tracts. In addition, generous tax shelters in the form of interest payment deductions guaranteed a virtually unlimited market for suburban homes.<sup>12</sup>

Decentralization was (and is) limited by the range of transportation. As transportation progressed from walking to the horse and later to the electric car lines of old, the perimeter of the city expanded to the capacity defined by each system.<sup>13</sup> Two events, inaugurated and supervised by the federal government, served to radically alter the pattern of limited New Deal sprawl. First, under the Public Utility Holding Act of 1935,<sup>14</sup> the electric car lines, then owned and operated by the utility companies, were ordered to be divested.<sup>15</sup> Following this divestment, the General Motors Corporation, Firestone, Mack Truck, Phillips Petroleum, and Standard Oil of California, conspired to acquire and dismantle America's transit systems and replace them with inefficient G.M. and Mack Buses, which were fueled by Standard and Phillips and rolled along on Firestones. The industrial giants provided capital to the National Car Lines Company in exchange for exclusive purchase contracts. Before the Justice Department was able to stop the combination, dismantled systems in forty-six cities had resulted. Eventually convicted of criminal Sherman Act anti-trust violations,<sup>16</sup> the companies were slapped on the hand with \$5,000 fines, and their culpable executives fined \$1 apiece.<sup>17</sup> What the Justice Department could not or would not see was that urban boundaries were now nearly limitless and the public was forced to turn to automobiles for its transportation. Buses, though no longer limited to rails or electric cables, provided access to the most distant suburbs<sup>18</sup> but failed to offer an efficient system to

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12. *Id.* at 56-57.

13. De Sola Pool, *Communications Technology and Land Use*, 451 ANNALS 1, 5 (1980) (citing H.G. WELLS, ANTICIPATIONS).

14. 15 U.S.C. §§ 79-79z-6 (1981).

15. Kwitny, *The Great Transportation Conspiracy*, HARPER'S, Feb. 1981, at 14-21 [hereinafter cited as *Conspiracy*]; Kwitny, *How Mass Transit Fell Prey to GM*, Kansas City Star, Feb. 8, 1981, at 35-38 [hereinafter cited as *Mass Transit*].

16. United States v. National City Lines, Inc., 186 F.2d 562 (7th Cir. 1951), cert. denied, 341 U.S. 916 (1951). See generally B. Snell, *American Ground Transport*, presented to the SENATE SUBCOMM. ON ANTITRUST AND MONOPOLY OF THE SENATE COMM. ON THE JUDICIARY, 93rd Cong., 2d Sess. 28-35 (Comm. Print 1974); *Conspiracy*, supra note 15, at 15; *Mass Transit*, supra note 15 at 35A.

17. *Conspiracy*, supra note 15, at 21.

18. *Mass Transit*, supra note 15.

reach the sprawl of suburbia.

The second event inaugurated and supervised by the federal government was the construction of the Interstate Highway System. Initially planned as a defense precaution, these highways provided highly-subsidized access to the outer city, thus stimulating additional sprawl. As the sprawl continued, industry moved to the suburbs,<sup>19</sup> and shopping centers and malls arose to satisfy the needs of the decentralized metropolis. Diminished densities made mass transportation increasingly inefficient<sup>20</sup> as the number of lines and the frequency of operation diminished with slackening demand.

To further complicate urban problems, the racially-segregating policies of the federal government promised that developing communities would be segregated by race. This was accomplished first by the Federal Housing Administration's requirement that the suburban subdivisions be racially homogeneous.<sup>21</sup> This distinct brand of "separate but equal"<sup>22</sup> was imposed by requiring developers to use racially restrictive covenants that prevented sales to Blacks.<sup>23</sup> These policies compounded the race problem by assuring that all public housing and war housing would be located in concentrated and segregated neighborhoods. Prior to the construction of war housing, Los Angeles, San Diego, San Francisco, Richmond and Portland had very small black populations and virtually no segregation;<sup>24</sup> these cities are now segregated partly because of these policies.

When the factor of race is superimposed on that of developing decentralization, one can see that policies and programs at all levels of government and private sector activity have a centrifugal

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19. APARTHEID, *supra* note 3, at 23-25 (between 1960 and 1970 suburban jobs increased 44% while central city jobs declined 7%); Kushner, *Urban Transportation Planning*, 4 URB. L. & POL'Y 161, 162 (1981); Rabin, *Highways as a Barrier to Equal Access*, 407 ANNALS 63 (1973).

20. See Section IIIC *infra* for a discussion of the transportation problem.

21. APARTHEID, *supra* note 3, at 21-22. Prior to 1947 the FHA rules specified racial segregation. Section 980(3) of the 1938 FHA *Underwriting Manual* contained a model racially-restrictive covenant. Dean, *Only Caucasian: A Study of Race Covenants*, 23 J. LAND & PUB. UTIL. ECON. 428, 430-31 (1947).

22. *Plessy v. Ferguson*, 163 U.S. 537 (1896) (allowing segregated railroad accommodations). Invariably, the concept was a thinly disguised scheme where separate was the rule and equal was non-existent. There were very few black subdivisions developed. APARTHEID, *supra* note 3, at 21-22, 68-70.

23. APARTHEID, *supra* note 3, at 16-20.

24. APARTHEID, *supra* note 3, at 30-32. See also, R. WEAVER, *THE NEGRO GHETTO* (1948).

tendency,<sup>25</sup> that is, they tend to stimulate more outward movement and sprawl and produce a segregating effect. It is conceivable, however, that policies could provide a centralizing factor, which could be called a centripetal force, as well as an integrating impact.

These major federal programs set into motion effects which then became causes in an endless ecological chain. School boards defined school districts so that children attended schools in their neighborhood. Thus, the black community was confined to black schools,<sup>26</sup> and as the community grew, the neighborhood school policy guaranteed the racial transition of school after school. This process caused Whites to choose residences only in segregated, white neighborhoods, thus intensifying residential segregation. Limited school desegregation orders, confined to the inner-central city, would often stimulate white flight to the remaining suburban white school districts and the economic base of the city deteriorated as the wealthy, near-wealthy, and their employers moved to the suburbs. Deteriorating school facilities and municipal services became centrifugal forces along with the rising rates of crime and housing deterioration.

Despite the change in federal civil rights policy, segregation accelerated.<sup>27</sup> White suburbs kept the poor out through exclusionary zoning and other control devices. Thus, Blacks, and other minorities, excluded for so long from the housing market, were unable to accumulate the equity taken for granted by white America. Most disturbing is the fact that discrimination in housing continues to pervade America. A recent Housing and Urban Development (HUD) study found that a black person is likely to be the victim of discrimination eighty percent of the time when apartment hunting and sixty percent of the time when seeking to purchase a home.<sup>28</sup>

While the discriminatory effects of Federal programs have remained consistent, the programs have steadily evolved. Through the 1960s, federal urban policy centered around categorical grant-

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25. For a definition of the concept of centrifugal development forces, see De Sola Pool, *Communications Technology and Land Use*, 451 ANNALS 1 (1980) (identifying the enormous centrifugal impacts of modern telecommunications technology from elevators and telephones to electronic transfer and other cybernetic development).

26. APARTHEID, *supra* note 3, at 27-30.

27. APARTHEID, *supra* note 3, at 1-4.

28. R. WIENK, C. REID, J. SIMONSON & F. EGGERS, *MEASURING RACIAL DISCRIMINATION IN AMERICAN HOUSING MARKETS: THE HOUSING MARKET PRACTICES SURVEY* (HUD report) (1979).

in-aid programs including the highway program, programs to provide infrastructure to the suburbs,<sup>29</sup> and housing programs—all of which tended to stimulate centrifugal movement. Housing in the suburbs drew Whites from the city, and housing in the city was sited in the black community or in areas undergoing racial transition, thus hastening such change.<sup>30</sup> The urban renewal and code enforcement programs, the most facially benign of the period, were administered in a manner that exacerbated developing trends. At first, renewal displaced the poor and disproportionately displaced minorities into other poor neighborhoods. White displacees were often able to gain access to the suburbs or more stable white segregated neighborhoods.<sup>31</sup> While some housing conditions were improved through rehabilitation and some new housing was provided, the improvements only minimally offset the impacts of housing disinvestment and abandonment caused by the declining economic base and increasing concentrations of the unemployed and the dependent. Redevelopment designed to invigorate the declining tax base was little more than a palliative for the central business districts, due to preference for the suburban mall, industrial park and the burgeoning sea of decentralized commercial centers.

During the 1960s, the Model Cities program<sup>32</sup> attempted to target aid to distressed sections of the city. Unfortunately, the money was too widely dispersed and the program failed to compensate for the other centrifugal and segregating forces. The “enlightened” programs of the 1960s encouraged minorities to remain in the central city when aid should have been provided for access to the suburbs and developing job opportunities.<sup>33</sup>

It was in large part the failure of the categorical grants to counteract the centrifugal forces of much greater federal policies that led President Nixon to propose the establishment of block grant programs whereby program funds and responsibilities

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29. APARTHEID, *supra* note 3, at 23-25. Housing and Urban Development Act of 1965, 42 U.S.C. § 3102 (1977) (authorizing grants to local public bodies and agencies for basic water and sewer facilities). HUD's Open Space Acquisition Program is codified at 42 U.S.C. § 1500-1500d-1 (1976).

30. APARTHEID, *supra* note 3, at 20-37.

31. *Id.* at 37-41.

32. Title 1 of the Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. §§ 3301-3313 (1977); APARTHEID, *supra* note 3, at 42.

33. APARTHEID, *supra* note 3, at 42-43; B. FRIEDEN & M. KAPLAN, *THE POLITICS OF NEGLECT: URBAN AID FROM MODEL CITIES TO REVENUE SHARING* (1975); C. HAAR, *BETWEEN THE IDEA AND THE REALITY: A STUDY OF THE ORIGIN, FATE AND LEGACY OF THE MODEL CITIES PROGRAM* (1975).



would be transferred to the cities.<sup>34</sup> This policy transfer was predicated on the belief that categorical programs failed because of the "red tape" of Washington and the inflexibility of congressionally-designed urban strategies.

The General Revenue Sharing program,<sup>35</sup> which provided massive grants to cities and states, and grants from the Law Enforcement Assistance Administration (LEAA)<sup>36</sup> (administration of justice), the Comprehensive Employment and Training Act (CETA)<sup>37</sup> (employment), and the 1974 Housing and Community Development block grant program<sup>38</sup> (which converted the renewal and other HUD community development programs into a block grant format) combined into a mixture of categorical aids and flexible block grants that might have allowed local creativity to flower. Unfortunately, six to ten years under the block grant "New Federalism" has failed to give the slightest indication that the current policies will overcome the status quo.<sup>39</sup> In fact, the impediments to reform appear insurmountable, with cutbacks in programs at all levels of government, as well as escalating fuel, vehicle, and housing costs contributing to the impending crisis.

### III.

#### THE POLICY MATRIX

The ecology of urbanization presents a multifaceted interconnected whole wherein each condition causes, exacerbates and is affected by each other condition. Nevertheless, a matrix of policy

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34. Kushner, *Litigation Strategies and Judicial Review Under Title I of the Housing and Community Development Act of 1974*, 11 URB. L. ANN. 37, 37-41 (1976).

35. State and Local Fiscal Assistance Act of 1972, 31 U.S.C.A. §§ 1221-1265 (West Supp. 1981).

36. 42 U.S.C. §§ 3701-3797 (Supp. 1981).

37. Comprehensive Employment and Training Act of 1973, 29 U.S.C. §§ 801-999 (Supp. 1978).

38. 42 U.S.C. §§ 5301-5319 (Supp. 1978). See generally Kushner, *Litigation Strategies and Judicial Review Under Title I of the Housing and Community Development Act of 1974*, 11 URB. L. ANN. 37 (1976); APARTHEID, *supra* note 3, at 43-44.

39. There is growing congressional and local opposition to Reagan proposals for further consolidations. Consolidation of categorical programs into block grants results in a lack of restrictions and the spreading of funds too widely and the failure to target spending towards the neediest. GENERAL ACCOUNTING OFFICE, THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM CAN BE MORE EFFECTIVE IN REVITALIZING THE NATION'S CITIES, CED-81-76 (1981). The League of Women Voters, the National Education Ass'n and the National Urban League claim consolidation is the first step in a strategy of abandonment of federal involvement in human needs, *Congress Blocking Reagan's Grant Consolidation Plans*, 13 NAT'L J. 915 (1981). State governments like consolidation with added state roles. Stanfield, *Block Grants Look Fine to States: It's the Money That's the Problem*, 13 NAT'L J. 828 (1981).

considerations may be identified and, if the considerations are addressed simultaneously, may permit development of an organized strategy for urban revitalization. The fundamental problem is that traditional policies and programs which address single-issue problems are doomed to failure as offsetting centrifugal or segregating forces, usually caused by other problems, undermine these policies and programs. The following pages should be read with this reality in mind.

There are four ingredients to this urban ecological matrix: the economic base, physical condition, transportation, and segregation. The economic-base ingredient concerns the community's ability to provide the services and employment opportunities essential to the maintenance of a healthy city. Where jobs are scarce, the resulting unemployment is concentrated in minority neighborhoods. The centrifugal impacts of high school dropout rates and underachievement follow as youth fail to find hope in the classroom. Likewise, where the central city school system is underfunded and unable to satisfy the community's need for special educational programs, the middle class is likely to be encouraged to leave the public schools or the city itself.

The second urban ecological ingredient is the community's physical condition. While the focus here is on housing condition, the larger concerns include the problems of neighborhood appearance and image, infrastructure (public works programs dealing with water, sewage and streets), and environmental condition. The problem of physical condition is closely related to the economic life of the city. If unemployment is high and economic activity is shifting to the suburbs, less rent is available to maintain and replenish the housing supply, and fewer taxes are provided to revitalize infrastructure, schools and other critical services. As a consequence, the community's physical condition deteriorates.

Transportation, the third ingredient, is fundamental to urban health. Not only will inadequate public transportation stimulate centrifugal movement through enhanced reliance on auto travel, but the resulting concentration of the transit-dependent in the cities (the poor, the minorities, the elderly and the handicapped) will become an additional centrifugal force as the more affluent population is encouraged to leave a buffer between its residence and the poor. Equally important, inadequate transportation will exacerbate the city's economic problems because the employable may be denied access to employment opportunities in the suburbs.

A community's transportation network will generally encourage

the type of growth or urban movement upon which it is based. A highway-based network generally produces a centrifugal movement to the suburbs and urban sprawl; on the other hand, a system emphasizing alternatives to the automobile encourages a desirable centripetal pattern which allows higher-density development. Higher-density development along transit routes and around transit stops can encourage greater transit usage. This in turn brings greater opportunities for economies of scale in developing transit and infrastructure. Furthermore, enhanced energy efficiency through decreased use of autos and the opportunity for greater conservation in the design of dwellings and commercial structures can be provided.

Racial segregation, the final urban ecological ingredient, is inextricably intertwined with the three ingredients mentioned above. Segregation presents the most intractable of centrifugal forces; it threatens to destroy the city just as the staggering growth of racial isolation<sup>40</sup> promises economic flight and the loss of political support for programs and strategies to repair urban decline.

As cities continue to devise strategies of revitalization and stabilization, they must be aware of the need to address each of these components or suffer the inevitable continuation of urban decline.<sup>41</sup> The following sections will address these components in

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40. The nation is so segregated that equal demographic dispersion of Whites and Blacks would require the relocation of some 80 to 90% of all Blacks in the country. Muth, *Residential Segregation And Discrimination*, in PATTERNS OF RACIAL DISCRIMINATION 107, 113 (G. Von Furstenberg, B. Harrison & A. Horowitz eds. 1974). According to the Director of the Census Bureau, between 1970 and 1979, the white population of central cities declined by 4 million whereas the number of Blacks living in central cities increased by roughly 1.2 million. *Future For Cities Bleak, Census Directors Says*, 7 Hous. & Dev. Rep. (BNA) 800 (1980) (statement by Vincent P. Barabba). For a description of the increase in segregation and the impact of that trend, see APARTHEID, *supra* note 3.

41. Some mystery remains as to the meaning of urban revitalization. The people of Baltimore say they know it when they see it; they are proud of their city since it looks revitalized. It most likely does not mean a nostalgic return to the way things were. Retail sales and their corresponding purchasing power are irretrievably lost to the suburbs. While some retrieval is possible, the central city might be redeveloped toward a center for offices, cultural activities, entertainment, and homes in pleasant and liveable neighborhoods. For a Marxist strategy, see M. CASTELLS, *THE URBAN QUESTION: A MARXIST APPROACH* (1977); CAPTIVE CITIES: STUDIES IN THE POLITICAL ECONOMY OF CITIES AND REGIONS (M. Harlo ed. 1977); D. HARVEY, *SOCIAL JUSTICE AND THE CITY* (1973); *MARXISM AND THE METROPOLIS* (W. Tabb & L. Sawers eds. 1978); R. MILIBAND, *MARXISM AND POLITICS* (1977); J. O'CONNOR, *THE FISCAL CRISIS OF THE STATE* (1973); *STRESS AND CONTRADICTION IN MODERN CAPITALISM* (L. Lindberg, R. Alford, C. Crouch & C. Offe eds. 1975); *URBAN SOCIOLOGY: CRITICAL ESSAYS* (C. Pickvance ed. 1976). Most of these books are reviewed at 44 J. AM. INST. PLAN. 350 (1978).

light of the Reagan Administration's proposed or likely-to-be-proposed urban policies.

### A. Economic Survival

One can view the signs of urban distress<sup>42</sup> most clearly by perusing city budgets. As business activity relocates to the suburbs and beyond, cities suffer declining revenues in the face of escalating costs and service needs. Fiscal austerity has recently delayed urban death, but at what price? The centrifugal patterns are evident, and not even the current attempts at urban renewal, which have been modest, pose a threat to on-going redistribution pat-

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42. See generally CITIES UNDER STRESS: THE FISCAL CRISES OF URBAN AMERICA (R. Burchell & D. Listokin eds. 1981) (indicating that regional economic shifts, demographic change and inflation are the greatest causes of existing distress). See also *What the Budget Cuts Mean for Cities—Lean Years, With Less for the Poor*, 13 NAT'L J. 960 (1981). In addition, inflation cuts into the value of the aid that is not shifted and aid itself has to decline. The rate of increase in federal aid far outpaced the growth rates in G.N.P. During 1975-78, real federal aid increased annually by 7.3% while G.N.P. rose 4.6%. It was projected that Fiscal 1981 G.N.P. would increase by only 2.8% in real terms and federal aid would decline. R. BAHL, STATE AND LOCAL GOVERNMENTS FINANCES AND THE CHANGING ECONOMY (1980).

