

RULING ON PLAINTIFFS' MOTION TO CONSOLIDATE SHOULD
BE DEFERRED PENDING RULING ON DEFENDANT'S MOTION TO
DISMISS

Defendant asks the court to defer the briefing and argument on plaintiffs' recent motion to consolidate this cause with cause No. 66 C 1459 until after the ruling on this defendant's pending motion to dismiss. Surely it is premature to consider consolidation until the Court has determined whether plaintiffs can bring any action at all against this defendant.

CONCLUSION

For the reasons given in defendant's original Memorandum, supplementary Memorandums, and in this Reply, the Motion to dismiss should be granted in this case.

Respectfully submitted,

Edward V. Hanrahan
United States Attorney
Room 1500, U.S. Courthouse
219 South Dearborn St.
Chicago, Illinois 60604

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,)
)
Plaintiffs)

vs.)

NO. 66 C 1460

ROBERT C. WEAVER, Secretary of)
The Department of Housing and)
Urban Development of the)
United States,)
)
Defendant)

AFFIDAVIT OF FRANCIS X. SERVAITES IN
SUPPORT OF DEFENDANT'S MOTION TO DISMISS

CITY OF WASHINGTON)
) SS.
DISTRICT OF COLUMBIA)

Francis X. Servaites, being first duly sworn, upon oath, deposes and says:

1. I am the Acting General Deputy, Housing Assistance Administration, Department of Housing and Urban Development, a Department of the Executive Branch of the United States. As Acting General Deputy of the Housing Assistance Administration, I act for Marie C. McGuire, Acting Deputy Assistant Secretary for Housing Assistance of the Housing Assistance Administration, Department of Housing and Urban Development, in her absence.

2. As Acting Deputy Assistant Secretary for Housing Assistance, Marie C. McGuire has general supervision over the administration of the low-rent housing program of the Federal Government under the United States Housing Act of 1937 (42 U.S.C. 1401, et seq.). Her supervision of this function is by virtue of organizational orders and delegations of authority from the Secretary of the Department of Housing and Urban Development to the Assistant Secretary for Renewal and Housing Assistance, and from the Assistant Secretary for Renewal and Housing Assistance to her, pursuant to the Department of Housing and Urban Development Act (5 U.S.C. 624), all as set forth in said order and delegations of authority annexed hereto as Exhibit 1.

3. In administering the low-rent housing program, the Department of Housing and Urban Development (hereinafter referred to as HUD), by policy, practice, and careful evaluation, on an individual and case basis, endeavors to carry out the requirements of the Civil Rights Act of 1964, while at the same time performing its function, i.e., the provision of low-rent housing accommodations for low income families and the elderly where most needed and most wanted.

4. Each individual or group complaint of alleged violation of the Civil Rights Act of 1964 which is filed with HUD in any aspect of the low-rent housing program receives careful investigation and evaluation and full consideration in determining the action to be taken in respect thereto.

5. An example of the careful evaluation of all such complaints is presented by the Chicago Housing Authority (hereinafter referred to as CHA) in the matter of the approval by HUD of the sites selected by CHA for its 1965 group of projects (referred to in the Complaint in this suit as the "Five Proposed Projects") and its 1966 group of projects (referred to in the Complaint in this suit as the "Twelve Proposed Projects").

6. By letter of August 26, 1965, The West Side Federation, over the signatures of The Reverend S. Jerome Hall and Rev. Daniel J. Mallette, complained of violation of the Civil Rights Act of 1964 and the HUD Departmental Regulations thereunder (24 CFR, Title 24, Subtitle A, Part 1) by CHA in the matter of site selection by CHA for its 1965 projects, which letter is Exhibit A to the affidavit of Louis Kreinberg filed in this suit. Discussions between the then chief Federal officer administering the Federal low-rent housing program, Mrs. Marie C. McGuire, Commissioner of the Public Housing Administration, and the Reverend Mallette were had, seeking further information as to the nature of the complaint. HUD meanwhile sought all obtainable facts regarding the sites selected by CHA. HUD carefully evaluated all information obtained. Having come to a decision, HUD by letter of October 14, 1965, to The Reverend S. Jerome Hall, Chairman of the Federation, set forth in full its reasons for finding the sites selected by CHA for the 1965 projects approvable. The letter of October 14, 1965, is Exhibit B to the affidavit of Louis Kreinberg filed in this suit. By amendment to the Annual Contributions Contract between HUD and CHA dated October 18, 1965, HUD approved the sites selected by CHA for its 1965 projects.

