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Homeownership for Low and Moderate Income
Families-- Title I of the Housing and Urban
Development Act of 1968 [*1968 U.S. Code Cong. &
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Recent Legislation

URBAN HOUSING — HOMEOWNERSHIP FOR LOW AND MODERATE INCOME FAMILIES — TITLE I OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

1968 U.S. CODE CONG. & AD. NEWS 2793.

The highly praised Housing and Urban Development Act of 1968¹ is directed towards achieving the specific goal articulated over 19 years ago in the Housing Act of 1949,² "a decent home and a suitable living environment for every American family."³ The desire to provide decent housing has prompted most of the federal housing enactments.⁴ The 1968 Act may realize the goal, which

¹ Housing and Urban Development Act of 1968, 82 Stat. 476, *printed in* 1968 U.S. CODE CONG. & AD. NEWS 2793 [hereinafter cited Housing Act of 1968].

² 42 U.S.C. § 1450 (1964). The Act initiated the slum clearance and urban renewal programs. Loans were granted to assist local communities in the elimination of slums and deteriorating areas and to provide for rehabilitation, redevelopment, and conservation of such areas by private enterprise. HOUSE COMM. ON BANKING AND CURRENCY, 90TH CONG., 2D SESS., BASIC LAWS AND AUTHORITIES ON HOUSING AND URBAN DEVELOPMENT 288, 291 (Comm. Print 1968) [hereinafter cited as BASIC HOUSING LAWS].

³ Housing Act of 1949, 42 U.S.C. § 1441 (1964).

⁴ The U.S. Housing Act of 1937, 42 U.S.C. § 1401 (1964), developed the basic public housing formula of placing the responsibility for project planning and administration in independent state and local agencies. Slum clearance was believed to be the solution to the problem, and the "bulldozer" technique was utilized to clear whole blocks of slums which were later replaced by new publicly owned housing. However, the bulldozer destroyed "viable social structures along with decrepit physical ones." J. HEILBRUN, REAL ESTATE TAXES AND URBAN HOUSING 3, 4 (1966). Thus, the program failed to serve the needs of many low income families residing in urban ghettos because available funds were used to supply social services to existing projects rather than to begin new projects. See Note, *Government Housing Assistance To The Poor*, 76 YALE L.J. 508, 511-12 (1967).

Much of the responsibility for planning and organization of urban renewal was placed under state and local governments by the Housing Act of 1954, 40 U.S.C. § 461 (1964). This Act authorized grants to state and city agencies for comprehensive planning of urban development, which included coordinating transportation systems, stopping the spread of slums and stimulating their rehabilitation, refurbishing central business districts, and fostering better housing in the inner city. BASIC HOUSING LAWS, *supra* note 2, at 334. "But these efforts . . . did not make a dent on the problem of slum diminution. . . . [I]n 1950 approximately 20.5 million people lived in urban slums and . . . in 1960 the number was 12.5 million." D. HUNTER, THE SLUMS: CHALLENGE AND RESPONSE 208, 209 (1964). See generally M. MEYERSON, B. TERRETT & W. WHEATON, HOUSING, PEOPLE AND CITIES (1962).

Under the Kennedy Administration Congress passed the Below Market Interest Rate Loan provision under section 221(d)(3) of the Housing Act of 1961, 12 U.S.C. § 1715l(d)(5) (1964) [hereinafter cited as BMIR], to increase the amount of housing available to families whose income was too high for admission to public housing. The Federal National Mortgage Association (FNMA) made low-interest mortgage loans to sponsors for the financing of new construction and rehabilitation projects. The

the other proposals have not achieved, by implementing imaginative programs aided by an expected increase in federal funds. Title I, a significant section in the new Act, provides the means for over 1 million low and moderate income families to obtain their own homes or join cooperative housing associations.⁵ By expanding the opportunity to obtain homeownership, many frustrated poor will be provided with "a tangible stake in society for the first time."⁶ The homeownership idea has the connotation of benefiting both the participant and the surrounding society.⁷ Spokesmen for pilot projects involving homeownership opportunities for low and moderate income families express the belief that homeownership encourages thrift, hard work, educational drive, and family solidarity.⁸

mortgages were insured by FHA, interest free, in return for supervisory control of project development and operation. The BMIR program had numerous failings: defaults averaging up to 4 percent, no provisions for reappraisal of family earnings, and failure to generate much new construction. Note, *supra* at 515, 517.