One sure sign of urban distress is deteriorating infrastructure. The older American cities are facing staggering costs to replace and renew water and sewer systems, streets and highways. *Major Study of Infrastructure Needs of Cities Under Way*, 7 Hous. & DEV. REP. (BNA) 887 (1980); *The Highways are Safer, But Will They Always Be?*, 12 NAT'L J. 435 (1980); Stanfield, *Building Streets and Sewers is Easy—It's Keeping Them Up That's the Trick*, 12 NAT'L J. 844 (1980). And that's not all that is deteriorating. Goldman, *Major City Transit Systems Losing Battles With Decay*, L.A. Times, Mar. 9, 1981, § 1, at 1, col. 5 (New York, Chicago, Birmingham, Boston, Philadelphia and San Francisco are among those cities plagued with mechanical failure, skyrocketing costs and labor problems). See also GENERAL ACCOUNTING OFFICE, DETERIORATING HIGHWAYS AND LAGGING REVENUES: A NEED TO REASSESS THE FEDERAL HIGHWAY PROGRAM (1981) (indicating rising costs and deteriorating federal highways); COUNCIL OF STATE PLANNING AGENCIES, AMERICA IN RUINS: BEYOND THE PUBLIC WORKS PORK BARRELL (1981) (warns of a need for massive expenditures to refurbish water, sewer and road systems).

Current prognosis of the distressed cities of the Northeast and Midwest is not good. R. NATHAN & J. FOSSET, PROSPECTS FOR URBAN REVITALIZATION (1980) (HUD-Brookings Institution study). According to the Joint Economic Committee report, based on a survey of 275 cities, more than half of all cities of more than 10,000 people are spending more for operating expenses than they are taking in. STAFF STUDY PREPARED FOR THE JOINT COMM. OF THE CONGRESS, 97th CONG., 1st SESS., TRENDS IN THE FISCAL CONDITION OF THE CITIES: 1979-1980 (Comm. Print 1981); Hebers, *The State of the Cities: It Looks Bad*, L.A. Herald Examiner, May 17, 1981, § A, at 8 (the report of the joint committee indicates that it is the Southern and Western cities as well as Northern and Midwestern that face fiscal chaos as federal aid evaporates).

There are those who hold enthusiasm for imminent urban revival. See e.g., Huth, *New Hope for Revival of America's Central Cities*, 451 ANNALS 118 (1980); Lipton, *Evidence of Central City Revival*, 43 J. AM. INST. PLAN. 136 (1977); Peirce, *Nation's Cities Poised for Stunning Comeback*, NATION'S CITIES, Mar. 1978, at 12.

terns.<sup>43</sup> Thus, revenues will probably continue to decline. Adding to this already bleak picture, California's Proposition 13<sup>44</sup> may exacerbate the problem of economic decline by allowing infrastructure and community resources to deteriorate due to inadequate funds to renew and repair them.

Understanding the shifts of economic activity is critical to the identification of strategies to revitalize the city. The major shifts occurring in the United States are from central city to the suburban and non-metropolitan areas<sup>45</sup> and from the older Eastern

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43. Between 1975 and 1979, about 8.4 million people left the cities for the suburbs, and an additional 3 million moved to the rural communities. At the same time, the cities received 6.1 million new families. BUREAU OF THE CENSUS, SER. P-20, NO. 353, GEOGRAPHICAL MOBILITY: MARCH 1975 TO MARCH 1979 (1980), noted at *City Populations—Still Declining, Says New Census Study*, 8 HOUS. & DEV. REP. (BNA) 350 (1980). For an argument that gentrification, see *infra* note 52 and accompanying text, and the return to the city of the childless middle class are the salvation of the city, see Zelinsky, *The Cities and the Middle Class: Another Look at the Urban Crisis*, 1975 WIS. L. REV. 1081. Yet the net migration of jobs and the tax base continues in the direction from the city which indicates no significant "gentrification". Sternlieb & Hughes, *The "Two Cities" Phenomenon*, in AMERICA'S HOUSING: PROSPECTS AND PROBLEMS (G. Sternlieb & J. Hughes eds. 1980). See also Sternlieb & Hughes, *Some Economic Effects of Recent Migration Patterns on Central Cities*, in AMERICA'S HOUSING: PROSPECTS AND PROBLEMS (G. Sternlieb & J. Hughes eds. 1980); Sternlieb & Hughes, *Back to the Central City: Myths and Realities*, in AMERICA'S HOUSING: PROSPECTS AND PROBLEMS 153 (G. Sternlieb & J. Hughes eds. 1980) (poverty and racial concentration the more prominent trend).

44. Proposition 13 was judicially validated. *Amador Valley Joint Union High School Dist. v. State Bd. of Equalization*, 22 Cal. 3d 208, 583 P.2d 1281, 149 Cal. Rptr. 239 (1978) (on-the-face attack). Under Proposition 13, ad valorem tax rates can not exceed one percent of the assessed value as of 1975-76 unless there is a change of ownership or substantial improvement (in which case the base becomes the fair market value at the time of sale), allowing the value to rise to reflect inflation, but the increase is not to exceed two percent per year. Also, new taxes or popularly approved or created taxes require a two-thirds vote from the legislature. One impact of Proposition 13 is the imposition by localities of stiff development fees. *California Towns Impose Stiff Fees on Developers in Wake of Proposition 13*, 6 HOUS. & DEV. REP. (BNA) 398 (1978). See also J.I. CHAPMAN, PROPOSITION 13 AND LAND USE (1981); Chapman & Kirlin, *Land Use Consequences of Proposition 13*, 53 S. CAL. L. REV. 95 (1979); Hagman, *Reform of Local Government, California Style: The Case of Proposition 13*, 6 HOUS. & DEV. REP. (BNA) 91 (1978); Keesling & Ajalat, *Taxing Jurisdictions: Before and After Prop. 13*, L.A. LAW., Sept. 1978, at 42; Rader & Lang, *Proposition 13 and the Poor: The New Alchemy in the Golden State*, 12 CLEARINGHOUSE REV. 681 (1979). The failure of the California Legislature to bail out the cities in 1981 has resulted in brutal cuts in necessary services.

45. Between 1950 and 1970, central cities grew at a rate of 19% while suburban populations increased by 85%. In 1950, there were 13 million more people in the central cities than in the suburbs, but by 1970 that figure had practically been reversed as 12 million more people lived in the suburbs than in the central cities. U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES 17 (1973). The 1980 urban population showed the smallest gain in U.S. history, increasing one-tenth of one percent since 1970. *1980 Urban Population Shows a Small Increase Over 1970*

and Midwestern snow belt cities to the newer Western and Southern sun belt cities.<sup>46</sup> This latter shift, although serious, does pres-

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*Figure, 9 HOUS. & DEV. REP. (BNA) 231 (1981). In the 15 largest metropolitan areas in 1960, two-thirds of the jobs were located in the central business districts and one-third in the suburbs. In 1970, the number of jobs in the suburbs had increased by 44% while the number in the central cities had decreased by 7%. BUREAU OF THE CENSUS, GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS, CENSUS OF POPULATION (1970).*

An Agriculture Department economist identified an increase in job opportunities in non-metropolitan areas and larger numbers of senior citizens retiring in rural areas as accounting for a net decline of 3 million people living in metropolitan areas. Calvin Beale stated that 40% of current economic growth is occurring in non-metro areas. Non-metro population increased by over 5.5 million during the last decade. The economist predicted more shifts from the cities (currently 70% of the population) to non-metro areas and sun belt and Western states. *Community Development Briefs, 8 HOUS. & DEV. REP. (BNA) 63 (1980). See also G. STERNLIEB & J. HUGHES, ENERGY CONSTRAINTS AND DEVELOPMENT PATTERNS IN THE 1980's (1979).*

Federal policies reinforce regional shifts. Tax policies favor new construction over rehabilitation and repair of existing plants. The use of tax exempt industrial development bonds and investment tax credits encourage firms to leave older cities. R. VAUGHAN, A. PASCAL, & M. VAIANA, *THE URBAN IMPACT OF FEDERAL POLICIES: OVERVIEW (1980)* (Rand Corporation Report). A significant force in economic shift patterns is the siting of federal offices. President Carter attempted to target the cities in Executive Order 12,072 (Aug. 17, 1978), but in exempting the Post Office and the Department of Defense, the initiative had little impact. *NORTHEAST-MIDWEST COALITION, BRINGING THE FEDERAL GOVERNMENT BACK DOWNTOWN: AN URBAN POLICY EVALUATION (1980).*

46. The South and West experienced twice the investment in new capital equipment between 1970 and 1977 and twice the investment in non-residential structures between 1970 and 1979 as that of the Northeastern and Midwestern states. The "snow belt" region paid \$165 billion more in federal taxes than they received in federal spending. Ninety percent of population growth between 1970 and 1980 occurred in the South and West. Seventy-five percent of the \$43 billion defense budget goes to the South and West. *NORTHEAST-MIDWEST CONGRESSIONAL COALITION, THE STATE OF THE REGION 1981 (1981)* (the report demonstrates a federally encouraged disinvestment of the "snow belt"). *See generally G. STERNLIEB & J. HUGHES, POST-INDUSTRIAL AMERICA: METROPOLITAN DECLINE AND INTER-REGIONAL JOB SHIFTS (1975).*

Although economic activity declines in the snow and accelerates in the sun, it has been argued that this does not represent a transfer of activity from the frost belt to the sun belt and Western states. J. BLACK, *THE CHANGING ECONOMIC ROLE OF CENTRAL CITIES, noted at 68 HOUS. & URB. AFF. DAILY 31 (1978)* (while the author holds hope for urban restoration, the observation belies the extent and relative growth trends of the regions).

It has been observed that federal urban policies, to the extent that they have involved a partnership with the private sector, have allowed the profit motive to dictate an abandonment of job locations in many older and Northeastern and Midwestern cities. Bahl, *Perspectives on a National Urban Policy* in *SUBCOMM. ON THE CITY OF THE HOUSE COMM. ON BANKING, FINANCE AND URBAN AFFAIRS, HOW CITIES CAN GROW OLD GRACEFULLY, 95th Cong., 1st Sess. 149 (1977).*

Investment tax credits have tended to exacerbate regional relocation of economic activity. *Northeast-Midwest Coalition Calls for Investment Tax Credit Revisions, 9 HOUS. & DEV. REP. (BNA) 89 (1981); NORTHEAST-MIDWEST INSTITUTE, TAX INCEN-*

ent the West with an opportunity to plan or control the enhanced regional economic activity in a way that will avoid the adverse impacts of intra-regional shifts.

As categorical grants of the 1960s and 1970s began to target resources to specific neighborhoods, largely due to lack of resources and near-inexhaustible urban need, urbanologists devised a policy of "triage"<sup>47</sup> whereby resources would be targeted to those neighborhoods where the best results could be achieved. According to this Napoleonic concept, effectively implemented in the Civil War, those who would die in spite of aid and those who would recover without aid would be ignored in favor of those that would survive only if treated. As applied to the cities this means that the most-deteriorated neighborhoods are officially abandoned in favor of neighborhoods with minor decay and decline.

It is possible to perceive a kind of regional triage when one critically views the Reagan urban budget, with its slashed commitment to urban housing, jobs and transportation. Having pursued for so long policies that guaranteed the economic distress of cities and the rampant sprawl and migration to the suburbs, the federal government now appears to be ignoring and writing off the worst of the cities. This type of policy, closely aligned with the shifts in political power (the political power center apparently has shifted from the Democratically-controlled central cities to the Republican-dominated smaller cities and suburbs),<sup>48</sup> may amount to a

TIVES AND BUSINESS INVESTMENT PATTERNS: A SURVEY OF URBAN AND REGIONAL IMPLICATION (1981). *But see* Havemann & Stanfield, "Neutral" Federal Policies Are Reducing Frostbelt-Sunbelt Spending Imbalances, 13 NAT'L J. 233 (1981). The Western states are looking for federal aid for the first time and pressure for more redistribution toward the sun and desert is likely. Stanfield, *Federal Aid Comes Out of the Closet in the Mountain and Desert West*, 11 NAT'L J. 2096 (1979).

47. Thompson, *Land Management Strategies For Central City Depopulation*, in SUBCOMM. ON THE CITY OF THE HOUSE COMM. ON BANKING, FINANCE AND URBAN AFFAIRS, HOW CITIES CAN GROW OLD GRACEFULLY, 95th Cong., 1st Sess. 67, 68-70, 73-74 (1977) (advocating depopulation planning whereby neighborhoods are clustered as on a checkerboard with squares set for depopulation and squares for revitalization. The worst neighborhoods would be left for depopulation). For an explanation of "sifting" or "triage," see Baer, *On the Death of Cities*, 45 PUB. INTEREST 3, 15-17 (1976), reprinted in part in R. MONTGOMERY & D. MANDELKER, HOUSING IN AMERICA: PROBLEMS AND PERSPECTIVES (2d ed. 1979).

48. See *supra* note 45; DeLeon & LeGates, *Beyond Cybernetic Federalism in Community Development*, 15 URB. L. ANN. 17 (1978); DeLeon & LeGates, *Community Development Block Grants: Redistributive Effects and Equity Issues*, 9 URB. LAW. 364, 377 (1977); Hirshen & LeGates, *HUD's Bonanza for Suburbia*, 39 PROGRESSIVE 32 (Apr. 1975). Under the 1981 Amendments to the Housing and Community Development Act, the non-metropolitan areas will receive 30% of appropriations rather than the previous 20%. 42 U.S.C.A. § 5306 (West Supp. 1981). There is a further alloca-

self-fulfilling prophecy of doom for the central city, as it will discourage urban recovery.

Federal policy, prior to the Reagan Administration, was rather ambivalent regarding this urban-suburban shift. This ambivalence (or perhaps schizophrenia) could be seen clearly in the inconsistent policies of the Housing and Community Development Act of 1974.<sup>49</sup> That Act attempted to achieve spatial deconcentration<sup>50</sup> (a euphemism for racial and economic integration), particularly in the siting of housing projects. At the same time, the Act encouraged the middle class and the tax-wealthy to move to the

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tion away from urban areas due to the estimated 5% of minorities not counted by the census. Nelson, *5% of Blacks, 4.4% of Latins Not Counted*, L.A. Times, Nov. 6, 1981, § 1, at 16, col. 3. Federal programs provided ". . . funds which induced increased state and local government spending even in the face of economic decline in some states, and it provided neither incentives nor penalties for state governments to eliminate metropolitan governmental fragmentation, to institute regional financing devices, or to assume the financing responsibility for urban social services." Bahl, *Perspectives on a National Urban Policy*, in SUBCOMM. ON THE CITY OF THE HOUSE COMM. ON BANKING, FINANCE AND URBAN AFFAIRS, *HOW CITIES CAN GROW OLD GRACEFULLY*, 95th Cong., 1st Sess. 149 (1977).

The President's Commission for a National Agenda for the Eighties, proposed in its report *URBAN AMERICA IN THE EIGHTIES: PERSPECTIVES AND PROSPECTS* (Draft 1980), that federal aid be used to assist the unemployed move to the sun belt and suburbia, finding urban revival hopeless. The anti-urban study, condemned by President Carter, probably represents popular and emerging political approval. See also *Commission Report Attacking Urban Aid Programs Draws Carter Criticism*, 8 Hous. & Dev. Rep. (BNA) 735 (1981). HUD under the Reagan Administration is deregulating the block grant programs so that funds need not be targeted to the poorest. Field Notice 81-5 revoked the rule requiring 75% of funds to be targeted to benefit low and moderate income residents. *HUD Notice Loosening CD Rules Welcomed By Cities*, 9 Hous. & Dev. Rep. (BNA) 14 (1981). The 1981 Amendments to the Housing and Community Development block grant program eliminated the need for applications and initial HUD renew and more liberal restrictions on the use of funds, making targeting problematic, 42 U.S.C.A. § 5304, 5305(a)(8), (13), (17) (West Supp. 1981) and allocate only 70% for cities. 42 U.S.C.A. § 5306 (West Supp. 1981). See WORKING GROUP FOR COMMUNITY DEVELOPMENT RESPONSE, *THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM IN 1982: A MOVE TOWARD REVENUE SHARING* (1982) (study of 15 cities shows dramatic targeting away from low-income neighborhoods). Another form of "trickle up" reallocations is the elimination of targeting 75% of water and sewer grants to low-income areas under the Farmer's Home Administration. *FmHA Retracts Notice Targeting Water and Sewer Grants to Low-Income Areas*, 9 Hous. & Dev. Rep. (BNA) 620 (1981). The requirement has been reinstated. *FmHA Water/Sewer Grants Targeted to Poor in New Regulation*, 10 Hous. & Dev. Rep. (BNA) 693 (1983). Numerous cities are imposing local targeting requirements to assure that block grants are used to aid the poor. *Albuquerque Ordinance Restores Benefit Test, Public Hearings To CD Program*, 9 Hous. & Dev. Rep. (BNA) 571 (1981).

49. 42 U.S.C.A. §§ 5301-5320 (West 1977 & Supp. 1981).

50. 42 U.S.C.A. § 5301(c)(6) (West Supp. 1981).



central city.<sup>51</sup> The image conjured up is one of Alice in Wonderland: a topsy-turvy world with the poor scattered in suburban homes as the rich concentrate around a rehabilitated hub. Despite a disturbing trend of increasing "gentrification"<sup>52</sup> (whereby the poor are uprooted as neighborhoods are rehabilitated and converted to higher-income use), there has emerged no discernable trend for a return to the city.<sup>53</sup> What the architects of this policy fail to realize is that gentrification confines the poor to even more overcrowded neighborhoods, thereby accelerating decline in the non-gentrified city. The shrinking supply of low-cost shelter presents a centrifugal force that greatly offsets the centripetal effect of urban gentrification.

Despite the fact that programs for community development, rehabilitation, housing development and subsidy tend to have a centripetal impact, they can be administered in a manner that has centrifugal effects. For instance, concentration of project sites in one area may enhance existing segregation or stimulate racial neighborhood change with the result that whites relocate to the suburbs and school segregation escalates. These changes reinforce the image of the central city as racially and economically unstable. Grants for economic development, transit, capital improvements and public works, and funds for job creation have centripetal effects. The Carter Administration provided an assortment of such grants and subsidies.<sup>54</sup> Unfortunately, these programs are not in-

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51. 42 U.S.C.A. § 5301(c)(6) (West Supp. 1981).