⁵ Basically these means are provided for in section 105 of the Act, entitled Condominium and Cooperative Ownership for Low and Moderate Income Families, which amends the National Housing Act of 1961, section 221, 12 U.S.C. § 1715l(1964), by adding two new subsections which authorize the Secretary of Housing and Urban Development (HUD) to permit the conversion of ownership of regular or rental projects involving a below-market interest rate mortgage to cooperative or condominium ownership. Thus, a low or moderate income purchaser can buy an undivided interest in the common areas and facilities of a project at a price not in excess of the appraised value of the property and with a mortgage bearing the below-market interest rate then in effect. However, a 3 percent downpayment is required, which can be applied in whole or in part toward closing costs. Housing Act of 1968, *supra* note 1, at 2808.

Although large housing projects are an efficient and a relatively inexpensive means of providing better housing, valid criticism has been aired concerning their physical unattractiveness and their tendency to become racial and class ghettos. HUNTER, *supra* note 4, at 233, 234. Therefore, it is questionable whether being part owner of a housing project would improve relations or conditions.

Section 235 of the 1968 Housing Act remedies another criticism of cooperative or condominium housing projects. In the past rehabilitated duplex and triplex dwellings had to be sold as cooperative or condominium housing projects. By now allowing these structures to come under the new homeownership provision, the high legal costs and joint responsibilities of the past system are alleviated. An owner-occupant of a duplex dwelling benefiting from mortgage assistance payments can rent out the second dwelling unit and augment his income, thereby reducing the cost of the initial mortgage assistance payments. HEARINGS ON H.R. 15624 BEFORE THE SUBCOMM. ON HOUSING OF THE HOUSE COMM. ON BANKING AND CURRENCY, 90th Cong., 2d Sess. pt. 2, at 929 (1968) [hereinafter cited as 1968 HOUSE HEARINGS].

⁶ Also, the expansion of homeownership will help eliminate one of the greatest problems of the ghetto, absentee landlords and their concomitant abuses. See REPORT OF THE NATIONAL ADVISORY COMM'N ON CIVIL DISORDERS 261 (1968).

⁷ Butler, *An Approach to Low and Moderate Income Homeownership*, 22 RUTGERS L. REV. 67, 68 (1967).

⁸ See *id.* But see D. WILNER, R. WALKLEY, T. PINKERTON, & M. LAYBACK, THE HOUSING ENVIRONMENT AND FAMILY LIFE 249 (1962), where the results of a study, undertaken to verify the above mentioned hypothesis, are reported and it is indicated that the physical environment alone cannot be entirely conclusive. The study was

Until the Housing Act of 1968, federal assistance for low and moderate income family homeownership was minimal.⁹ Section 101 of the new Act increases aid through authorized periodic assistance payments under the new section 235 of the National Housing Act.¹⁰ Payments to mortgagees would be equal to the difference between 20 percent of a family's income¹¹ and the required monthly payments under a market interest rate mortgage if it bore an interest rate of 1 percent.¹²

In order that homes purchased under this program be adequate, but not extravagant, the Act prescribes that the mortgage have a principal obligation not in excess of \$15,000.¹³ However, the limits can be raised to \$17,500 for a family of five or more persons.¹⁴ Periodically, the family's income will be reviewed with assistance

conducted between two matched groups of Negro families, a test group that moved from the slums into new public housing and a control group that remained in generally poor housing. In personal and family relations the data showed directional trends confirming the expectation of better relations in connection with common family activities and discipline of children. But surprisingly, in other aspects of intrafamilial activities, especially cooperation and affection, the findings were mixed or counter to the hypothesis. However, the study did indicate that the test group's reactions to housing and space, relations with neighbors, social self-concept, aspirations, and psychological state "showed . . . at least a directional trend confirming the expectations specified in the area," although not all reached statistically acceptable levels of confidence. *Id.* at 247, 248. Moreover, test persons tended to be freer of illness than control persons with a resulting improvement in school work due to more regular attendance. *Id.* at 250-52.

⁹ The only significant single-family program in existence prior to the Housing Act of 1968 was the Federal Housing Administration (FHA) section 221(h) program, effectuated under the National Housing Act of 1961, 12 U.S.C. § 1715l (h) (1964). This program authorized insured mortgages at 3 percent interest to nonprofit organizations for the acquisition and rehabilitation of standard homes for subsequent resale to low-income families. This program was retained and substantially broadened in the Housing Act of 1968, *supra* note 1, § 235(l) (c)(1), at 2802.

¹⁰ The provision for periodic assistance payments authorized by section 235 and included in section 101 is a significant amendment to the National Housing Act of 1961, 12 U.S.C. § 1701 (1964), and it is hoped that it will provide the much needed relief in the mortgage payment area.

¹¹ In calculating the income of the homeowner for the purpose of the amount on which the 20 percent computation will be made, as well as eligibility, \$300 will be deducted for each minor child who is a member of the homeowner's immediate family and living with him. Incomes of these minors will not be included in the computation for income. Housing Act of 1968, *supra* note 1, § 235(l), at 2801.

¹² The monthly payments on the market interest rate mortgage would include payment for principal, interest, taxes, insurance, and mortgage insurance premium required for payment of principal and interest. *Id.* § 235(h)(1)-(2), at 2801.

¹³ However, in a geographical area where the Secretary of HUD finds the cost level so requires, the mortgage limit can be raised to \$17,500. *Id.* § 235(b) (2), at 2795.

¹⁴ For a family of five or more living in an area deemed 'highcost' by the Secretary of HUD, the mortgage limit can be \$20,000. *Id.* § 235(b)(2), at 2795.

payments decreasing as earnings increase.¹⁵ The Secretary of Housing and Urban Development (HUD) prescribes the maximum and minimum incomes eligible for assistance under this program. The limits are variable, depending in part on family size, and local cost of new single family homes of modest but adequate construction.¹⁶

Generally, assistance will be provided only for new or substantially rehabilitated housing, as it is hoped that this impetus will increase the now inadequate supply of good housing available to low and moderate income families.¹⁷ The Act also provides appropriate counseling,¹⁸ either directly by HUD or by contract with public or private agencies, to instruct the neophyte homeowner in budget and debt management.¹⁹ Moreover, in an unprecedented effort to include families whose credit histories make it difficult to qualify for present FHA home mortgage programs, section 102 of the Act authorizes mortgage insurance where it is determined that a particular family will be capable of homeownership if properly counseled.²⁰

The provisions for implementing the homeownership goals are sections 106 and 107. Nonprofit sponsors²¹ are expected to conduct most of the rehabilitation and construction of the housing for low income families.²² Since lack of funds and technical assistance in the preconstruction phases have contributed to the unsatisfactory past results of nonprofit sponsors,²³ section 106 authorizes the Sec-

¹⁵ *Id.* § 235(f), at 2796.

¹⁶ *Id.* § 235(h), at 2797.

¹⁷ H.R. 1585, 90th Cong., 2d Sess. (1968), printed in 1968 U.S. CODE CONG. & AD. NEWS 3066 [hereinafter cited as Housing Report No. 1585].

¹⁸ It would seem that appropriate counseling should include more than budget and debt management. Long term credit buying, taxes, insurance, and home maintenance and improvement must also be stressed. Accordingly, it has been suggested that this program could be more effective if families were counseled in groups prior to the granting of homeownership loans, during which time they would be expected to obtain steady employment and pay off outstanding debts. Note, *Government Programs to Encourage Private Investment In Low-Income Housing*, 81 HARV. L. REV. 1295, 1320-21 (1968).

¹⁹ Housing Act of 1968, *supra* note 1, § 235(1)(e), at 2804.

²⁰ *Id.* § 237, at 2804. This new amendment, section 237, is a significant expansion of the National Housing Act, but procedures and regulations regarding application for grants, loans, and subsidies under it and sections 235 and 107 have not yet been formalized.

²¹ The category of local nonprofit organizations, defined in the bill as nonprofit sponsors, includes labor unions, fraternal organizations, church sponsored housing corporations, local civic associations, neighborhood corporations, and public bodies funded by the Office of Economic Opportunity, such as local community action agencies. Butler, *supra* note 7, at 76, 95.