52. D. BRYANT & H. MCGEE, *GENTRIFICATION AND THE LAW: COMBATING URBAN DISPLACEMENT* (1980). Lewis, *Adams Morgan: Spiffed Up and Speculated Upon*, *PLANNING* 25 (Mar./Apr. 1976), reprinted in part in R. MONTGOMERY & D. MANDELKER, *HOUSING IN AMERICA* 349 (2d ed. 1979).

53. The Census Bureau reported that the back-to-the-city movement is having a negligible effect on urban population decline. *Future for Cities Bleak Census Director Says*, 7 HOUS. & DEV. REP. (BNA) 800 (1980). See *supra* note 43.

54. Under President Carter, cities received subsidies for community development, 42 U.S.C.A. §§ 5301-5320 (West 1977 & Supp. 1981); housing, see generally D. MANDELKER, C. DAYE, O. HETZEL, J. KUSHNER, H. MCGEE & R. WASHBURN, *HOUSING AND COMMUNITY DEVELOPMENT: CASES AND MATERIALS* ch. 3 (1981); economic development, 42 U.S.C.A. §§ 3121-3246 (West 1977 & Supp. 1981), including grants for public-works improvement, 42 U.S.C.A. §§ 3131-3137 (West 1977 & Supp. 1981); sewage treatment (from the Environmental Protection Agency), 42 U.S.C.A. § 3102 (West 1977 & Supp. 1981); see also H.R. 4503, 97th Cong., 1st Sess. (1981) (codified at 33 U.S.C.A. §§ 1281, 1287 (West Supp. 1982)) (authorizing the sewage-treatment construction grant program at \$2.4 billion per year); *Reagan Signs Bill Extending Sewage Treatment Construction Grant Program*, 9 HOUS. & DEV. REP. (BNA) 618 (1982); CETA aid for job training and creation of jobs, 29 U.S.C.A. §§ 801-999 (West Supp. 1976-1981); transit operation, 49 U.S.C.A. §§ 1601-1618 (West 1976 & Supp. 1981); transit capital improvements, 49 U.S.C.A. § 1602 (West

cluded in the Reagan budget.<sup>55</sup> Section III C of this article will demonstrate that while transportation policies proposing an alternative to the automobile tend to be centripetal, that result is not certain. Some transit alternatives, such as highway subsidies, encourage decentralization and outward migration.

One new initiative of the Carter years was the Urban Development Action Grant Program (UDAG), an adjunct to the community development block grant program.<sup>56</sup> UDAGs are single-purpose categorical grants made to distressed communities to encourage private investment by offering subsidies to developers, often in the form of site improvements. UDAGs can be used to acquire or improve a site for industrial, commercial or residential development; they can also be used as a device to reduce financing

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Supp. 1981); Law Enforcement Assistance Administration (LEAA) aid for justice, 42 U.S.C.A. §§ 3701-3797 (West Supp. 1981); highway trust funds for highway development (administered by DOT), 23 U.S.C.A. §§ 101-156 (West Supp. 1981); and their allotment of general revenue sharing, 31 U.S.C.A. §§ 1221-1265 (West Supp. 1981).

55. The HUD Conference Committee agreed to authorize \$290 million for the Economic Development Administration (EDA) in fiscal 1982. *Reconciliation Conferees Give EDA \$290 Million Authorization*, 9 Hous. & Dev. Rep. (BNA) 185 (1981). The Senate Subcommittee has reported a bill for only \$226 million in appropriations. The House approved a \$313 million appropriation. *Senate Panel Gives EDA \$226 Million in Fiscal 1982 Funding Bill*, 9 Hous. & Dev. Rep. (BNA) 342 (1981). See JOINT ECONOMIC COMMITTEE, THE REGIONAL AND URBAN IMPACTS OF THE ADMINISTRATION'S BUDGET AND TAX PROPOSALS (1981) (urban distress likely in the short run); *U.S. Conference of Mayors Survey Says Cities Struggling with Reagan Program Cuts*, 9 Hous. & Dev. Rep. (BNA) 561 (1981); Clark, *The Reagan Budget, Round Two—The President Drops the Other Shoe*, 13 NAT'L J. 444, 448 (1981) (budget called for elimination of EDA by 1985). Reagan proposed to retain only job training under CETA and eliminate public service job creation. Youth employment would also be cut substantially. *Id.* at 452. For a demonstration of how the Reagan budget cuts are likely to affect specific cities, see *Reagan's Budget Hangs the Cities Out to Dry*, L.A. Times, May 17, 1981, § 5, at 1 (reporting on Washington, New York, Atlanta, Chicago, Omaha, Houston, Fresno, Phoenix, Seattle and Los Angeles); *Cities Threatened By Reagan Budget Proposals, Says Conference of Mayors*, 8 Hous. & Dev. Rep. (BNA) 1046 (1981). Also, lost will be substantial aid to health care, nutrition, school lunch programs and education. Further cuts are planned. Gailey, *Budget, Cut 'em Out*, L.A. Herald Examiner, Sept. 19, 1981, § A at 1, col. A. See also Weinstein, *U.S. Cuts Will Devastate Poor, Panel Charges*, L.A. Times, Sept. 21, 1981, § 1, at 3 col. 1 (National Advisory Council on Economic Opportunity stated 30 million will sink below the poverty level, many poor to lose up to 30% of disposable income). On the loss of transit subsidies, see Clark, *supra* note 55. See also § C *infra*.

56. 42 U.S.C.A. § 5318 (West Supp. 1981). See Ellison, *The Urban Development Action Grant Program: Using Federal Funds to Leverage Private Investment in Distressed Communities*, 11 URB. LAW. 424 (1979); Greene, *Urban Development Action Grants: Federal Carrots for Private Economic Revitalization of Depressed Urban Areas*, 3 URB. L. POL. 235 (1980); Note, *Urban Development Action Grants: A Housing-Linked Strategy for Economic Revitalization of Depressed Urban Areas*, 26 WAYNE L. REV. 1469 (1980).

costs through creative leveraging.<sup>57</sup> There is no way to determine which deals would not have been made in the absence of a UDAG and while the program has the advantage of swift results (due to the short lead time and single-purpose concept of the program), those results are mixed.<sup>58</sup> Some critics maintain that the major beneficiaries of the grants have been hotel chains and that the jobs created have been at very low levels.<sup>59</sup> Nevertheless, UDAG is popular because its categorical nature has tended to offset the loss of funds to the cities under the block grant entitlement formulae.<sup>60</sup> UDAG is also favored by HUD, if not embraced by the full Reagan Administration, and is likely to continue in the immediate future. While the Reagan Administration convinced the House to place UDAG into the HUD Secretary's block grant discretionary fund, the Conference Committee maintained the status quo.<sup>61</sup> UDAGs may tend to be more economically-development-oriented than block grants since Congress eliminated targeting requirements in the 1981 legislation.<sup>62</sup>

The centerpiece of the Reagan urban policy is the "enterprise

57. Ellison, *supra* note 56. See also *Special Report, Leveraging of Community Development Dollars: Ingredients of Success and Failure*, 5 Hous. & Dev. Rep. (BNA) 277 (1977).

58. One deal that would have fallen through was G.M.'s celebrated "Poletown" assembly plant in Detroit. *Crosby v. Young*, 512 F. Supp. 1363 (E.D. Mich. 1981) (surviving an environmental challenge).

59. The move to block grants and the allocation of subsidies to a wider group of recipients has resulted in an inter-regional subsidy shift as well as an inter-community shift. Increasing amounts of subsidy have been reallocated from the older central cities to the suburban towns and to "sun belt" communities.

UDAG has an excellent job creation record (147,301 jobs planned for approved projects). *UDAG Lower-Income Job Creation Strong: Housing Production Rates Weaken*, 9 Hous. & Dev. Rep. (BNA) 7 (1981) (based on the 1980 Program Report). Under the Reagan Administration the emphasis will be away from targeting aid to the poor and focus on economic development and leveraging. *Economic Development to be Focus of CD Program*, *Says Bollinger*, 9 Hous. & Dev. Rep. (BNA) 82 (1981).

60. See *supra* note 48.

61. *Conferees Agree on HUD Legislation: Senate Drops Rent Control Provision*, 9 Hous. & Dev. Rep. (BNA) 176 (1981). The Office of Management and Budget has indicated a desire to eliminate UDAGs. *Administration Favors UDAG Elimination, Says Stockman; Pierce Backs Further Study*, 8 Hous. & Dev. Rep. (BNA) 892 (1981). See also *UDAG Future Far From Assured, Say City, HUD Officials; New Program Changes Discussed*, 8 Hous. & Dev. Rep. (BNA) 998 (1981). There is a growing local and congressional opposition to block grants, a favorite of Reagan. *Stanfield, Block Grants: In Congress, They're the Reform Least Likely To Succeed*, L.A. Times, June 21, 1981, § 5, at 1.

62. HUD need no longer balance awards among industrial, commercial and neighborhood projects. *Conferees Agree on HUD Legislation; Senate Drops Rent Control Provision*, 9 Hous. & Dev. Rep. (BNA) 176 (1981).

zone."<sup>63</sup> This redevelopment concept was proposed in the prior Congress by the unsuccessful Kemp-Garcia Bill<sup>64</sup> and is aimed at attracting industry back to the city with drastic tax reductions. The various proposals<sup>65</sup> call for the designation of enterprise zones experiencing economic distress.<sup>66</sup> In these geographical zones, employers willing to expand and employ resident workers,<sup>67</sup> together with their zone-residing employees, will receive property,<sup>68</sup> social security,<sup>69</sup> capital gains,<sup>70</sup> and income tax<sup>71</sup> re-

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63. Zones must include a population of at least 4,000 under Kemp-Garcia I and II, *see infra* note 65 for notation; a maximum of 5% of the country could be in zones under Kemp-Garcia I. The population minimum is 5,000 under Nowak II (with local and Commerce Department approval), it was a minimum of 1,500 under Nowak I (would have included 20-25% of the country and 7 of 58 of the largest cities). Zones are designated by state and local governments under Heinz-Riegle.

64. H.R. 7563, 96th Cong., 2d Sess. (1980). *See Note, Kemp-Garcia Enterprise Zone Bill: A New, Less Costly Approach to Urban Redevelopment*, 9 FORDHAM URB. L.J. 659 (1980-81).

65. The proposed laws include the original Kemp-Garcia bill, H.R. 7563 [hereinafter Kemp-Garcia I]; the 1981 rewritten version, H.R. 3824, 97th Cong., 1st Sess. (1981) [hereinafter Kemp-Garcia II]. This is the same bill as submitted in the Senate, S. 1310, 97th Cong., 1st Sess. (1981) [hereinafter Boschwitz-Chafee]. *See also* Congressman Rangel's Targeted Assistance Revitalization Act, H.R. 2950, 97th Cong., 1st Sess. (1981) [hereinafter cited as Rangel] and the alternative Senate proposal, S. 1240, 97th Cong., 1st Sess. (1981) [hereinafter cited as Heinz-Riegle], and the prior proposals, H.R. 390, 96th Cong., 2d Sess. (1980) [hereinafter cited as Nowak I], reintroduced as H.R. 2965, 97th Cong., 1st Sess. (1981) [hereinafter cited as Nowak II].

66. Kemp-Garcia II required the zone to be eligible for UDAG, that it satisfy two of the following: (1) unemployment 1.5 times the national average for 18 months; (2) 10% population decline between 1970 and 1980; (3) 20% residents earn 85% or less of Labor Dept. average lower level living standard; or (4) chronic abandonment, demolition or property tax arrearages. Kemp-Garcia I required either (1) unemployment 3 times the national rate, (2) 50% with incomes 85% of lower living level, or (3) 30% with incomes below 85% and unemployment rate twice the national average. Under the Rangel Bill, Census tracts are eligible if they contain (1) 150% of the average national welfare recipient rate, (2) unemployment at 150% of the national median, or (3) 70% of the people have 80% of the statewide median income. The Governor then selects 25% of the eligible tracts. Unemployment must be 6% and loss of population 50% above national average for 4 years, 75% above for 3 years, or 100% above for 2 years; or median family income 50% of national median under Nowak II (also extending to Indian reservations). Nowak I required alternatively, long term economic deterioration, unemployment over 1% above the national figure for 24 months. Nowak I covered only expansion activities. Heinz-Riegle simply calls for Secretary of Commerce to set criteria; however, employers must hire 50% of their workforce from zone residents to obtain the tax advantage.

67. Under Kemp-Garcia I, employees may work in the zone 50% of the time, 25% of workers had to work and reside in zone, 50% could live anywhere, 25% must work in and live anywhere. Under Kemp-Garcia II, half the workers must be zone residents and eligible for CETA jobs and the workforce must be expanded 10% to qualify for tax benefit.

68. Under the original Kemp-Garcia I, localities had to permanently reduce property taxes by at least 20% over the first four years.

ductions, while tax credits on equipment investment,<sup>72</sup> property,<sup>73</sup> wages,<sup>74</sup> rehabilitated structures,<sup>75</sup> loan interest,<sup>76</sup> and income will increase.<sup>77</sup> The acceleration of depreciation would be increased<sup>78</sup>

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69. Under Kemp-Garcia II, 90% of social security tax is reduced on employees under age 21, 70% on others, while 50% regardless of age under Kemp-Garcia I. Kemp-Garcia II also provides up to \$2,000 reduction in social security taxes to each worker per year.

70. Capital gains taxes are reduced 25% where assets used for 5 years under Kemp-Garcia II. It had been proposed at 50% under Kemp-Garcia I (calling for reductions of between 60 to 80%). Heinz-Riegle sets capital gains at a maximum of 10%.

71. Under Kemp-Garcia II, tax rates are indexed to the amount of taxable income, 1.7% on \$25,000 up to 23% on income over \$100,000. While corporate income tax rates would have been reduced 15% under Kemp-Garcia I, under Kemp-Garcia II 50% of gain realized from zone-based operations would be tax free.

72. Rangel would eliminate limits on investment tax credits for purchase of used equipment (currently \$100,000). Nowak II provides 5% investment tax credit (ITC). Nowak I provided a one year write-off and a 4.5% investment tax credit, increasing the ITC maximum from \$100,000 to \$400,000.

73. Rangel provided a 15% credit for new structures. New commercial property received a 5% credit on the first \$100,000 under Nowak I. Property receives a 10% credit under Heinz-Riegle.

74. An employer tax credit of 50% of wages paid in first year on first \$10,000 of salary, 25% in second year, 15% in third year is offered in Rangel (currently 5% in first year on first \$6,000, 25% in second year). Rangel also offers a targeted jobs credit for the hiring of economically disadvantaged youth, 16 to 18 years of age. Nowak II includes a jobs tax credit. Heinz-Riegle provides 12% tax credit on the first \$15,000 of wages if employee lives in zone.

75. Kemp-Garcia II provides a 10% investment tax credit for housing rehab. The rehab tax credit would rise from the current 10% to 25% under Rangel. Nowak II provides 25% tax credit for rehab (Nowak I was 10% to 25%). The Economic Recovery Tax Act of 1981 expanded investment tax credits for rehab to 15% for commercial and industrial structures, 20% for non-residential over 40 years old, and 25% for residential rehab. *Final Tax Bill Gives Low-Income Housing an Advantage in Depreciation*, 9 Hous. & Dev. Rep. (BNA) 180, 180-81 (1981).

76. Rangel offers 10% credit on interest for business loans to targeted areas (\$100,000 maximum, \$300,000 for lending institutions and partnerships).

77. The range for credit of unincorporated businesses is 90% if under \$25,000 per year income, to 50% if over \$100,000 under Kemp-Garcia II. Kemp-Garcia I provided a 5% credit to employers and employees. Employers also received \$1,000 credit for each CETA eligible worker.

78. Across-the-board three year rapid depreciation for the first \$2 million in acquired assets is provided by Kemp-Garcia II, while Kemp-Garcia I called for a maximum of \$500,000. Nowak II adds \$40,000 to first year depreciation. Under Heinz-Riegle, the first \$500,000 of building rehab investment may be depreciated over three years, additional depreciation of investment is allowed over ten years while machinery may be written off in three years. The Economic Recovery Tax Act of 1981 provides that real property is depreciated over a 15 year term and low income housing may use 200% declining balance while other property 175%. Under § 167(k), rehabilitated low cost housing can be written off in 5 years. *Final Tax Bill Gives Low-Income Housing an Advantage in Depreciation*, 9 Hous. & Dev. Rep. (BNA) 180 (1981).

and other favorable tax advantages would be bestowed<sup>79</sup> for certain periods of time<sup>80</sup> so as to encourage private investment, job creation and urban revitalization. In approved zones, local referenda may even repeal the minimum wage.<sup>81</sup>

The enterprise zone theory carries a seductive vision of Adam Smith's invisible hand leading the way to urban reconstruction through a quasi-free market strategy. However, experiences with tax-subsidized redevelopment, particularly in California<sup>82</sup> and Missouri,<sup>83</sup> suggest that projects may take years to execute and the eventual results may be the same as would have occurred without public intervention. While one can hope that the enterprise zone is the answer to urban decline, there is little justification for such optimism<sup>84</sup> since taxes have never been a controlling considera-

79. Subsidiaries may receive income tax credits under Kemp-Garcia II. Under Heinz-Riegle, firms with 100 or fewer stockholders may pass through tax losses. Losses could be carried over 10 years under Kemp-Garcia I. Nowak would retain EDA grants to redevelopment areas. Kemp-Garcia II also calls for benefits to lenders who loan in the zone and consolidates all HUD applications. One-half of all interest earned on loans to zones is tax free.

80. Localities had to permanently reduce property taxes at least 20% in order to be eligible for Kemp-Garcia I. Under Kemp-Garcia II, benefits last 15 years, after 10, benefits are reduced 20% annually.

81. May, *Blacks Turn Away from Reagan Plan for City Aid Zones*, L.A. Times, Aug. 24, 1981, § 1, at 15, 16.

82. CAL. HEALTH & SAFETY CODE § 33670 (West Supp. 1981). See Lefcoe, *When Governments Become Land Developers: Notes on the Public-Sector Experience in the Netherlands and California*, 51 S. CAL. L. REV. 165 (1978). See generally Davidson, *Tax Increment Financing as a Tool for Community Redevelopment*, 56 U. DET. J. URB. L. 405 (179); Note, *Urban Redevelopment: Utilization of Tax Increment Financing*, 19 WASHBURN L.J. 536 (1980). Many states are in the process of creating state enterprise zones. *State Enterprise Zone Programs Being Prepared for 1982*, 9 Hous. & Dev. Rep. (BNA) 630 (1982).

83. MO. ANN. STAT. § 353.010.180 (1966).

84. For a highly critical view of enterprise zones, see URBAN RESEARCH & STRATEGY CENTER, GENERAL ANALYSIS OF THE KEMP-GARCIA BILL (1981) (based on H.R. 7563, Kemp-Garcia 1) (the report cites a study by the Nova Institute which indicated that a federal job creation program would be cheaper). See also Aronowitz & Goodman, *A Walk on the Supply Side*, 232 NATION 207 (1981); May, *Blacks Turn Away From Reagan Plan for City Aid Zones*, L.A. Times, Aug. 24, 1981, § 1, at 15, col. 1. There exists local doubt as to whether economic growth policies will rejuvenate the cities. Stanfield, *Economic Development Aid—Shell Game or the Key to Urban Rejuvenation?*, 13 NAT'L J. 494 (1981) (indicating no specific claims of job creation made yet); *Enterprise Zones have "Broad Appeal" but Doubts Persist, Says Study*, 9 Hous. & Dev. Rep. (BNA) 189 (1981); *Enterprise Zone Bill Criticized by Local Officials*, 9 Hous. & Dev. Rep. (BNA) 190 (1981); *New York Officials Give Kemp-Garcia Bill Mixed Reviews*, 9 Hous. & Dev. Rep. (BNA) 141 (1981) (incentives not deep enough); *Low Income Housing Production Stressed in Kemp-Garcia Enterprise Bill*, 8 Hous. & Dev. Rep. (BNA) 894 (1981). But see S. BUTLER, ENTERPRISE ZONES (1981). The zone concept is very popular. *Gallup Survey Shows Support for Enterprise Zones*, 9 Hous. & Dev. Rep. (BNA) 560 (1981).

tion in industrial siting.<sup>85</sup>

Criticism of enterprise zones has been principally focused on the fact that the Reagan Administration, which is very supportive of the concept,<sup>86</sup> may rely too heavily on the zones and will therefore fail to provide capital aid and other programs essential to the cities.<sup>87</sup> In addition, enterprise zones may simply generate shifts of economic activity away from non-zones with no net gains. Further, the Treasury Department is concerned that the zones will be costly.<sup>88</sup> While the initiative threatens to be a symbolic gesture, conceptually it is a strategy that when combined with a comprehensive urban plan could prove to be effective.

What the Reagan Administration and budget are silent about may be more critical to urban revitalization. A more effective strategy would aim at regional tax base equalization and at providing housing that is close to jobs. Suburban communities must be encouraged to provide housing for existing development centers; developing suburbs should not be encouraged to seek dispersal of industrial and commercial development. Likewise, the tax base should be shared by the region to encourage higher-density

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85. There is little evidence that local taxes play a critical role in determining industrial location or economic growth. *But see* R. VAUGHAN, A. PASCAL & M. VAIANA, *THE URBAN IMPACTS OF FEDERAL POLICIES: OVERVIEW* (1980) (Rand Corporation Report) (indicating a substantial impact from federal tax policy toward new construction, thus encouraging out-migration and interregional shifts to the "sun belt" and the West). It is likely that labor conditions have a greater impact on industrial siting.

86. Although not yet endorsing any bill or introducing its own version, enterprise zones are precisely the kind of program that appeals to the Administration. Passage of a bill by the current congress has been described as a "top priority" of the Reagan Administration. *Kemp-Garcia Enterprise Zone Legislation Introduced*, 9 Hous. & Dev. Rep. (BNA) 9, 10 (1981) (statement of Commerce Secretary Malcolm Baldrige).

87. It has been argued that the tax incentives are "marginal" and that cities are really in need of long term capital and physical security. *Urban Officials Discuss Need For Capital with Proposed Enterprise Zone Program*, 8 Hous. & Dev. Rep. (BNA) 1090 (1981) (indicating that in one case study benefits would be an insubstantial one percent of sales). *See also* *Enterprise Zones Can't Do it Alone, Says Conference Speakers*, 9 Hous. & Dev. Rep. (BNA) 55 (1981) (management and job training in particular advocated); Peirce & Steinbach, *Enterprise Zones—Would They Mean the Loss of Other Federal Help?*, 13 NAT'L J. 265 (1981); Stanfield, *Economic Development Aid—Shell Game or the Key to Urban Rejuvenation?* 13 NAT'L J. 494 (1981). Concern for lack of capital assistance is at the center of local reluctance. *Enterprise Zone Bill Backed by Dole; Senate Hearing Urged to Add Capital, Jobs Programs*, 9 Hous. & Dev. Rep. (BNA) 137 (1981).

88. The program may lose \$95 million in tax revenues. Job creation may run between \$28,800 and \$55,300 where UDAG jobs created by grant cost only \$6,400. *Treasury Study Says Enterprise Zones Expensive, Grants Equally Effective*, 9 Hous. & Dev. Rep. (BNA) 347 (1981).

housing around jobs and transit stops while discouraging low density sprawl. Regional tax sharing<sup>89</sup> would allow the region to comprehensively plan for ordered growth, growth that would be consistent with an efficient transportation network. Unless this is done, enterprise zones will compete with desirable suburban and nonmetropolitan development sites, particularly those in the sun belt and West.

## B. Housing and Neighborhood Condition

The relationship between housing and neighborhood condition and the viability of the city is obvious. Extensive abandonment and deterioration present a centrifugal force that encourages suburban movement. Closely related to the actual loss of tax revenues and rents is the psychological impact of the image of the central city as a deteriorating hulk to be avoided. The greatest tragedy is that of the urban dweller relegated to housing and neighborhood conditions that breed frustration and rage, broken homes and hopelessness.<sup>90</sup> From these conditions spring poor performance in school, high crime rates and the other depressing

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89. Such controlled growth referred to as "clustering" has been proposed for the central city as population declines. Efficiency in transit and economies in infrastructure cost suggest checkerboarding the city with areas to be revitalized and areas to be depopulated. W. Thompson, *Land Management Strategies For Central City Depopulation*, in SUBCOMM. ON THE CITY OF THE HOUSE COMM. ON BANKING, FINANCE AND URBAN AFFAIRS, HOW CITIES CAN GROW OLD GRACEFULLY, 95th Cong., 1st Sess. 67, 68-70, 73-74 (1977). Increased density substantially reduces the cost of infrastructure and permits more energy efficient design. See REAL ESTATE RESEARCH CORP., THE COST OF SPRAWL (1974). Such a plan would raise significant questions about compensation for those located in "depopulated" areas.

The Minneapolis-St. Paul regional tax base plan distributes 40 percent of increased tax revenues according to need and population. The plan was judicially validated in *Village of Burnsville v. Onischuk*, 301 Minn. 238, 222 N.W.2d 523 (1974). See S. BALDINGER, PLANNING AND GOVERNING THE METROPOLIS—THE TWIN CITIES EXPERIENCE (1971); METROPOLITAN DEVELOPMENT GUIDE, A COMPREHENSIVE DEVELOPMENT GUIDE FOR THE METROPOLITAN AREA (1973); Gilje, *Minnesota's Metropolitan Tax Pool*, 5 CITY 49 (Fall, 1971); Reschovsky & Knaff, *Tax Base Sharing: An Assessment of the Minnesota Experience*, 43 J. AM. INST. PLAN. 361 (1977). Tapping regional wealth may be possible only through government consolidation. Hagman, *Introduction and Summary to Symposium, The White Curtain: Racially Disadvantaging Local Government Boundary Practices*, 54 U. DET. J. URB. L. 681, 684 (1977).

90. E. CAHN, T. EICHENBERG & R. ROMBERG, THE LEGAL LAWBREAKERS—A STUDY OF THE NON-ADMINISTRATION OF FEDERAL RELOCATION REQUIREMENTS (1970), reprinted in part in 4 CLEARINGHOUSE REV. 515 (1971); Hartman, *Relocation: Illusory Promises and No Relief*, 57 VA. L. REV. 745 (1971); Hartman, *The Housing of Relocated Families*, 30 J. AM. INST. PLAN. 266 (1964). In addition to bricks and mortar, the urban environment must be cleansed. See Symposium, *Panel III, Rehabilitating the Urban Environment*, 11 NAT. RESOURCES LAW. 687 (1979).



social statistics that plague the image of the city and chances for urban revival.<sup>91</sup>

91. Substandard housing and neighborhood conditions are likely to be contributing causes to social disorders such as ill health and crime. A. SCHORR, *SLUMS AND SOCIAL INSECURITY* (1963).

In 1973, only 6.2% of Blacks attained income parity with Whites. This group was the group of husband and wife families, with head of household under age 35, in which both spouses were wage earners. U.S. BUREAU OF THE CENSUS, *THE SOCIAL AND ECONOMIC STATUS OF THE BLACK POPULATION IN THE UNITED STATES, 1973*, at 23 (1974). While fewer than 8% of white families were below the poverty income level in 1975, more than 27% of black families remained in that category. CONGRESSIONAL BUDGET OFFICE, *INCOME DISPARITIES BETWEEN BLACK AND WHITE AMERICANS XV* (1977). There has been a very slight narrowing of the economic disparity between Blacks and Whites. M. REID, *RACIAL INEQUITY, 74-75* (1981). During the 1950s, black and white teenagers suffered the same level of unemployment. Despite the political and economic progress of the past two decades, however, black teenage unemployment is now two and one-half times that for white teenagers. *Human Rights, Inhuman Ghettos*, L.A. Times, Nov. 4, 1977, § 2, at 7, col. 1. Black teenage unemployment rose from 39.3% in 1976 to 41.1% in 1977, while during the same period the rate for white teenagers declined from 16.9% to 15.4%. U.S. COMMISSION ON CIVIL RIGHTS, *THE STATE OF CIVIL RIGHTS: 1977*, at 1 (1978). Among city residents in 1979, Blacks had an unemployment rate three times the rate for Whites among males and 2.3 times the rate for Whites among females. *Future for Cities Bleak, Census Director Says*, 7 Hous. & Dev. Rep. (BNA) 800 (1980) (statement of Vincent P. Barabba, Director of the Bureau of the Census, Feb. 7, 1980). For July, 1981, while the white unemployment rate dipped to 6.2%, black unemployment fell to 13.6%. The national figure was 7%. Rosenblatt, *7% Jobless Rate is Lowest in 15 Months*, L.A. Times, Aug. 8, 1981, § 1, at 4, col. 1. The black rate jumped to 15% in August, 1981, as the national rate rose slightly to 7.2%. Cimonis, *Unemployment of Blacks Hits 28-Year High*, L.A. Times, Sept. 5, 1981, § 1, at 1, col. 1. The statistics are 16.3% and 7.5% respectively for September. Eaton, *Joblessness Rises, Hits Record Level for Blacks*, L.A. Times, Oct. 3, 1981, § 1, at 1, col. 3. By the end of December 1981, the national rate reached 8.9%. Rosenblatt, *Jobless Rate Rises to 8.9%, Highest Since '75 Recession*, L.A. Times, Jan. 9, 1982, § 1, at 1, col. 5. The Los Angeles Times did not print the black rate from early October through January 1982. The December 1981 rate for Blacks reached 17.4%. Hoffman, *Jobless Rate Soars to 8.9%; Men Hardest Hit*, Philadelphia Inquirer, Jan. 9, 1982, § A, at 1, col. 1. The December 1982 rate reached a national high of 10.8%, 15.3% for Latino workers, and a staggering 20.8% for Blacks. In addition, 1.8 million people have given up looking for work. Treadwell, *December Jobless Rate Hits 10.8%*, L.A. Times, Jan. 8, 1983, § 1, at 1, col. 6.

There is evidence of an increasing trend of Blacks dropping out of high school. Holsendolph, *Black Presence Grows in Higher Education*, N.Y. Times, Nov. 15, 1976, at 15; U.S. COMMISSION ON CIVIL RIGHTS, *THE STATE OF CIVIL RIGHTS: 1976*, 20-21 (1977). Poor school performance has been linked to the discouraging economic reality. J. OGBU, *MINORITY EDUCATION AND CASTE* (1978). See also Drummond, *Sociologist Links Unemployment, Crime*, L.A. Times, Mar. 5, 1978, § 1, at 29, col. 1 (reporting on the findings of Harvey Brenner). In 1973, 21% of all black families received welfare, up from 8% in 1961. S. LEVITAN, W. JOHNSTON & R. TAGGART, *MINORITIES IN THE UNITED STATES* 39 (1975).

The percentage of black males out of the labor market altogether—those not working or seeking jobs—doubled from the mid-sixties to the present, leaping from 20 to 40%. Malabre, *Recession Hits Blacks Harder than Whites*, Wall St. J., Aug. 21, 1980, at 1, col. 1. Black college graduates have an unemployment rate of 17.1%. Stevens,

Today, the rate of housing improvement is outpaced by the rate of housing abandonment. The poor are being displaced due to disinvestment, rehabilitation and gentrification, clearance for federal rehabilitation and redevelopment projects or other public improvements.<sup>92</sup>

The real federal housing policy is contained in the Internal

*Joblessness Worsens Among Black Youths*, Wall. St. J., Sept. 8, 1980, at 1, col. 1 (black high school dropout unemployment rate of 31.6% while the white rate was 6.4%).

In other areas, social indicators disclose minority disadvantage and urban distress. As of 1976, 10% of white male children suffer a delay in commencing education, compared to 23% of black males and 28% of Mexican-American males. Among female children, 7% of Whites enter school belatedly, as compared to 15% of Blacks and 24% of Mexican-Americans. U.S. COMMISSION ON CIVIL RIGHTS, SOCIAL INDICATORS OF EQUALITY FOR MINORITIES AND WOMEN 6 (1978). The figures for high school non-enrollment are 5% for white males, 7% for blacks, 11% for Mexican-American males, 14% for Mexican-American females. *Id.* at 10. Whites attain higher educational levels and have higher employment rates than do minorities. Statistics measuring incidence of poverty show that 9% of white males, 28% of black males, and 24% of Mexican-American males live in poverty. Twenty-two percent of white women live in poverty, compared to 46% of minority women. *Id.* at 12, 14, 30, 32, 62.

While the emphasis here has been on the physical needs, the need for social services, excellent schools, job training and particularly funds for personal security (police, the administration of justice, probation and corrections) will be critical to giving the cities a chance. See generally J. DARDEN, *THE GHETTO: A BIBLIOGRAPHY* (Council of Planning Librarians 1977).

92. Estimates of the number displaced each year range from HUD's 1.4 million, U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, *THE CONVERSION OF RENTAL HOUSING TO CONDOMINIUMS AND COOPERATIVES* 17 (1980), to the 2.4 to 2.8 million range in the report by the Legal Services Displacement Project. R. LEGATES & C. HARTMAN, *DISPLACEMENT* 38 (Legal Services Displacement Project report) (1981). HUD subsequently boosted its annual displacement estimate to between 1.7 million to 2.4 million but attempted to discount the significance of the statistics by identifying displacement as mainly a local problem. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *RESIDENTIAL DISPLACEMENT—AN UPDATE* (1981). A survey by Advance Mortgage Corporation and Citicorp Real Estate, Inc., showed a doubling of condominium-conversions from 50,000 units in 1977 to 100,000 in 1978, and a projected increase to 130,000 in 1979. Comment, *The Condominium Conversion Problem: Causes and Solutions*, 1980 DUKE L.J. 306, 307. A Senate committee reporting on banking, housing, and urban affairs estimated 200,000 conversions in 1980. S. REP. NO. 376, 96th Cong., 2d Sess. 48 (1980). According to a study by Advance Mortgage Corporation, the figure is 160,000. *Condo Conversions Were Strongest Part of 1980 Housing Market, Study Shows*, 8 HOUS. & DEV. REP. (BNA) 1057 (1981). For New York alone there is an estimate of 250,000 abandoned units during the 1970s. Stanfield, *Caught in the Squeeze of the Rental Housing Market*, 11 NAT'L J. 262, 265 (1979). A Rand Corporation study has observed that federal housing policy has had the greatest impact on the pattern of development in urban areas. R. VAUGHAN, A. PASCAL & M. VAIANA, *THE URBAN IMPACTS OF URBAN POLICIES* (1980). For an illustration of "gentrification" whereby the wealthy reclaim neighborhoods displacing the poor, see Lewis, *Adams Morgan: Spiffed Up and Speculated Upon*, 42 PLANNING 25 (1976). For an overview of relocation and displacement planning and the federal laws and policy, see Kushner & Werner, *Illusory Promises Revisited: Relocation Planning and Judicial Review*, 8 SW. U.L. REV. 751 (1976).

Revenue Code, which permits deduction of mortgage interest payments.<sup>93</sup> This deduction from ordinary income allows income sheltering: the taxpayer enjoys an actual subsidy in purchasing a dwelling because the deduction reduces the actual tax liability absolutely and also lowers the applicable bracket in many cases, thus reducing the percentage of income taken for income taxes.<sup>94</sup> Currently, these deductions amount to some \$35 billion each year. Due to inflation in housing and real estate financing, this figure is rising by twenty-five percent per year;<sup>95</sup> by 1983 the amount lost will be \$44 billion,<sup>96</sup> an amount that exceeds the total housing assistance to the poor and those of moderate income during the history of federal housing intervention dating back to the New Deal.<sup>97</sup> Furthermore, the subsidy encourages condominium con-

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93. 26 U.S.C.A. § 163 (West 1978) (mortgage interest deductions), 26 U.S.C.A. § 164 (West 1978 & Supp. 1981) (property tax deductions); APARTHEID, *supra* note 3, at 56-59. John Kain emphasizes urban revitalization through programs other than traditional housing assistance such as anti-discrimination, anti-poverty, economic development and job creation. Kain, *Failure in Diagnosis: A Critique of the National Urban Policy*, 11 URB. LAW. 247 (1979). Current housing costs and conditions argue for immediate and fundamental strategies. While Professor Kain may ultimately be correct that housing problems will in the long run dissipate, it is also true as John Keynes quipped, that in the long run we shall all be dead.