²² Housing Report No. 1585, *supra* note 17, at 3074.

²³ *Id.*

retary of HUD to organize a technical assistance program which will aid in preconstruction planning and financing.²⁴ Also loans will be available for "seed" or "front end" money, as it is called, which is needed for preconstruction projects such as making market surveys, architectural plans, and taking land options or acquisitions. Later, when more federal aid becomes available, final financing will cover the costs of these preconstruction loans, and the "seed" money returned to a revolving fund.²⁵

A corporate body known as the National Homeownership Foundation, created by section 107, is supposed to encourage private and public organizations at local levels to provide increased homeownership and housing opportunities for lower income families.²⁶ The means used by the Foundation to implement its program include: encouraging investment in and sponsoring of low income housing; establishing assistance and counseling programs for low income families; providing technological assistance to nonprofit sponsors; providing additional financial aid and conducting experimentation in new programs.²⁷

The effectiveness of the Housing Act of 1968 cannot be predicted with certainty. However, "any proposal seriously designed to meet the urban crisis should pass . . . crucial tests."²⁸ Two of the most critical tests, responsiveness to the needs of the urban resident by providing opportunity for individual involvement in their own

²⁴ The nonprofit sponsor has much of the responsibility for planning and implementing the construction and rehabilitation programs for low and moderate income housing. Thus, the provisions within the Act for assisting nonprofit sponsors include the assembly, correlation, publication, and dissemination of information, advice, and technical assistance from the Secretary of HUD or public or private organizations. Ideally, this should also include information regarding the qualifications for becoming a nonprofit sponsor and methods of applying for federal loans aiding in construction and rehabilitation costs. Housing Act of 1968, *supra* note 1, § 106(a)(1)-(2), at 2810.

²⁵ 1968 Housing Hearing, *supra* note 5, at 69. These would be interest free loans and repayment may be waived if the items cannot be covered by federal financing.

²⁶ Housing Act of 1968, *supra* note 1, § 107(a)(1), at 2812.

²⁷ *Id.* The independent foundation approach was first proposed by Senator C. Percy and Representative W. Windall in the National Homeownership Foundation Act, S. 1592, H.R. 8820, 90th Cong., 1st Sess. (1967). The authors of the bill believed that a quasi-public institution would be better able to make the attitudinal adjustments necessary for efficient administration of a homeownership program. Butler, *supra* note 7, at 67, 72.

²⁸ Carter, *Law and the Urban Crisis*, 15 U.C.L.A.L. REV. 1135, 1138 (1968). Mr. Lisle Carter, Deputy Director of the Urban Coalition, has suggested that three tests be used in examining urban proposals: the tests of justice, responsiveness, and opportunity. Although justice is an important element, a discussion of feasibility was deemed more noteworthy, since concern for the implementation of the Act is foremost at this time.

destiny, and the feasibility of the means used for achieving the desired goals, will serve as aids in predicting the success of the Title I provisions.²⁹ Title I is particularly responsive to the ghetto resident's sociological needs as it provides opportunity for involvement in nonprofit sponsor organizations,³⁰ such as the neighborhood corporation,³¹ which has achieved marked success in Columbus³² and Cleveland,³³ Ohio. The principal developer of the neighborhood corporation concept, Milton Kotler, insists that it is an effective vehicle for bringing alienated, frustrated citizens into the democratic process whereby they can relate to the larger community and its government.³⁴ Moreover, according to the testimony of the Mayor of Columbus, the private projects in homeownership sponsored by the neighborhood corporations have not run into any significant difficulties with city hall, "although they all stress community involvement and organization."³⁵

In the past, government loans were withheld from nonprofit sponsors until a project was approved and construction imminent.

²⁹ *Id.*

³⁰ Provisions of this type which call for individual involvement are generally labeled "self-help" provisions — this means a person's or group's improvement is accomplished largely through his or its own contribution and effort. Self-help is accompanied by a feeling of ownership, sponsorship, and involvement. Generally, the Act should instill some sense of personal pride in achievement. "People learn by doing; those engaged in successful self-help activities often become a reservoir of community leadership . . ." M. CLINARD, *SLUMS AND COMMUNITY DEVELOPMENT* 202 (1966). See generally HUNTER, *supra* note 4.