94. APARTHEID, *supra* note 3, at 56-59. According to George Voinovich, Mayor of Cleveland, 46% of the benefits (when lumping together direct housing subsidies and tax benefits) go to persons making \$20,000 to \$50,000 per year and only 4% go to persons earning \$5,000 to \$10,000 per year. *Budget Committee Asked to Cap Mortgage Interest Deduction*, 8 Hous. & Dev. Rep. (BNA) 855 (1981).

95. *Budget Committee Asked to Cap Mortgage Interest Deduction*, 8 Hous. & Dev. Rep. (BNA) 855 (1981) (according to Cushing Dolbeare, President of the National Low Income Housing Council, the mortgage interest deduction will cost the government \$35 billion in 1981). According to the Treasury and the Joint Committee on Taxation, housing related tax expenditures are projected to jump 123% between fiscal 1981 and 1985 (from \$28.545 billion in 1981 to \$63.545 billion and of that figure, mortgage interest is projected to rise 94%, from \$14.760 to \$28.615 billion and property tax from \$8.975 billion to \$16.250 billion). CONGRESSIONAL BUDGET OFFICE, TAX EXPENDITURES: CURRENT ISSUES AND FIVE-YEAR BUDGET PROJECTIONS, FISCAL YEARS 1981-1985 (1980). A Treasury analysis placed the annual figure at \$35.325 billion in fiscal 1981 and \$44.065 billion in 1982 for all housing related tax expenditures. *Tax Expenditures Provide Bulk of Government Housing Aid, Says Treasury*, 8 Hous. & Dev. Rep. (BNA) 865 (1981). See *Hearings before the Task Force on Human Resources and Block Grants of the House Budget Comm.*, 97th Cong., 1st Sess. 9 (1981) (testimony of Cushing N. Dolbeare, *The Reagan Budget and Low Income Housing Needs*).

96. H.R. 7079 would provide a federal tax deduction for tenants at a cost of the loss of \$7 billion. *National Apartment Association Backs Tenant Relief Bill*, 9 Hous. & Dev. Rep. (BNA) 54 (1981). The Senate, by a vote of 83-0, approved a non-binding resolution to continue the mortgage interest deduction. *Senate Endorses Continuation of Mortgage Deduction*, 9 Hous. & Dev. Rep. (BNA) 591 (1981).

97. In 1981, total housing payments were \$6.9 billion, an all-time high. Dolbeare, *supra* note 95 at 9. (She points out that the Reagan budget calls for only \$1 billion

versions and overconsumption as purchasers buy larger houses than they need or can actually afford. This drives up prices on a limited housing supply and demand for a limited supply of mortgage funds, making access to housing more difficult. Finally, capital gains treatment, which allows the owner of a residence to defer capital gains taxation,<sup>98</sup> encourages purchasing in "safe investment" (i.e. white, segregated) neighborhoods.

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per year in contract authority.) Treasury estimated that direct housing outlays would be \$7.43 billion in fiscal 1981 and \$8.99 billion in 1982. *Tax Expenditures Provide Bulk of Government Housing Aid, Says Treasury*, 8 HOUS. & DEV. REP. (BNA) 865 (1981) (indicating the limited accuracy of tax projections, note that the \$14.76 billion in projected tax expenditures was raised to \$19.805 billion in 1981). Treasury had also estimated that fiscal 1980 and 1981 combined tax expenditures would exceed \$50 billion while direct outlays for HUD's subsidized housing programs would be \$13 billion. *Housing-Related Tax Expenditures Expected to Top \$50 Billion In 1980-81*, 7 HOUS. & DEV. REP. (BNA) 855 (1980). By 1986, homeowner revenues lost through deductions will reach \$82.515 billion and the effect of the current laws is a stifling of the development of rental housing. CONGRESSIONAL BUDGET OFFICE, *THE TAX TREATMENT OF HOMEOWNERSHIP* (1981). Current initiatives geared to providing access to homeownership through exempt interest on savings accounts for first-time home purchasers may exacerbate the disparities for those unable to participate. *Pierce Considers Measures to Bolster Housing Market, Thrifts*, 8 HOUS. & DEV. REP. (BNA) 1085 (1981); *Study Says Tax Exemption for Interest on Savings for Housing Would Trigger Boom*, 8 HOUS. & DEV. REP. (BNA) 1086 (1981).

98. APARTHEID, *supra* note 3, at 57-59. The Economic Recovery Tax Act of 1981, Pub. L. No. 97-34, 97th Cong., 1st Sess. § 123 (1981) increases to \$125,000 a one-time capital gains exclusion for sale of a principal residence by a taxpayer 55 years of age or older. *Final Tax Bill Gives Low-Income Housing An Advantage in Depreciation*, 9 HOUS. & DEV. REP. (BNA) 180, 181 (1981). The Economic Recovery Tax Act of 1981, in § 122, also extended to 24 months the period during which a seller of a principal residence may wait to purchase another home and defer further the gain due to the ability to roll over the gain into the new residence. *Wide Variety of Investments Qualify For Use of Tax Exempt Certificates*, 9 HOUS. & DEV. REP. (BNA) 218, 219 (1981). Tax advantages of homeownership are encouraging the conversions of apartments to condominiums according to the Congressional Research Service. *Income Tax Code Encourages Condominium, Says Study*, 7 HOUS. & DEV. REP. (BNA) 968 (1980). See also Comment, *Conversion of Apartments to Condominiums and Cooperatives: Protecting Tenants in New York*, 8 U. MICH. J.L. REF. 705 (1975) (also cites profitability and rising tenant demands); *Condominium Housing Issues: Hearings on S. 612 Before the Subcomm. on Housing and Urban Affairs of the Senate Comm. on Banking, Housing and Urban Affairs*, 96th Cong., 1st Sess. (1979). Congressman Rosenthal has proposed a moratorium on conversions. *Pratt, Winn Oppose Moratorium on Condominium Conversions*, 9 HOUS. & DEV. REP. (BNA) 88 (1981) (The Residential Rental Unit Conversion Moratorium Act of 1981, H.R. 3840 calls for a two-year halt). See K. MOYE, *CONDOMINIUM CONVERSION: A SELECTED BIBLIOGRAPHY ON THE TECHNIQUES, ECONOMICS, AND REGULATION OF CONDOMINIUM CONVERSION* (CPL Bibliography No. 25, 1980). For the extent of conversions, see *supra* note 92. New condominium construction has outpaced conversions by about ten to one. George Sternlieb found 100,000 units converted between 1970 and 1975, while one million were constructed during the same period. Stanfield, *Caught in the Squeeze of the Rental Housing Market*, 11 NAT'L J. 262, 263 (1979). See *infra* note 153 for additional conversion literature.

Low-income housing policy cannot offset the centrifugal force of such tax policies. The only ways to offset this force are through central-city condominium conversions, the construction of condominiums and affordable homes in attractive communities or the overhaul of federal tax policy. The conversions are occurring, to the detriment of both the poor (who are displaced to an overcrowded and deteriorating housing supply) and the community (which finds its remaining housing stock deteriorating at an ever-increasing pace because of extensive overcrowding and a lack of lower-cost rental vacancies). There have been some local initiatives to stem conversions but the effort is probably temporary; in addition, the effort is problematic because of the centrifugal effect of encouraging development outside the rent-controlled city. Like rent control, such initiatives—although critical to avoid suffering by the poor, the elderly, and now the middle class which is unable to gain access to homeownership—are theoretically flawed because they hamper the increase in housing supply and encourage centrifugal movement.<sup>99</sup>

The number of assisted housing units in the Reagan budget<sup>100</sup> is grossly inadequate to make even a dent in the urban housing condition. The Reagan administration is taking precisely the same position on housing policy enunciated previously by Presidents Nixon and Ford, and that position is ineffective. The cities are not being revitalized and the costs are skyrocketing while HUD in-

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99. Rent control tends to depress the tax base and thus services needed by the poor, as well as cause a reduction in the development and maintenance of rental housing. Sternlieb & Hughes, *Rent Control's Impact on the Community Tax Base*, in AMERICA'S HOUSING: PROSPECTS AND PROBLEMS 267 (G. Sternlieb & J. Hughes eds. 1980). A disturbing phenomenon is the amount of income being devoted to rent. Over 3 million are paying in excess of 60% of their income for rent, while the national median is 26%. *4.5 Million Families Pay At Least Half of Income for Rent*, 9 Hous. & Dev. Rep. (BNA) 241 (1981).

100. The Reagan budget would cut \$3 million in 1981 for additional units, \$19 million in 1982, \$76 million in 1983 and \$215 million in 1984. By increasing tenant income and rent, Reagan hopes to cut subsidy obligations by \$119 million in 1982, \$304 million in 1983, and \$530 million in 1984. Clark, *The Reagan Budget, Round Two—The President Drops the Other Shoe*, 13 NAT'L J. 444, 449 (1981). The conference committee compromised its 1982 authorization at 153,000 units. *Conferees Agree on HUD Legislation: Senate Drops Rent Control Provision*, 9 Hous. & Dev. Rep. (BNA) 176 (1981). Nevertheless, only 142,000 units were appropriated. *HUD Funding Bill Clears Congress with New Reduction; Reagan Expected to Sign*, 9 Hous. & Dev. Rep. (BNA) 584 (1981). In addition, subsidized housing and public housing units may be lost due to inadequate subsidies. *PHAs Say They May Have to Close Units if Operating Subsidy Funds Are Cut*, 9 Hous. & Dev. Rep. (BNA) 464 (1981). For a draft of the 1983 budget, see *38 Percent Cut in Housing Funding Proposed for Fiscal 1983 Budget*, 9 Hous. & Dev. Rep. (BNA) 218 (1981).

creases its holdings of defaulted projects.<sup>101</sup>

The previous Republican administration advocated housing block grants,<sup>102</sup> a concept that is being revived by the Reagan Administration.<sup>103</sup> Under the block grant, an alternative to HUD-developed housing, responsibility would shift to the city to carry out its housing program. The current discussions envision short-term funding commitments which would preclude the ability to have a long-term mortgage. Although there are discussions of financing housing with monstrous balloon payments requiring refinancing every few years, the probable strategy is vouchers or housing allowances for existing, new or rehabilitated housing.

Cities also lack the financial and managerial capacity to undertake rehabilitation and new construction programs.<sup>104</sup> HUD's ex-

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101. D. MANDELKER, C. DAYE, O. HETZEL, J. KUSHNER, H. MCGEE & R. WASHBURN, HOUSING AND COMMUNITY DEVELOPMENT: CASES AND MATERIALS 233 (1981); HOUS. COMM. ON GOV'T OPERATIONS, DEFAULTS ON FHA-INSURED HOME MORTGAGES—DETROIT, MICHIGAN, H.R. DOC. NO. 1192, 92d Cong., 2d Sess. (1972); *Distressed HUD-Subsidized Multi-Family Housing Projects, Hearings Before the Sen. Comm. on Banking, Housing, and Urban Affairs*, 95th Cong., 1st Sess. 2 (Comm. Print 1977) (statement of Senator Brooke indicated that of the 115 projects built and subsidized by HUD in Boston, 47 have undergone foreclosure, causing the displacement of 3400 families). At the end of 1976, HUD held mortgages on \$3.5 billion worth of projects (one-fifth of the nation's subsidized housing) and another 65,000 units worth \$1 billion are in default. *Id.* at 4-5 (statement of Marilyn Cohen).

102. *Special Report: The Reagan Housing Block Grant Program: How it Might Work*, 8 HOUS. & DEV. REP. (BNA) 565 (1980) (describing the plan of ex-Secretary Carla Hills).

103. *Id.*; *HUD Proposes Vouchers, New FHA Programs, Rehab Grants, No Public Housing for 1983*, 9 HOUS. & DEV. REP. (BNA) 376 (1981); *Housing Block Grants for Rehab Outlined in HUD Options Paper*, 9 HOUS. & DEV. REP. (BNA) 194 (1981); *Housing Program Option Paper Focuses On Housing Vouchers*, 9 HOUS. & DEV. REP. (BNA) 94 (1981); *HUD Report Outlines Four Options For Housing Block Grant Program*, 9 HOUS. & DEV. REP. (BNA) 24 (1981); *Housing Block Grants Debated as HUD, Congress Look at 1983 Policy Options*, 9 HOUS. & DEV. REP. (BNA) 23 (1981). One problem with current block grant discussions is the proposal to expand the state role in allocations, for the states have received very low marks for targeting state aid to distressed areas according to the Advisory Committee on Inter-governmental Relations and the National Academy of Public Administration. *Preliminary ACIR Survey Data Show State Act Not Highly in Targeted to Distressed Areas*, 7 HOUS. & DEV. REP. (BNA) 435 (1979). The President's Housing Commission is focusing upon rehabilitation block grants, housing vouchers and FHA shared appreciation financing and graduated payments, public housing and housing for the elderly. *Housing Commission Panel Opens Debate on Federal Aid Programs*, 9 HOUS. & DEV. REP. (BNA) 181 (1981). A limited housing voucher plan is being considered for the 1983 housing budget. *38 Percent Cut in Housing Funding Proposed For Fiscal 1983 Budget*, 9 HOUS. & DEV. REP. (BNA) 218 (1981).

104. Among the Reagan proposed cuts were \$39 million in 1981 for rehabilitation loans which would rise to \$199 million in 1982, \$214 million in 1983 and \$215 million in 1984. See Clark, *The Reagan Budget, Round Two—The President Drops the Other Shoe*, 13 NAT'L J. 444, 451 (1981). See also *Survey Shows Concerns With Housing*

periments with housing allowances indicate that this strategy does not stimulate construction,<sup>105</sup> and though repairs may be made where there is close administration, almost no rehabilitation is undertaken.<sup>106</sup> Blacks and other minorities often fail to participate in the program where housing condition requirements are strict because landlords are unwilling to undertake repairs. Where enforcement of such condition requirements are lax, the beneficiaries reside in substandard housing and landlords become the principal beneficiaries of the subsidies.<sup>107</sup>

In effect, the dollars committed to the programs being discussed are merely symbolic and cannot make a serious dent in the urban decline syndrome. One symbolic proposal, likely to reemerge, was the conditioning of federal subsidies on the elimination of local rent control.<sup>108</sup> Another strategy likely to be relaunched is the moratorium, a device to eliminate federal housing programs temporarily while Washington sorts out new ideas.<sup>109</sup>

The current tax reform proposals are geared toward encouraging investment. Investment in residential housing will be en-

*Block Grant Concept*, 9 HOUS. & DEV. REP. (BNA) 196 (1981) (citing WORKING GROUP FOR COMMUNITY DEVELOPMENT REFORM, HOUSING ASSISTANCE BLOCK GRANTS: A SURVEY OF ISSUES TO BE CONSIDERED (1981)).

105. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, CONCLUSIONS: THE 1980 REPORT (1981).

106. *Id.* See *HUD Offers Conclusions On Housing Allowance Research*, 8 HOUS. & DEV. REP. (BNA) 695 (1981). Former FHA Commissioner Eugene Gullede called housing vouchers a farce based on the failure of the housing allowance experiment to improve housing. *Industry Groups Offer Ideas on Multifamily Housing Programs*, 9 HOUS. & DEV. REP. (BNA) 146 (1981).

107. See *supra* note 106. Kushner & Keating, *The Kansas City Housing Allowance Experience: Subsidies For the Real Estate Industry and Palliatives for the Poor*, 7 URB. LAW. 239 (1975). All is not negative; the Urban Institute claims that living conditions improved at half the cost of conventional assistance. HOUSING VOUCHERS FOR THE POOR: LESSONS FROM A NATIONAL EXPERIMENT (R. Stryk & M. Bendick eds. 1981).

108. There have been discussions of a federal requirement that cities eliminate rent controls but the administration is not likely to press for such action as it cuts against notions of local autonomy. *Hovde Calls for End to Tax-Exempt Home Mortgage Financing*, 9 HOUS. & DEV. REP. (BNA) 28 (1981) (Statement of Donald I. Hovde, Undersecretary, HUD). The Armstrong-D'Amato amendment to the 1981 HUD authorization bill prohibited section 8 new construction and substantial rehabilitation funds to communities that control rents on new or vacated units. *Senate Panel Okays Administration Proposals For CD, Housing Program*, 8 HOUS. & DEV. REP. (BNA) 1032, 1033 (1981). The Conference Committee on the 1981 HUD reauthorization legislation eliminated the provision contained in the Senate bill. *Conferees Agree on HUD Legislation: Senate Drops Rent Control Provision*, 9 HOUS. & DEV. REP. (BNA) 176 (1981).

109. See generally Mitchell, *Pennsylvania v. Lynn: The Rest of the Iceberg*, 52 U. DET. J. URB. L. 421 (1974). See *Armstrong Proposes Moratorium, Study of Assisted Housing Program Costs*, 8 HOUS. & DEV. REP. (BNA) 987 (1981).

couraged unless the incentives fail to offset the effect of increasing costs, interest rates and the often-expressed fear of rent control. In fact, the proposals and initiatives fail to provide a sufficient incentive for the development of low-cost housing.<sup>110</sup> Interest rates continue to soar while affordable housing is forced to compete with luxury housing, only to be offset by production subsidies.<sup>111</sup> Tax breaks for rehabilitation may generate more rehabilitation conversions to higher income housing, gentrification, and contraction in the low income rental housing supply. Further contraction may be expected as a result of tax incentives for new construction where central city sites are cleared for new development.

The implicit policy is that of "filtration," reminiscent of the trickle-down model, whereby housing is passed down the economic ladder as families move up to better and newer housing.<sup>112</sup> Unfortunately, the process is just not functioning; new construction is no longer the goal of families in the current high-cost, high-interest-rate market. There is, in fact, just as much a trend to move back down the ladder, particularly in the gentrified central

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110. Under the original Reagan proposal, depreciation schedules would be reduced to 15 years for low-income rental housing and 18 for non-low income rental housing. Owner-occupied commercial and industrial structures would be depreciated over 10 years. A bill submitted by Senator Williams set depreciation at 20 years for non-residential, 16 for non-low-income housing, and 12 years for low-income housing. Senator Heinz and Congressmen Jones and Conable submitted the "10-5-3" bill. Senator Bentsen offered a bill setting 20 years for everything except 15 years for low income housing. *Reagan Tax Reform Proposal Faces Opposition From Housing Industry*, 8 Hous. & Dev. Rep. (BNA) 824 (1981). Senator Williams proposed what is known as the "10-5-3" bill, providing for 10 year depreciation for commercial real estate, 5 for equipment, and 3 for light trucks and automobiles, without altering the current tax treatment of housing. *Williams Will Offer Legislation to Boost Rental Housing Production*, 7 Hous. & Dev. Rep. (BNA) 838 (1980). Williams has since proposed 15 years for subsidized housing with other real estate 20 years. *Real Estate Industry Backing Williams Tax Bill on Revised Depreciation Rules*, 8 Hous. & Dev. Rep. (BNA) 91 (1980) (this would be kinder to rental housing which would not benefit under the "10-5-3" plan).