³¹ The neighborhood corporation is the "incorporation of territorially defined neighborhood communities into a private legal structure on the basis of assembly, officials, and revenue." Butler, *supra* note 7, at 96.

³² The East Central Citizen's Organization in Columbus, Ohio, is now a viable neighborhood corporation that grew out of a social service center founded by the First English Lutheran Church. The pastor, Rev. Leopold W. Bernhard, reorganized the center into a neighborhood corporation when the center became unmanageable, and since then it has operated as a meaningful instrumentality for community participation in self government. Butler, *supra* note 7, at 96.

³³ The Mt. Pleasant Community Development Foundation of Cleveland, Ohio, is an operating neighborhood corporation with membership open to all residents of the Mt. Pleasant area. The Foundation's code of regulations, drawn up by Case Western Reserve University Law Professor Ronald Coffey and law student, Lawrence Curtis, includes provisions which set membership meetings for five times yearly, forbids proxy voting, denies trustees financial gain, guarantees all shades of opinion a voice on the board of trustees through cumulative voting, requires contractors doing work on Foundation projects to be equal opportunity employers, and provides for the election of six officers by the trustees to manage daily activities. Cleveland Press, July 17, 1968, § G, at 1.

³⁴ Butler, *supra* note 7, at 97. Mr. Kotler is with the Institute of Policy Studies, Washington, D.C.

³⁵ *Id.* This testimony was given by Mayor Sensenbrenner in response to criticism that the neighborhood corporation would be disruptive of local grass-roots politics.

Until construction, the cost was born by the nonprofit sponsor or shared by corporations, architects, attorneys, surveyors, and engineers. Conflicting interests often resulted in a breakdown of planning.³⁶ However, now the loan and grant assistance allocated by sections 106 and 107 assures the nonprofit sponsor new mobility and planning independence, as it can seek the advice of community experts while maintaining total control from within.³⁷

The liberal programs of Title I are a significant response to the credit problems experienced by many low income families. Legislators now realize that some people's incomes will not support an acceptable living standard. Moreover, as income decreases, the opportunity to obtain mortgages proportionately declines.³⁸ Section 102 looks beyond the face value of credit histories in an effort to reach those who have been rejected by FHA and conventional mortgage lenders. Subsidies may not achieve perfect resource allocation, or completely make up for deficiencies in education and technological knowledge, but they may offer some compensation and motivation for the urban poor.³⁹

Urban area responsiveness is stimulated by involving area residents in environmental planning through direct participation in a local nonprofit organization. However, urban developers must realize that physical development is not a singular solution to ghetto unrest.⁴⁰ Achievements in this area must be complemented by similar social and economic opportunities which will enable the poor to

³⁶ *Id.* at 96.

³⁷ It should, however, be noted that nonprofit sponsors still are not adequately funded.

³⁸ Butler, *supra* note 7, at 69.

³⁹ Note, *supra* note 4, at 535.

⁴⁰ Carter, *supra* note 28, at 1148. Substandard housing is not a singular problem meriting sole attention. Continued efforts must be directed towards providing improved vocational training within schools so that black students are better prepared with useful, needed trades and skills. R. MARSHALL, *THE NEGRO AND ORGANIZED LABOR* 135 (1965). Union and employer discrimination must decrease to the level where a Negro's ability and skill is rewarded by merited promotion and jobs. A. BATCHELDER, *THE ECONOMICS OF POVERTY* 115 (1966). News media and education must continue their efforts to supplement the white community's knowledge of the black community: its leadership, prejudices, and way of doing things. *THE NEGRO CHALLENGE TO THE BUSINESS COMMUNITY* 97 (E. Ginsberg ed. 1964). Continued promotion of Negroes to important positions within the political parties and the democratic process as a whole is also necessary. *Id.* at 72. The demeaned Negro father figure must also be elevated to a status above that of the less educated and lower wage earning mate. U.S. DEP'T. OF LABOR, OFFICE OF POLICY PLANNING AND RESEARCH, *THE NEGRO FAMILY* 30-32 (March 1965). Most important of all, Negro children must no longer be raised so that they feel ashamed of or despise their color. BATCHELDER, *supra*, at 114.