111. The Economic Recovery Tax Act of 1981 allows 200% declining balance depreciation for low-income housing, 175% for other, while all residential rehabilitation receives a 25% tax credit. Low-income rehab may still be written off in five years. *Final Tax Bill Gives Low-Income Housing an Advantage in Depreciation*, 9 Hous. & Dev. Rep. (BNA) 180 (1981).

112. See generally W. GRIGSBY & L. ROSENBERG, URBAN HOUSING POLICY (1975); W. SMITH, FILTERING AND NEIGHBORHOOD CHANGE (1964); Edel, *Filtering in a Private Housing Market*, in READINGS IN URBAN ECONOMICS 204-15 (M. Edel & J. Rothenberg, eds. 1972). On the harmful effects on those at the bottom of the filter, see Downs, *Are Subsidies the Best Answer for Housing Low and Moderate Income Households?*, 4 URB. LAW. 405 (1972). See also A. SCHORR, SLUMS AND SOCIAL INSECURITY (1974) (racial segregation, price inflation, a supply unresponsive to excessive demand and extraordinary need).



city rehabilitation market.<sup>113</sup> Furthermore, condominium conversions remove many units as do other displacement-causing activities. The reality of this "reverse filtration" is exacerbated by the trends of both massive formation of new households and a huge increase in non-families—all competing for a limited supply of housing.<sup>114</sup> One must be very cautious in accepting an economic model as a reflection of reality.

Of course in the long run, demographic projections point towards an ever-expanding housing need for the elderly, the fastest-growing population group.<sup>115</sup> These projections may argue for expansion in the small unit elderly market, rather than a massive commitment to family housing.<sup>116</sup> The need for family housing,

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113. See *supra* note 52.

114. Family formation is contributing to California's housing cost inflation. While the average American family is 3.28 people, California's average family includes only 2.35 people. Twenty-seven percent of all households in the state are adults living alone and only thirty-four percent of the state's households contain children. Divorce and the "singles" movement together with longevity are wreaking havoc with the housing supply. Kirsh, *California's Kids*, NEW WEST, July 1981, at 66, 68-70. Rand Corporation claims there is no general rental housing shortage. I. LOWRY, RENTAL HOUSING IN THE 1970'S: SEARCHING FOR THE CRISIS (Rand Corporation Report) (1981) (advocating vouchers and disputing GENERAL ACCOUNTING OFFICE, RENTAL HOUSING—A NATIONAL PROBLEM THAT NEEDS IMMEDIATE ATTENTION (1979)). But see NATIONAL URBAN COALITION, THE OUT-LOOK FOR RENTAL HOUSING: A WORSENING PROBLEM (1981). There is demand for additional multi-family rental housing through the end of the century, a goal which is reachable, yet constraints such as inadequate subsidies, high interest rates, fear of rent control and condominium conversion interfere in the achievement. Sternlieb & Burchell, *Multi-Family Housing Demand 1975-2000*, in AMERICA'S HOUSING: PROSPECTS AND PROBLEMS 219 (G. Sternlieb & J. Hughes eds. 1980). George Sternlieb believes housing is now more of an investment than shelter. Sternlieb & Hughes, *The Post-Shelter Society*, in AMERICA'S HOUSING: PROSPECTS AND PROBLEMS (G. Sternlieb & J. Hughes, eds. 1980).

115. According to the 1980 census, more than one in ten Americans are now age 65 or older. The median age is now 30, and the percentage of those 65 or older is 11.3%, up from 9.8% in 1970. *Census Shows 11.3% Over 65*, L.A. Times, May 25, 1981, § 1, at 1, col. 1. Demand also increases as the average household size declines. The average family in 1970 was 3.11 but the 1980 census discloses an average of 2.75 with a 27% increase in the number of households. The divorce rate rose from 3.5 per 1000 people to 5.3. The percentage of single men rose from 19% in 1970 to more than 23% in 1980. The percentage of single women rose from 14% to almost 17%. *Size of U.S. Households Declines to 2.75*, L.A. Times, May 26, 1981, § 1 at 8, col. 3.

116. George Sternlieb, the Rutgers housing expert, supports elderly housing to free up existing units, warning of the potential of overbuilding as was done with school construction. He also urges conversion from single-family to multi-family use. *Low Return to Owners, High Rent-Income Ratio Seen As Key Rental Housing Problems*, 8 HOUS. & DEV. REP. (BNA) 540 (1980). Actual housing demand may peak before the end of the century as the post World War II baby boom ages. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, PROJECTIONS OF HOUSING CONSUMPTION IN THE U.S., 1980-2000, BY A COHORT METHOD (1980) (also indicating a drop in owner-

however, is now critical and initiatives are called for.

Great resources of underused housing exist in the suburbs, where population thins as children leave home, unable to afford housing in their parents' community. Programs should be aimed at this unused suburban shelter. Perhaps a program to encourage conversions of single-family homes into congregate and multi-family housing would be most economical. Half the poor are in female-headed households.<sup>117</sup> The alternative of group living would allow housework and day-care to be shared and would make employment more accessible for these people. Living arrangements to accommodate such a lifestyle are authorized in California; *City of Santa Barbara v. Adamson*<sup>118</sup> allows communal living in neighborhoods zoned for single-family dwellings. Group homes have also been protected in New Jersey,<sup>119</sup> and further ex-

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occupied demand in favor of rental). See generally G. STERNLIEB & J. HUGHES, *THE FUTURE OF RENTAL HOUSING* (1981) (trends in tenure, demand, supply and price). For an earlier and expanded version, see G. STERNLIEB & J. HUGHES, *HOUSING IN THE UNITED STATES* (1980). For a forceful argument that the government should increase its commitment to housing and act as a houser of last resort with the result of a slumless America in 5 to 10 years and a job for everyone, see C. HARTMAN, *HOUSING AND SOCIAL POLICY* (1975). Certainly housing supply expansion and rehabilitation would create jobs, for each new home provides two person-years of employment, one on and one off-site. *Id.* at 173-176.

Most of the state-level initiatives and proposals are aimed at deregulation of builders and enhancement of builder and lender profitability. See, e.g., Rood, *Proposals to Ease Housing Woes Listed*, L.A. Times, Apr. 27, 1981, § 1, at 3 col. 1 (noting the report of California Governor Brown's Task Force on Affordable Housing which also proposed the salutary tools of the mandatory inclusion of lower cost housing in new developments). It has been suggested that subsidized housing programs tend to breed abandonment and mortgage default as housing values are reduced. James, *Private Investment in Older Housing and Older Neighborhoods: Recent Trends and Forces*, in *Hearings on Neighborhood Diversity Before the Senate Comm. on Banking, Housing and Urban Affairs*, 95th Cong., 1st Sess. (1977). Nevertheless, James warns that reliance on market forces will have brutal impacts upon the displaced poor, necessitating federal protection. A proposal for the complete socialization of the private rental market has been advanced, but the prospects are a distant long shot. R. MONTGOMERY & D. MANDELKER, *HOUSING IN AMERICA, PROBLEMS AND PERSPECTIVES* 445 (2d ed. 1979).

117. Despite substantial reduction in Southern poverty (11.1 million in 1969 to 10.6 million in 1978), the number of poor female-headed households remained steady at least in the non-metropolitan areas. Sawyer, *Poor People in the South Are Becoming More Like Poor Elsewhere*, Washington Post, Apr. 15, 1981, § A, at 5 col. 1. See Hayden, *What Would a Non-Sexist City Be Like? Speculations on Housing, Urban Design, and Human Work*, SIGNS: J. WOMEN CULTURE & Soc'y, Spring 1980, at 170. See also D. HAYDEN, *THE GRAND DOMESTIC REVOLUTION* (1981).

118. 27 Cal. 3d 123, 610 P.2d 436, 164 Cal. Rptr. 539 (1980) (prohibition of more than five unrelated persons violates Privacy Clause of the California Constitution).

119. *State v. Baker*, 81 N.J. 99, 405 A.2d 368 (1979). But see *Village of Belle Terre v. Boraas*, 416 U.S. 1 (1974).

pansion of freedom in housing should be pursued judicially and legislatively as an economical and practical policy for housing supply expansion.

The fundamental issue in housing policy is whether housing for all—housing which is affordable, safe, decent and sanitary—can be provided under the market system. Current attempts at creative financing are really aimed at the middle class (which is now priced out of the market), but the level of subsidy necessary to decently house the poor lacks political support. As conditions worsen, the victims will include cities, where overcrowding and disinvestment will spell abandonment and decline. It remains to be seen whether local, state and federal initiatives will be adequate to deal with this national catastrophe.

It is grossly unfair that housing subsidies to the middle class and wealthy through mortgage interest deductions escalate without restraint as the poor bear the full burden of budgetary restraint. This dichotomization, although little more than a device of accounting, is erecting class barriers and destroying our cities. The Reagan Administration, however, appears to be following the lead of previous administrations by perpetuating a triage philosophy in its urban housing policy.

The western cities that enjoy greater economic and physical health than the older snow belt cities must be prepared to use the resources Washington provides and to augment that aid with state and local initiatives designed to renew and stabilize neighborhoods. Innovative programs built upon the attraction of the West present the opportunity to demonstrate that the cities can be saved and are worth saving.

### C. The Transportation Problem

The most fundamental aspect of community development is circulation and transportation. A transportation network premised upon suburban sprawl and automobile travel as the principal means of transport brings about metropolitan decentralization. The results are economic and racial segregation, inaccessibility by the poor to employment centers—now distant from the central city,<sup>120</sup>—and the concomitant problems of energy inefficiency in

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120. Kushner, *Urban Transportation Planning*, 4 URB. L. & POL. 161 (1981); Rabin, *Federal Urban Transportation Policy and the Highway Planning Process in Metropolitan Areas*, 451 ANNALS 21 (1980); Rabin, *Highways as a Barrier to Equal Access*, 407 ANNALS 63 (1973).

the provision of utilities and design of dwellings.<sup>121</sup> Another result is reliance on the automobile:<sup>122</sup> the most polluting,<sup>123</sup> energy inefficient,<sup>124</sup> costly,<sup>125</sup> and unsafe<sup>126</sup> of all forms of transportation. Given current development patterns around cities, it is economically infeasible to shift to alternate modes of transportation due to the lack of population density required to justify rail or bus. Transportation patterns, however, tend to be a self-fulfilling prophecy of future land-use development patterns. Just as the construction of highways facilitated sprawl, conversion to an efficient public transit system will tend to encourage higher density development particularly around transit stops.<sup>127</sup> Where regions are able to establish a tax base sharing plan, and thus avoid the competitive drive of each municipality and town to attract industry and commerce, land-use plans can be coordinated to target industrial and commercial centers along transit corridors. This would permit the structuring of a transportation system that could include higher-cost transit improvements which in turn would facilitate the development of higher-density housing markets along those corridors. The result would be a development pattern supporting better transit and providing an alternative to the automobile. The emerging pattern would not be exclusively a return to the central city, but rather the recognition of certain nodes of de-

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121. The use of passive solar designs and conservation features in new buildings could cut world energy use by 25 percent by the end of the century. WORLDWATCH INST., ENERGY AND ARCHITECTURE: THE SOLAR AND CONSERVATION POTENTIAL (1980).

122. See generally Verbit, *The Urban Transportation Problem*, 124 U. PA. L. REV. 368 (1975) [hereinafter cited as *Transportation Problem*]; articles cited *supra* note 120.

123. "[H]alf of all contamination is produced by motor vehicles; each vehicle emits an average of one ton of contaminants per year." Kushner, *supra* note 120 at 169, citing *Transportation Problem*, *supra* note 122, at 394.

124. "One-half of all oil is consumed by motor vehicles, 71% of which is allocated for automobiles. The average auto uses 735 gallons of gas per year while buses are 3 times as efficient in terms of passenger miles per gallon." Kushner, *supra* note 120 at 169, citing *Transportation Problem*, *supra* note 122, at 392.

125. According to the Hertz Corp., it costs an average of 53.8 cents per mile to operate a sub-compact in Los Angeles while only 37.2 cents in Detroit. *At 53.8 Cents a Mile, L.A.'s Still the Most Expensive Place*, L.A. Herald Examiner, Feb. 16, 1981, § A, at 7. "[W]hile autos cost \$0.264 per passenger mile to operate and rail costs \$0.246, buses cost only \$0.086 per passenger mile." Kushner, *supra* note 120 at 171, citing *Transportation Problem*, *supra* note 122, at 414.

126. "A substantial argument for mass transit is a lessening of the 55,000 annual traffic deaths. The death rate is 0.05 per million in mass transit compared to 2.9 for automobiles. The non-fatal figure is 5.6 and 8.3, respectively." Kushner, *supra* note 120 at 169. See also *The Highways Are Safer, But Will They Always Be?*, 12 NAT'L J. 435 (1980).

127. Kushner, *supra* note 120, at 173.

velopment throughout the metropolitan area, not too dissimilar in appearance from the spokes of a wheel and its connecting rim (or the existing freeway system in many communities). The conscious conversion of communities from automobile domination to transit domination would be a long-term process, one that would develop as the patterns of community development were established. Of course, the plan would require comprehensive and effective growth control in noncorridor communities.<sup>128</sup>

The process requires planning standards and incentives to assure that the resulting developments are racially and economically integrated and that adequate provision of housing for workers is made along the corridor so as to stimulate easier access to employment. These ends could be accomplished through inclusionary zoning,<sup>129</sup> or regulatory controls that encourage or require both

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128. See generally AMERICAN SOC'Y OF PLANNING OFFICIALS, URBAN GROWTH MANAGEMENT SYSTEMS (1975); E. FINKLER & D. PETERSON, NON-GROWTH PLANNING STRATEGIES (1974); E. FINKLER, NON-GROWTH: A REVIEW OF THE LITERATURE (1973); 2, 3 MANAGEMENT CONTROL OF GROWTH (R. Scott, D. Brower & D. Minor eds. 1975); Evans & Vestal, *Local Growth Management: A Demographic Perspective*, 55 N.C.L. REV. 421 (1977); Frelich & Ragsdale, *Timing and Sequential Controls—The Essential Basis for Effective Regional Planning: An Analysis of the New Directions For Land Use Control in the Minneapolis-St. Paul Metropolitan Region*, 58 MINN. L. REV. 1009 (1974). For a cautious view of such planning, see D. MANDELKER, THE ZONING DILEMMA (1971). For a view supporting restraint on sprawl around growth centers, see Getz, *Optimal City Size: Fact or Fancy?*, 43 LAW & CONTEMP. PROBS. 197 (1979). For an hospitable view of growth and some scepticism for controls, see Tolley, Graves & Gardner, *The Urban Growth Question*, 43 LAW & CONTEMP. PROBS. 211 (1979). For outright hostility to controls, see Keyes, *Channeling Metropolitan Growth: In What Direction, Toward Which End?*, 43 LAW & CONTEMP. PROBS. 239 (1979).

European cities use population decline as opportunity to begin long range economic development projects and humanize areas by excluding automobiles. ACADEMY FOR CONTEMPORARY PROBLEMS, MAKING CITIES LIVEABLE (1980); ACADEMY FOR CONTEMPORARY PROBLEMS, URBAN ECONOMIC DEVELOPMENT IN GREAT BRITAIN AND WEST GERMANY (1980); ACADEMY FOR CONTEMPORARY PROBLEMS, LOCAL FINANCE IN GREAT BRITAIN, WEST GERMANY AND THE UNITED STATES (1980). See also Stone, *Planned Shrinkage: Coping with Urban Decline*, 25 WAYNE L. REV. 987 (1979).

New town development strategies have been excluded from discussion with the components of government policy as HUD has been burned too many times pursuing that panacea. *Nine of Thirteen HUD Assisted New Communities Have Run Into Serious Financial Troubles*, 7 HOUS. & DEV. REP. (BNA) 926 (1980). Nevertheless, new towns could fit consistently within the planning outlined and there remains hope for such development. Merlin, *The New Town Movement in Europe*, 451 ANNALS 76 (1980). For the American experience see generally, Burger, *New Communities in the United States—A Survey*, 46 ST. JOHNS L. REV. 694 (1972).

129. For discussions of the various incentives and requirements available to stimulate the development of lower cost housing, see generally H. FRANKLIN, D. FALK & A. LEVIN, IN-ZONING (1974); Klevin, *Inclusionary Ordinances, Policy and Legal Issues in*

the development of moderate and lower income housing and land banking of development rights around transit stops and development nodes or hubs.<sup>130</sup> That is, areas planned for higher density development would be purchased—or simply the rights of development purchased—to be sold (hopefully at a profit) to help finance capital investment and services.<sup>131</sup>

Contemporaneously with land-use plans and development, a variation and choice in transit modes have to be implemented. The most promising short-term strategy would be enhanced opportunities for carpooling and van pooling.<sup>132</sup> Massively accelerating such programs would radically change the current transportation situation as fewer cars would be traveling, producing less congestion and pollution, thus saving huge expense and preventing excessive consumption of oil and gasoline products. Fixed rail and other so-called rapid transit modes could be developed for the region's central arteries, with buses and vans providing the bulk of the system.

One impediment to pursuit of these proposals is the Reagan Administration approach to transportation. Taking the tradi-

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*Requiring Private Developers to Build Low Cost Housing*, 21 UCLA L. REV. 1432 (1974); Rose, *From the Legislatures: The Mandatory Percentage of Moderately Priced Dwelling Ordinance (MPMPD) is the Latest Technique of Inclusionary Zoning*, 3 REAL ESTATE L.J. 176 (1974); Note, *Mandatory Dedication of Land by Land Developers*, 26 U. FLA. L. REV. 41 (1973); Note, *Land Use—Can an "Inclusionary" Land Use Plan Withstand a Right to Travel Challenge? Predictions for the Future*, 10 SUFFOLK U.L. REV. 623 (1976). See also Rood, *Proposals to Ease Housing Woes Listed*, L.A. Times, Apr. 27, 1981, § 1, at 3, 17 (Governor Brown's Task Force on Affordable Housing proposed the development of two new cities that would include 25% "affordable" housing. Affordable housing means housing accessible to people earning between 80% and 120% of median income.)

130. Kushner, *supra* note 120, at 173; APARTHEID, *supra* note 3, at Preface.

131. Unfortunately, purchase may become a more important strategy, and certainly more expensive than regulation, as communities stand to lose the power to regulate land for fear of liability from a finding of a "taking" under the test indicated in *San Diego Gas & Elect. Co. v. San Diego*, 450 U.S. 621, 646-61 (1981) (Brennan, J., dissenting, joined by Stewart, Marshall and Powell) (supporting in dicta partial damages in inverse condemnation for temporary losses due to excessive regulation, whatever that is, for the Court has been unable to define it except when they see it). The retirement of Mr. Justice Stewart provides Ms. Justice O'Connor one of her first critical swing votes. The judicial independence of the newest Justice might be tested in light of hostility disclosed in her confirmation hearings over government regulation of her family ranch in Arizona.

132. "A 10% increase in average auto occupancy at rush hour would reduce private vehicle mileage to the same extent as a 60% increase in transit ridership." Kushner, *supra* note 120, at 168, citing REPORT OF THE DEP'T OF TRANSPORTATION TO CONGRESS PURSUANT TO THE EMERGENCY HIGHWAY ENERGY CONSERVATION ACT (Feb. 1975).

tional planning view of transportation, current land-use patterns of sprawl are cited to demonstrate that the economic base for mass transportation is absent except in the highly populated metropolis. The budget calls for cessation of all transit subsidies for both operations<sup>133</sup> and capital improvements.<sup>134</sup> The extent and quality of service will decline, encouraging even greater auto dependency. The central city will again lose funds and service as fares increase dramatically to compensate for the loss of ridership and operating subsidy. Triage in transportation policy is the fate of the cities. The only alternative is for the states and cities to assume a far greater role in land use, industrial siting and transportation policy. In failing to pursue alternatives to highway-dominated transit policies, the Reagan policy is decidedly centrifugal.

#### D. Racial Segregation

Part II introduced the concept that continuation of policies that foster metropolitan decentralization carries the inexorable concomitant of racial segregation. The Reagan initiatives (or lack thereof) which augment such policies constitute a segregating momentum that could only be offset by integration policies far more extensive than any effort to date. Such integration is unlikely to emerge from the current administration and Congress.

The cities will certainly become more segregated, and that segregation is one of the greatest centrifugal forces undermining the revitalization and stabilization possibilities of urban population

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133. President Reagan proposes to phase out transit operating subsidies by 1985, requiring localities to increase local subsidy, raise fares, or cut service. The cuts called for involve \$208 million in 1983 and \$512 million in 1984. Clark, *The Reagan Budget, Round Two—The President Drops the Other Shoe*, 13 NAT'L J. 444, 450 (1981). The budget also called for cutting \$404 million from the highway construction budget in 1982, \$1.498 billion in 1983 and \$1.919 billion in 1984. *Id.* at 449. See Peirce & Steinbach, *Hard Times For Mass Transit as U.S. Subsidies Take a Walk*, L.A. Times, May 10, 1981, § V, at 3. Private transit alternatives may emerge. Green, *Subscription Bus Lines Lure Rail Commuters*, L.A. Times, Oct. 5, 1981, § 1, at 1, col. 3.

134. President Reagan proposed no more grants for constructing or enlarging mass transit, with plans to cut \$54 million in 1981, \$420 million in 1982, \$805 million in 1983 and \$1.153 billion in 1984. Clark, *supra* note 133 at 450. See Peirce & Steinbach, *supra* note 133, indicating that immediately terminated under the Reagan budget are projects in Los Angeles, Portland, Honolulu, Denver, Houston, St. Louis, Detroit and Dayton, with extensions ruled out for Baltimore, Washington, Atlanta, Buffalo, and Miami. There is some optimism that the Reagan cuts will encourage more efficient transit systems. Peirce & Steinbach, *Cuts in Transit Aid May Hurt But Could Have a Silver Lining*, 13 NAT'L J. 568 (1981).

centers.<sup>135</sup> To offset the current segregating influences, initiatives must occur in four areas of urban policy: civil rights enforcement, school integration, program and policy audit, and program and policy formulation.

First, civil rights enforcement must be accelerated to eliminate a pervasive pattern of discrimination, recently demonstrated by a HUD study, in housing sales and rentals throughout the nation.<sup>136</sup> Some integration, albeit a *de minimis* level,<sup>137</sup> has occurred in the

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135. APARTHEID, *supra* note 3, at 1-5. Although resistance to integration through minority "dispersal" exists, this writer sees no scenario where racial and economic separatism can coexist peacefully. John Kain considers racial discrimination and poverty as the true causes of urban distress and thus anti-discrimination and anti-poverty policies must be the cornerstone of a national urban policy. Kain, *Failure in Diagnosis: A Critique of the National Urban Policy*, 11 *URB. LAW.* 247, 263 (1979). After study of rioting in America, the Kerner Commission concluded that integration policies must be pursued. REPORT OF THE NAT'L ADVISORY COMM'N ON CIVIL DISORDERS 218-26 (1968). *Accord* Kain & Persky, *Alternatives to the Gilded Ghetto*, 14 *PUB. INT.* 74 (1969). For literature on the integrationist and separationist alternatives, see APARTHEID, *supra* note 3, at 112-15, nn.271-75. It has been forcefully argued that pressure for integration could carry a backlash for Blacks and that segregation holds greater promise than dispersal. See, e.g., Pivan & Cloward, *The Case Against Urban Desegregation*, 12 *SOCIAL WORK* 12-21 (1967); HOUSING URBAN AMERICA 21-22 (Pynoos, Schafer & Hartman eds. 1973). For some recent criticism from the black community of suburban lower cost housing dispersal programs, see *Embry Defends Regional Mobility Programs against Black Opposition*, 7 *HOUS. & DEV. REP. (BNA)* 1086 (1980) (concern voiced that the program was designed to stimulate gentrification and expand the white urban housing supply). See also Stanfield, *Challenge to Black Power*, 12 *NAT'L J.* 1024 (1980) (indicating resistance to fair housing policy).

136. APARTHEID, *supra* note 3, at 52-56. A HUD study prepared by the National Committee Against Discrimination in Housing, MEASURING RACIAL DISCRIMINATION IN AMERICAN HOUSING MARKETS (1979) found that discrimination against Blacks measures 27% in the rental market and 15% in the sales market. If these effects are cumulative, the study found that Blacks could expect to encounter discrimination in rentals 72% of the time if four listings are contacted. Cumulative discrimination in sales housing would be expected 48% of the time if four listings are contacted. See also ABT-ASSOCIATES, FINAL REPORT ON RACIAL DISCRIMINATION IN THE BOSTON HOUSING MARKET (1981) (significant discrimination). A HUD-funded study found that black loan applicants are 1.58 to 7.82 times as likely to be denied a loan as are white applicants. HUD Study Finds Evidence of Mortgage Discrimination in California, New York, 7 *HOUS. & DEV. REP. (BNA)* 1064 (1980) (reporting on a study by the MIT and Harvard Joint Center For Urban Studies). Due to the fact that urban families with children tend to be minority, as the age of minority women in the city lowers and the age of white central city women advances, discrimination against children effectuates segregation and gentrification. See D. ASHFORD & P. ESTON, THE EXTENT AND EFFECTS OF DISCRIMINATION AGAINST CHILDREN IN RENTAL HOUSING: A STUDY OF FIVE CALIFORNIA CITIES (1979). Principal problems in civil rights are due to the popular perception of stereotypes about minorities rather than the reality of discrimination, B. SCHILLER, THE ECONOMICS OF POVERTY AND DISCRIMINATION (3d ed. 1980), and the abandonment of civil rights by labor and the left. M. REICH, RACIAL INEQUALITY, 305-13 (1981).

137. APARTHEID, *supra* note 3, at 1-5. According to the 1980 Census, in 38 metro-



suburbs, and the trend of such outer-city integration should be encouraged and facilitated by the removal of racial barriers to a true open housing market. A free market requires regulation of real estate that will eliminate housing discrimination. While the elimination of market impediments is consistent with President Reagan's policy of deregulation to achieve a freely-competitive market and is a move towards an equitable market, President Reagan does not yet appear willing to establish effective civil rights enforcement.

Currently, only private litigation, federal conciliation and near nonexistent state enforcement is available to combat discrimination.<sup>138</sup> It can be readily understood that a homeseeker is unlikely to litigate to gain access to a neighborhood or apartment complex that has demonstrated hostility to integration. For example, HUD, responsible for determining administrative complaints, has processed to litigation about twenty-three complaints a year for the entire nation, and it has never processed a complaint from eighteen states.<sup>139</sup>

The Edwards Fair Housing Amendments bill of the 1980 Congress,<sup>140</sup> resubmitted as the Mathias and Railsback Bills of the 1981 Congress,<sup>141</sup> would have established administrative courts to enforce the requirements of Title VIII, the Fair Housing require-

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politan areas with populations of 1 million or more, the number of Blacks living in suburbs grew from 2.3 million in 1970 to 3.7 million in 1980. The percentage of Blacks in the total suburban population in those 38 areas increased to 6.5% from 4.7%. More than 14.7 million Blacks reside in the central cities while 6 million reside in the suburbs and rural fringe. L.A. Herald Examiner, May 31, 1981, § A, at 6. The growth of a black suburban presence is often in a segregated pattern, in older neighborhoods adjacent to the central city of dispersed ghettos and thus not truly indicative of suburban integration. See also R. LAKE, *THE NEW SUBURBANITES* (1981); G. ORFIELD, *MUST WE BUS?* 50 (1978); UNITED STATES DEP'T OF HOUSING AND URBAN DEVELOPMENT, *RECENT SUBURBANIZATION OF BLACKS* (1979) (increasing black presence, albeit in segregated patterns); Lake, *Racial Transition and Black Homeownership in America's Suburbs* in *AMERICA'S HOUSING* 419 (G. Sternlieb & J. Hughes eds. 1980) (suburban segregation rather than assimilation). Housing searches are more costly and time consuming for Blacks. Lake, *Housing Search Experiences of Black and White Suburban Homebuyers* in *AMERICA'S HOUSING* 439 (G. Sternlieb & J. Hughes eds. 1980) (particularly from lack of access to multiple listing services).

138. See generally *Hearings on the Fair Housing Amendments Act of 1979, Before the Subcomm. on the Constitution of the Sen. Comm. on the Judiciary*, 96th Cong., 1st Sess., No. 96-32 (Comm. Print 1979).

139. G. ORFIELD, *MUST WE BUS?* 90 (1978). For a criticism of HUD enforcement, see U.S. COMM'N ON CIVIL RIGHTS, *THE STATE OF CIVIL RIGHTS 1979* at 5 (1980) (indicating that the Justice Department handles about 32 cases per year).

140. H.R. 5200, 96th Cong., 2d Sess. (1980).

141. S. 570, 97th Cong., 1st Sess. (1981); H.R. 1973, 97th Cong., 1st Sess. (1981). See *Mathias, Railsback Offer Bills to Amend Fair Housing Act*, 8 HOUS. & DEV. REP.

ments of the 1968 Civil Rights Act.<sup>142</sup> In addition to expanding coverage to the handicapped, the bills would have liberalized both the time period in which to file claims and the standards and provisions for damages and attorneys fees.

To date, there is no indication that the Reagan Administration would support such bills. Some have noted that the Administration would favor some remodeling of Title VIII, perhaps to expand HUD's role in administration of complaints.<sup>143</sup> However, the increasingly conservative Congress responds to these proposals with initiatives to dilute the existing protections. For instance, Senator Hatch has proposed that only "intentional" acts of discrimination be covered by the law.<sup>144</sup> The problem is that intent is very difficult to prove. What is already a tedious and difficult path would be made even less accessible to the vast number of victims of increasingly sophisticated, covert, and undetectable discrimination.<sup>145</sup> Despite Title VIII's provisions empowering HUD to administer the law, that agency has never promulgated comprehensive regulations to implement the law. When President Carter finally approved the publication of implementing regulations in January of 1981, the effort was countermanded by an early general order of the Reagan Administration to recall pending regulations.<sup>146</sup> It appears that the Reagan Administration will not act aggressively to eliminate discrimination and enforce the federal civil rights laws to the extent needed.

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(BNA) 811 (1981). For the report on the earlier bill see H.R. Rep. No. 96-865, 96th Cong., 2d Sess. (1980).

142. 42 U.S.C.A. §§ 3601-3631 (West Supp. 1981).

143. See *HUD's Draft Fair Housing Bill Focuses on Judicial Enforcement*, 9 Hous. & Dev. Rep. (BNA) 88 (1981).

144. See *Senate Deadlocked over Intent Provision in Debate on Fair Housing Amendments*, 8 Hous. & Dev. Rep. (BNA) 560 (1980). Cf. Pear, *Courts and Lawmakers Restoring Intent as Ground for Proof of Bias*, N.Y. Times, Apr. 19, 1981, at 1. Secretary Hatch's alternative, S. 1670, 97th Cong., 1st Sess. (1981), is a slightly disguised attempt to gut Title VIII, making private enforcement difficult and government enforcement rare, principally due to the retention of unrealistic limits on damages and attorneys fees while imposing an intent standard and the eliminating of HUD enforcement.

145. On the distinction between "purpose" and "effect" in cases of discrimination, see generally APARTHEID, *supra* note 3, at 98-110.

146. Part of general new-regulation postponement, Presidential Memorandum (Jan. 29, 1981). For a description of a Carter Executive Order signed December 31, 1980, giving HUD government-wide administrative powers to see that programs and activities related to housing and urban development are administered in a manner affirmatively to further fair housing, see *1952 HUD Budget Request Will Ask For 260,000 Assisted Housing Units*, 8 Hous. & Dev. Rep. (BNA) 645 (1981) (requiring each agency to issue regulations within 6 months).

Dismantling school segregation is a second component of an effective integration policy. Despite the unpopularity of traditional remedies directed to education, such as busing, school integration must occur in order for there to be hope for an integrated society and, more immediately, for the survival of the city. As long as the schools remain segregated, homebuyers will choose neighborhoods based on existing patterns of segregation. White homebuyers or renters will move only to white segregated school neighborhoods (or the rare integrated district), thus reinforcing neighborhood segregation patterns. Once schools are integrated, such choices are not possible and consumers perceive a much broader choice in housing, and, thus, a pattern of wider dispersion results with the potential for moving towards a system of integrated neighborhood schools. Recent studies indicate that communities that have successfully integrated their schools experience a marked increase in housing integration.<sup>147</sup> Thus, busing and other tools of desegregation<sup>148</sup> can be seen as temporary remedies.

In addition to busing, other remedial initiatives such as housing remedies, should be tried. Subsidies should encourage development of integrated neighborhoods. Those neighborhoods that do integrate should be exempt from busing.<sup>149</sup> Such positive encour-

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147. D. PEARCE, *BREAKING DOWN BARRIERS: NEW EVIDENCE ON THE IMPACT OF METROPOLITAN SCHOOL DESEGREGATION ON HOUSING PATTERNS* 40 (1980) (based on a study of 14 communities, the researcher concluded that cities which have had metropolitan-wide school desegregation have experienced substantially greater reductions in housing segregation). Boston's schools are better than ever since desegregation. Kozol, *The Rebirth of Education in Boston*, *AMERICAN EDUC.*, June 1980.

148. Gary Orfield, in *TOWARD A STRATEGY OF URBAN INTEGRATION: LESSONS FROM SCHOOL AND HOUSING POLICY FROM TWELVE CITIES* (1981), offers a smorgasbord of policy initiatives including: (1) increased affirmative action by cities to protect and expand the lower cost housing supply, local government becoming a developer and packager and utilizing development standards which include lower cost housing; (2) subsidized loans and rebates to minorities moving to majority neighborhoods; (3) enhanced fair housing enforcement; and (4) school desegregation on a metropolitan scale in a plan that includes and is consistent with housing integration strategies. For additional remedial proposals, see *APARTHEID*, *supra* note 3, at 119-36.

149. For proposals to integrate the suburbs, see G. ORFIELD, *MUST WE BUS?* (1978); Daye, *The Race, Class and Housing Conundrum: A Rationale and Proposal For A Legislative Policy of Suburban Inclusion*, 9 *N.C. CENTRAL L.J.* 37 (1978) (proposing the "One America Act"); *APARTHEID*, *supra* note 3, at 119-36 (proposing a Housing and Land Use Rights Act and numerous judicial and legislative initiatives). On the realities of suburban political resistance, see Lilley, *Housing Report: Romney Faces Political Perils With Plan To Integrate Suburbs*, 2 *NAT'L J.* 2251 (1970). See also Goering, *Neighborhood Tipping and Racial Transition: A Review of Social Science Evidence*, 44 *J. AM. INST. PLAN.* 68 (1968); Silverman, *Subsidizing Tolerance For Open Communities*, 1977 *WISC. L. REV.* 375.

agement should stimulate local initiatives to dismantle segregation and facilitate support for improved public education. In addition, resources need to be targeted for those schools that have programs dealing with the most difficult learning problems, especially schools with bilingual programs. Another target should be central-city low-income minority areas that often lack suitable home support for education, and have high levels of student transience and discipline problems.

The ecology of the urban environment is an important factor relating to problems of crime and unemployment, which must be solved in order to unravel the ostensibly intractable challenge of educational deprivation. Unless society can offer the hope of decent employment, employment that will sustain a family and the promise of the American dream (which relates to and follows from school achievement) it is unlikely that strategies for student motivation will be successful. Similarly, unless a decent standard of living can become demonstrably accessible to more than a token representation of the ghetto, it is unlikely that the problems of crime, violence, gangs, drugs and other related concerns can be successfully addressed. Unless the cities aggressively deal with these concerns, the existing patterns will continue to generate the most dramatic of centrifugal forces: segregation.

The reduced federal commitment to jobs and housing represented by Reagan Administration policies portends a delay in the dismantling of segregation. Moreover, failing to budget the resources necessary for decent education and integration presents a near-insurmountable hurdle for desegregation. While the Justice Department is aggressively searching for alternatives to busing, such as the St. Louis proposal to provide reduced college tuition for those who voluntarily choose integration,<sup>150</sup> federal initiatives appear token and symbolic. Significant desegregation will not occur unless the pattern of segregated neighborhood schools is dismantled, but no initiatives have arisen that are as effective as busing in the short run. The likely outcome in St. Louis is that some minorities will choose the route of integration. Yet the process will generally be one-way; the central city schools, now short many college-bound students, will remain predominantly black and limited integration will occur in the suburban schools. This

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150. L.A. Daily J., June 29, 1981, at 3 col. 1 (reporting retention of plan to provide one-half year tuition at state college for voluntary participants in integration plan). See also Comment, *Federal Housing and School Desegregation: Interdistrict Remedies Without Busing*, 25 St. Louis U.L.J. 575 (1981).

will simply not effectuate the type of desegregation necessary to remove the image of the city as an evil, segregated place that should be avoided by investors and those in search of residence. Perhaps the Reagan Administration will see this fact and propose more imaginative remedies, yet the basis for such hope for significant change has just not emerged.