compete more effectively for goods and services.⁴¹

The 1968 Housing Act recommends that in the administration of section 235 and 236 the Secretary of HUD consult with the Secretary of Labor and, to the greatest extent possible, provide lower income residents with the opportunity for training and employment in the planning, construction, and rehabilitation phases of a project.⁴² These provisions may prove illusory for two reasons. First, project guidebooks issued by HUD and FHA suggest prevailing wages must be paid for construction and rehabilitation work except where services donated by an individual will be credited to the mortgagor's account.⁴³ The prevailing wage requirement tends to reinforce the basic union philosophy of job security,⁴⁴ but also makes it difficult for a sponsor to hire "sweat equity" neighborhood workers who, it might be said, contribute part of the cost of their services to the neighborhood improvement effort.

Secondly, the question arises whether it would be desirable to slow down production and perhaps lessen housing quality by devoting time and money to on-the-job training. If the provision for resident employment is not adequately planned and properly supervised, the final outcome might be the hiring of sub-standard contractors whose work might result in installation of sub-standard facilities.⁴⁵ The total project cost might be greater and the purchaser could suffer the consequences of unsafe conditions.⁴⁶

Feasibility is the most difficult criterion for any urban assistance proposal to meet and is greatly dependent on the availability of funds for program implementation. Prior to the November election, Congress was reluctant to appropriate the needed money. It

⁴¹ Carter, *supra* note 28, at 1151.

⁴² Housing Act of 1968, *supra* note 1, at 2793-94.

⁴³ FEDERAL HOUSING AD., U.S. DEP'T. OF HOUSING AND URBAN DEVELOPMENT, FHA NO. 3900, MULTIFAMILY REHABILITATION — INFORMATION GUIDE AND INSTRUCTION HANDBOOK 26 (1967). The statute requires that prevailing wages, as determined by the Secretary of Labor, must be paid for new construction and rehabilitation under all FHA section 221(d)(3) programs which are now incorporated in the Housing Act of 1968, section 235 (l) (c) (1).

⁴⁴ Givens, *Job Security in the Building Industry — and High Quality Low-Rent Housing*, 18 LABOR L.J. 468, 469 (1968). The chief purpose of unionism is to promote job security. Therefore, the union's solution to the job protection versus low cost housing dichotomy suggests a tremendous increase in the amount of construction resulting in full employment for the entire industry. Then the unions would have to relinquish their cost raising and restrictive employment practices in order to compete for contracts on the basis of the most efficient means of construction. *Id.* at 472.

⁴⁵ 1968 HOUSE HEARINGS, *supra* note 5, pt. 1, at 541. The AFL-CIO expressed particular concern for the "sweat equity" provisions in the Homeownership Title. *Id.*

⁴⁶ *Id.*

is now hoped that funds necessary for vitalizing the program will become available. However, even under optimum conditions, such as full appropriation, some facets of the Act may prove untenable. For example, section 108 reemphasizes the role that new technologies play in reducing housing costs.⁴⁷ President Johnson in his message on cities called for business and labor to provide the skill, resources and technologies needed to build low income housing faster and more economically.⁴⁸ Yet, the construction industry may prevent attainment of this goal. Carpenters have struck to prevent prefabricated doors from being installed.⁴⁹ Similarly, members of an insulators and asbestos workers' union would not install precut bands for fastening insulation material around pipes.⁵⁰ In both cases the Supreme Court upheld the union's right to preserve work traditionally done at a construction site.⁵¹

Nonfeasibility could become a factor in the application of the section 107 directive to the Homeownership Foundation instructing it to coordinate its activities with other federal agencies engaged in low income homeownership programs. Committee hearings have noted the difficulties encountered by HUD and FHA with red tape, especially, extensive delays in processing applications and cumbersome procedural arrangements.⁵² HUD and FHA have also been accused of inefficiency due to the general lack of results produced by existing programs.⁵³ If these agencies are indeed guilty of these deficiencies, the Homeownership Foundation may not be able to develop a cohesive system resulting in nonduplication.⁵⁴

Under section 110, the National Advisory Commission on Low Income Housing is directed to undertake a comprehensive study of existing housing programs and explore new methods for more ef-

⁴⁷ Housing Act of 1968, *supra* note 1, at 2817. Conventional materials and construction methods have increased steadily beyond the price range of lower income families. House Report No. 1585, *supra* note 17, at 3077.