The third component of a strategy for integration is an audit of existing policies, including tax consequences, to determine which programs and policies have a centrifugal or segregating tendency. Those programs and policies should be eliminated or their impacts mitigated so that the government ceases to be the primary contributor to and implementor of segregation.<sup>151</sup>

A fourth component of a comprehensive integration policy is the formulation of programs and policies to encourage and facilitate integration. Tax laws could reward integration and communities that attempt integration could receive subsidies. To offset the entire history of federal policies that have subsidized, encouraged and created segregation, a period of compensating policies is required. Such policies could include low-interest loans to those who move to census tracts where they are in the minority and the use of low down payments to allow community access to those previously deprived of homeownership. Beneficial tax treatment to integrated neighborhoods would also have an integrating influence. A modification of the existing tax laws, aimed at discouraging overconsumption of housing, would soften the money market and would probably modify price trends.

One proposal in this area is that a cap be placed on the deductibility of interest and taxes allocated to one's principal residence.<sup>152</sup> Also needed is a device—perhaps a profits tax<sup>153</sup>—to

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151. APARTHEID, *supra* note 3, at 123. This is somewhat of a spin-off from Carter "urban impact analysis" policy upon which was based the Office of Management and Budget Circular A-116, requiring federal agencies to assess the urban impact of their proposals and programs. The Circular is published in Hous. & Dev. Rep. (BNA) REF. FILE 09:1571. Full text of the Carter policy is published at 36 CONG. Q. 786, 787 (1978). See Stanfield, *Federal Policy Makers Now Must Ask: Will It Hurt The Cities?*, 11 NAT'L J. 1203 (1979); *League Of Cities Calls For Retention of Urban Impact Analysis*, 8 Hous. & Dev. Rep. (BNA) 1091 (1981). This proposal is not likely to be embraced by the current administration as Reagan has revoked Executive Order 12,074. *Reagan Revokes Carter Urban Impact Study Policy*, 9 Hous. & Dev. Rep. (BNA) 134 (1981).

152. The Congressional Research Service suggested a cap on interest and tax deductions, a sliding scale tax credit toward moderate priced housing, restricting the favorable capital gains tax treatment, or the imposition of an excess profits tax, particularly in the sale of condominiums. *Rules on Usury Preemption, Service Corporation Investment Approved*, 7 Hous. & Dev. Rep. (BNA) 968-969 (1980). President Carter

remove the incentive for taking advantage of inflated housing prices. A limited capital gains tax<sup>154</sup> might also diminish the desire to move from the city to segregated white housing markets. Although these initiatives may initially seem like excessive public intervention into the free market, they do not use coercion and court orders, but rely instead on voluntary action to achieve integration. Unless these or equivalent initiatives are implemented, trends of heightening segregation will continue, the cities' minority concentrations will continue to grow, and the fiscal and physical integrity of the city will dissolve as the nation pursues the current policy of disinvestment and triage towards the cities.

The Reagan Administration must also reconsider other proposals to dismantle federal oversight of housing and community development. Although allegedly based on a desire to eliminate red tape, the proposal to eliminate the Housing Assistance Plan as a condition of receiving federal subsidies<sup>155</sup> is a thinly-veiled attempt to eliminate one of the only devices available to encourage

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proposed such a cap when campaigning in 1976 and received such a hostile response that he then advocated "ethnic purity" for rehabilitation of his populist image.

153. Congressional Research Service proposal, *supra* note 152. Ex-House Ways and Means Chairman Al Ullman had proposed a value added tax of 5% on the sale of rental housing used as a principal residence. *5 Percent Housing Tax Included in Ullman's Vat Proposal*, 7 Hous. & Dev. Rep. (BNA) 457 (1979). Santa Monica's \$1,000 license tax on condo sales was validated. *The Pines v. City of Santa Monica*, 29 Cal. 3d 656, 630 P.2d 521, 175 Cal. Rptr. 336 (1981). Although of limited impact, Los Angeles charges condo-converters with helping tenants locate new apartments and assisting with moving expenses up to \$500. Los Angeles, Cal., Ordinance 153,024, § 4(G)(7). *See also* Seattle, Washington Ordinance 107,707, § 3.9 (Oct. 2, 1978). *See Snyderman & Morrison, Rental Market Protection Through the Conversion Moratorium: Legal Limits and Alternatives*, 29 DE PAUL L. REV. 973 (1980); Comment, *The Condominium Conversion Problem: Causes and Solutions*, 1980 DUKE L.J. 306, 329 n.149; Note, *Condominium Conversions—Balancing Tenants' Rights and Property Owners' Interests*, 27 WAYNE L. REV. 349 (1980). *See also*, D. BRYANT & H. MCGEE, GENTRIFICATION AND THE LAW: COMBATING URBAN DISPLACEMENT (1980). Boulder, Colorado has imposed price controls on its moderate-priced housing stock. The program is based on developer contracts with the local housing authority which sets maximum prices for 15 years. *Boulder, Colo., to Control Resale Price for Moderate-Income Housing Stock*, 8 Hous. & Dev. Rep. (BNA) 35 (1980). The Massachusetts Supreme Court has upheld a virtual ban on conversions. *Flynn v. City of Cambridge*, 418 N.E.2d 335 (Mass. 1981). *See also* Note, *Curbing Real Estate Speculation in California*, 8 GOLDEN GATE U.L. REV. 317 (1978). On the tax-segregation relationship, *see Eyre, RE: How Segregation Ended in the Early Seventies*, 23 NAT'L REV. 1303 (1971).

154. *See, e.g.*, proposals suggested *supra* notes 144-45.

155. *See Urban Impact Studies Criticized by Task Force; CD Rules Changes Considered*, 8 Hous. & Dev. Rep. (BNA) 906 (1981); *Conferees Agree on HUD Legislation; Senate Drops Rent Control Provisions*, 9 Hous. & Dev. Rep. (BNA) 176, 178 (1981).

suburban development of lower-cost housing. In addition to encouragement, policies must eliminate restrictive development controls that exacerbate patterns of segregation as they inflate housing prices and stifle access.<sup>156</sup> The failure to provide affordable housing forces workers to live far from employment opportunities and to shoulder the exorbitant transportation costs. The city again is the loser in a political game that allows the cities to die in favor of supporting the suburbs in their quest for secession from the realities of economic life and urban death in America.

#### IV.

##### URBAN LAND-USE PLANNING

The discussion so far has virtually ignored the traditional tools of land use planning: zoning, development controls and regional planning initiatives.<sup>157</sup> A discussion of these tools has been ignored because federal intervention in local land use planning has implicitly occurred through grant-in-aid programs and environmental restrictions. Federal policies led to pervasive enactment of zoning early in the century.<sup>158</sup> Following the passage of the workable program requirement in the 1954 Housing Act,<sup>159</sup> the nation grudgingly accepted housing codes. Today, planning initiatives are not significant, except for coastal regulation, environmental requirements and the control over federal lands.

Current proposals in Washington suggest that existing, albeit limited, initiatives are in limbo and possibly slated for extinction. The A-95 review process<sup>160</sup> (which requires that all proposals for federal aid be reviewed, evaluated, and coordinated for consistency by a regional clearinghouse) has been repealed.<sup>161</sup> At least

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156. For an overview of such practices and the litigation assault that has yet to breach the citadel, see APARTHEID, *supra* note 3, at 44-52. See also, Blumstein, *A Prolegomenon To Growth Management and Exclusionary Zoning Issues*, 43 LAW & CONTEMP. PROBS. 5 (1979).

157. See generally N. WILLIAMS, AMERICAN PLANNING LAW (1974).

158. *E.g.*, R. ELLICKSON & A. TARLOCK, LAND USE CONTROLS 39-41 (1981).

159. 42 U.S.C. § 1451 (1954). See *e.g.*, LeGates, *The Workable Program: Litigation and More Administrative Complaints Bringing Results*, 5 CLEARINGHOUSE REV. 137 (1971).

160. Pursuant to § 204 of the Demonstration Cities and Metropolitan Development Act, 42 U.S.C. § 3302, and later, Title IV of the Intergovernmental Cooperation Act of 1968, 42 U.S.C. § 4201, the Office of Management and Budget issued OMB Circular A-95, 33 Fed. Reg. 16,847 (1968).

161. Exec. Order No. 12,372, 47 Fed. Reg. 30,959 (1982) (state and local processes to be relied upon after Apr. 30, 1983). A-95 review had previously been rendered obsolete to the community block program because Congress eliminated the applica-

in the areas of transportation planning and the selection of sites for affordable housing, the A-95 process had largely become a rubber stamp that was ineffective in achieving improved planning standards and performance.<sup>162</sup>

The major source of federal funds for land use planning has been the so-called "701" program.<sup>163</sup> The program has provided subsidies for comprehensive planning to cities, states, and regional planning bodies. Federally-subsidized planning for regional transportation, which has been carried out under this program, has been anything but comprehensive. The termination of this program will be a "truth in planning law" that will disclose 1) that politicians and state highway department personnel have been doing fundamental planning without using planning techniques,<sup>164</sup> and 2) that the program has cloaked the planning process in a veneer of professionalism while providing a source of employment for the burgeoning planning profession. This may sound like a defense of the Reagan cut-backs in planning and perhaps it is. The "fair share" lower-income housing-allocation plans (that were designed to facilitate spatial deconcentration of lower-cost housing throughout regional areas)<sup>165</sup> is the only positive development from the 701 program. This positive achievement may, however, be the real reason why this program is disfavored in Washington. Not only is 701 endangered, but the Area Housing Opportunity Program, whereby supplemental housing subsidies are allocated to participating regions, is also scheduled for demise.<sup>166</sup> In any event, the allocation concept, like the 701 pro-

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tions submission process in the 1981 Amendments to the Housing and Community Development Act. 42 U.S.C. § 5304 (1976).

162. That rubber stamp has been relaxed by the Reagan Administration. *OMB Finishing Work On Revised A-95 Review Process*, 9 HOUS. & DEV. REP. (BNA) 144 (1981).

163. 40 U.S.C. § 461 (§ 701(a) of the Housing Act of 1954) (as amended 1974). HUD's fiscal 1981 budget totals \$11.106 million. *HUD Releases Fiscal 1981 Funding Allocation Plan for Section 701 Programs*, 9 HOUS. & DEV. REP. (BNA) 143 (1981).

164. See generally articles cited *supra* note 109.

165. See Calmore, *Fair Housing vs. Fair Housing: The Problems With Providing Increased Housing Opportunities Through Spatial Deconcentration*, 14 CLEARINGHOUSE REV. 7 (May 1980).

166. See 24 C.F.R. §§ 891.501-891.507 (1981). HUD had decided to end AHOP. *HUD Scraps Regional Housing Mobility Program*, 9 HOUS. & DEV. REP. (BNA) 15 (1981). But see Pierce, *Still Considering AHOP Program Options, Say HUD Staff*, 9 HOUS. & DEV. REP. (BNA) 472 (1981). Aid to regional planning agencies had also been provided under the regional housing mobility program. *New \$2.25 Million Program Would Promote Regional Housing Mobility*, 7 HOUS. & DEV. REP. (BNA) 166 (1979) (technical aid to increase regional distribution of § 8 subsidies). The program was the target of some minorities who viewed it as a minority "resettlement" pro-



gram's failure to require truly comprehensive planning, has also failed because of the impediments identified above and suburban residents' continued resistance to economic and racial integration.

Lower cost housing, built in the suburbs as a result of federal encouragement, has constituted another centrifugal force. The developments have rarely been integrated; as a result, suburban lower-cost housing has actually facilitated white flight to the suburbs by persons who might have remained in the city, thus worsening residential and school segregation patterns. Another aspect of 701, such as aid to disadvantaged students studying planning is an unfortunate loss—one that will limit access to the planning profession to an elite group and will produce planners with less of a tendency to appreciate the social equity considerations of their profession.<sup>167</sup>

In addition, the Housing Assistance Plan requirement in the community development block grant program may be discontinued. This requirement has helped to expand opportunities for lower cost housing in those communities traditionally unwilling to develop the housing needed to satisfy demands of local industry and workers.

Other federal policies affecting urban problems are environmental regulation and development, subjects themselves deserving separate analyses. The emerging trend of cutting back federal standards, as in the case of environmental-impact analysis and clean air or water standards,<sup>168</sup> may tend to have either a centrifugal or centripetal effect depending upon where pressure

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gram. Stanfield, *Challenge To Black Power*, 12 NAT'L J. 1024 (1980). While the "701" program was scheduled to end with cuts of \$3 million in 1981, \$24 million in 1982, and \$35 million in 1983 and 1984, Clark, *The Reagan Budget, Round Two—The President Drops The Other Shoe*, 13 NAT'L J. 444, 450 (1981), it was terminated by the 1981 HUD Authorization legislation. *Conferees Agree on HUD Legislation; Senate Drops Rent Control Provision*, 9 Hous. & Dev. Rep. (BNA) 176, 178 (1981). The end of "701" will cause wounds but is not likely to be fatal to the regional councils. *Most Regional Councils Can Survive Section 701 Elimination, Survey Shows*, 8 Hous. & Dev. Rep. (BNA) 1005 (1981).

167. *But see HUD Announces Work-Study Program for Disadvantaged Students*, 10 Hous. & Dev. Rep. (BNA) 241 (1982).

168. Environmental standards may conflict with urban rejuvenation plans as air and water quality requirements may hamper reindustrialization. *EPA To Issue Air Quality Rule That Could Hamper Urban Revitalization*, 6 Hous. & Dev. Rep. (BNA) 391 (1978). EPA is proposing legislation to grant greater local flexibility to consider the economic factors in clean air standards attainment policies. *EPA To Send Clean Air Act Proposals To Congress By June 30*, 8 Hous. & Dev. Rep. (BNA) 1045 (1981). *See also New EPA Policy Could Limit Growth, Impose Land Use Controls in Urban Areas*, 7 Hous. & Dev. Rep. (BNA) 174 (1979). Reagan has proposed dropping HUD's budget by \$8.8 billion in 1982, \$14.9 billion in 1983, and progressively larger

for local development exists. Nevertheless, impact assessment has been most deficient in its failure to analyze and plan for a proposed development's secondary effects, effects that are often extraordinarily centrifugal (e.g., highways or shopping centers that generate traffic and outward migration). Also, lowering clean air standards will undoubtedly worsen urban conditions, adding another very centrifugal force. Projects to construct waste treatment plants and facilities, endangered under the Reagan budget,<sup>169</sup> are more difficult to analyze. In some cities, poor urban sanitary conditions will continue unabated while improvements in conditions may constitute centrifugal forces that will stimulate more decentralized growth.

Federal planning for urban development under the Reagan Administration will be an implicit function of the legislative decisions affecting the allocation of block grants (or surviving categoricals). Targeting such funds towards certain neighborhoods and needs is likely to be subject to greater local flexibility. Given the traditional unwillingness and inability of local government to deal comprehensively with the outlined matrix of problems described above, it appears likely that both the initiative and capacity for improvement are not to be found in the Reagan urban policy.

## V.

### CONCLUSION

That America's urban centers are in a state of distress and decline is no news to the majority of its citizens who reside in or around them. The federal government's programs to provide low-cost housing and urban renewal (traditionally the only game in town due to the provincial bias of suburban and rural state legislators and the impoverished status of central city governments) have, since their inception, been unable to provide more than "hush money" to quiet urban frustration and hostility. As the political power base shifted to the suburban fringe along with demographic movement, legislators lost interest in programs to

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amounts through 1986. Clark, *The Reagan Budget, Round Two—The President Drops the Other Shoe*, 13 NAT'L J. 444, 445 (1981).

169. In addition to deregulation, sewer treatment aid may stimulate sprawl. *EPA To Deny Sewage Treatment Grants For Strictly New Growth Capacity*, 6 Hous. & Dev. Rep. (BNA) 938 (1979). Sewage treatment grants would be cut \$20 million in 1981, \$290 million in 1982, \$1.45 billion in 1983, and \$2.27 billion in 1984. Clark, *The Reagan Budget, Round Two—The President Drops The Other Shoe*, 13 NAT'L J. 444, 451 (1981).

improve neighborhoods and housing conditions. This continuing phenomenon is demonstrated dramatically by the Reagan cuts in education, transportation, economic and community development, jobs and housing.

In the past, Washington has doled out billions of dollars for public construction, mortgage and rent subsidies, and grants for neighborhood clearance and rehabilitation. At the local level, the funds were often channeled towards pet projects, particularly civic center development; the resources necessary to revitalize a substantial portion of the impoverished metropolis were never provided. Even more devastating has been the pervasive centrifugal influence of federal programs and policies that have produced metropolitan decentralization and central city economic crises. Little has been done to combat the image of the city as mean streets filled with mean people. Boosting civic pride and reputation are important to urban survival, but image includes more than the civic center. The survival of the cities will require a more intensive and immediate commitment of resources and some innovative responses to the problems of energy, transportation, economics, unemployment, and shelter.

Of course all cities are not affected identically. For example, Los Angeles is unique among the very large cities in that it is located in the "Sun-West" belt and is thus a beneficiary of economic relocation. More importantly, the city is so vast, geographically, that it includes many wealthy suburban residential, industrial and commercial centers. While the achievement of some degree of regionalism keeps the city's books balanced, it also conceals the disintegrating center. Crime, unemployment and physical deterioration mark the burgeoning population centers of Blacks, Mexican-Americans and the impoverished, and the failure to abate such concentrations will continue to have a decidedly centrifugal impact on the community.

The Reagan Administration is caught in the conventional wisdom of urban strategies, ever-so-slightly more conservative than preceding administrations and just as assuredly destined to face unmet promises. It would be more honest to simply admit that Washington is just planning to send more "hush money" to the cities. Unless significant additional urban initiatives are undertaken, inter-regional, inter-metropolitan, and inter-neighborhood wars will escalate as centrifugal force continues to dominate the empire.