⁴⁸ 4 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 329 (1968).

⁴⁹ National Woodworkers Mfg. Ass'n v. N.L.R.B., 386 U.S. 612 (1967).

⁵⁰ Houston Insulation Contractors Ass'n. v. N.L.R.B., 386 U.S. 664 (1967).

⁵¹ In an agreement on November 1, 1967, the United Brotherhood of Carpenters and Joiners of America, AFL-CIO promised to install prefabricated doors if the workers were paid the regular wage they would have received had the traditional work been done at the job site. "Thus the owner is forced to pay for the prefabricated door and the wage of the carpenter who did not fabricate the door." 1968 HOUSE HEARINGS, *supra* note 5, at 376. Clearly, a large number of efficiently constructed low cost dwellings cannot be constructed when such obvious barriers remain.

⁵² House Report No. 1585, *supra* note 17, at 3062.

⁵³ Butler, *supra* note 7, at 72.

⁵⁴ But see Ink, *Establishing the New Dep't of HUD*, 27 PUB. AD. REV. 224 (1967) regarding the departments organization and efficiency.

ficient resource usage.⁵⁵ Experience from past legislation and commission studies⁵⁶ presently provides Congress with ample information concerning existing deficiencies. Hopefully, the work done by this Commission will not be just a duplication of these past studies. If the Commission follows Congress' general directives, they should produce a thorough analysis of the effectiveness of Title I and suggest methods by which some of the weaknesses could be remedied.⁵⁷

Title I of the 1968 Housing Act is the first serious attempt to provide federal assistance to low income families for homeownership. Theoretically its provisions appear to sufficiently meet the requirements of the first criterion, responsiveness to the needs of the people being helped through opportunity for their individual participation. Black communities have increasingly been demanding residents' control of local schools, stores, housing, and politics. Provisions stressing the role of nonprofit sponsors will be meeting part of these demands by offering area residents a chance to build or rebuild suitable housing. However, the government should not forget that adequate counseling of both homeowners and homebuilders will be essential for this program's success. The responsibility for counseling and supervising provisions for this Title rests on HUD and the Homeownership Foundation. Their personnel will have the difficult job of tempering any dictatorial urges, yet seeing that the programs operate efficiently and effectively.

Unfortunately, initial optimism regarding the effectiveness of Title I lessens somewhat upon consideration of the feasibility of some of its provisions such as those calling for the usage of new construction technologies and on-the-job training, and those requiring the National Homeownership Foundation to coordinate its programs with HUD, and the National Advisory Commission on Low Income Housing to undertake studies. Even if some of these incidental provisions of Title I prove untenable, Congress should not

⁵⁵ Housing Act of 1968, *supra* note 1, at 2819.

⁵⁶ See, e.g., REPORT OF THE NATIONAL ADVISORY COMM'N ON CIVIL DISORDERS 257-63 (1968).

⁵⁷ Also Congress, as the policy analyst, should evaluate the Commission's response to Title I by what is known as increments. By using the incremental approach, Congress need only consider whether the increase of values resulting from these programs are desirable and whether they are more worthwhile and realizable when compared with value consequences of other proposals. For a general discussion of this type of approach, see Lewis, *The High Court: Final . . . But Fallible*, 19 CASE W. RES. L. REV. 528, 560 (1968), citing D. BRAYBROOKE & C. LINDBLOM, A STRATEGY OF DECISION: POLICY EVALUATION AS A SOCIAL PROCESS 85 (1963); Note, *Soviet International Law: An Exemplar for Optimal Decision Theory Analysis*, 20 CASE W. RES. L. REV. 141, 185 n.208 (1968).

reverse its belief in the basic philosophy of homeownership. Rather Congress should carefully, but steadily, move forward with new proposals based on the experiences of past successes and failures. Hopefully, the new administration will adequately fund the various provisions of this Act for full implementation so that this country can proceed a step closer towards the goal of decent housing for all.

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