7. In the matter of the sites selected by CHA for its 1966 projects, HUD, being aware of the 1965 complaint, again gave careful investigation, analysis, and evaluation of these sites to ascertain their acceptability under the Civil Rights Act of 1964, and the Departmental Regulations pursuant thereto. After conferences and discussions between HUD and CHA as to the acceptability of these sites, the CHA withdrew from HUD consideration the following sites:

<u>Project No.</u>	<u>Site</u>	<u>Location</u>	<u>No. of Dwelling Units</u>	<u>Community Area</u>
ILL-2-63	A	E. 41st Pl., E. 41st St., & S. Ellis	174	Oakland
ILL-2-63	B	E. 46th & S. Greenwood	60	Kenwood
ILL-2-65	C	S. California & W. Adams (& W. Wilcox)	48	East Garfield Park
ILL-2-65	D	W. Jackson & S. Francisco (W. Van Buren & S. Richmond)	69	East Garfield Park
ILL-2-65	E	W. Van Buren & S. Albany	24	East Garfield Park

HUD found acceptable and approved the following sites as a group:

<u>Project No.</u>	<u>Site</u>	<u>Location</u>	<u>No. of Dwelling Units</u>	<u>Community Area</u>
ILL-2-63	D	E. 70th & S. Harper	48	South Shore
ILL-2-64		(Scattered Sites)	356	North Lawndale
ILL-2-65	B	W. Franklin & N. Albany	33	Humboldt Park
	F	Congress & S. Millard	99	East Garfield Park
ILL-2-66		W. 118th & S. Wood	296	Morgan Park

The sites for Projects ILL-2-63C and ILL-65A were not under submission or consideration before HUD for inclusion in the 1966 group.

9. Project ILL-2-63D is in the Negro portion of the South Shore area which has a large white section; Project ILL-2-64 consists of many scattered sites and includes rehabilitation of existing housing in the North Lawndale area and is desirable because of the effect it will have on the general improvement of the area and avoiding concentration of low-rent housing into an enclave of such housing; Project ILL-65B borders a large white area; Project ILL-2-65F borders on the white area of East Garfield Park; Project ILL-2-66 is in a Negro area surrounded by the white Morgan Park area. The projects have been considered as a group.

10. The standards applied by HUD in approving the 1965 and 1966 sites for the projects of the CHA are contained in section 205.1 of the Low-Rent Housing Manual, mentioned in the Letter of October 14, 1965, to the

agely
deleted
5/12/67

Reverend S. Jerome Hall. The provisions of section 205.1 have recently been clarified and strengthened. Copies of section 205.1 prior to clarification and as clarified are attached hereto as Exhibits 2 and 3, respectively.

~~Francis X. Servaites~~

FRANCIS X. SERVAITES
Acting General Deputy
Housing Assistance Administration
Department of Housing and Urban Development

City of Washington)
District of Columbia) SS.

Subscribed and sworn to before me this 5th day of June 1967.

/s/ Virginia Luce Allen

Notary Public

My Commission expires

July 14, 1968



Public Law 89-174
89th Congress, H. R. 6927
September 9, 1965

An Act

79 STAT. 667

To establish a Department of Housing and Urban Development, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Housing and Urban Development Act".

Department of
Housing and
Urban Develop-
ment Act.

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of our people require, as a matter of national purpose, sound development of the Nation's communities and metropolitan areas in which the vast majority of its people live and work.

To carry out such purpose, and in recognition of the increasing importance of housing and urban development in our national life, the Congress finds that establishment of an executive department is desirable to achieve the best administration of the principal programs of the Federal Government which provide assistance for housing and for the development of the Nation's communities; to assist the President in achieving maximum coordination of the various Federal activities which have a major effect upon urban community, suburban, or metropolitan development; to encourage the solution of problems of housing, urban development, and mass transportation through State, county, town, village, or other local and private action, including promotion of interstate, regional, and metropolitan cooperation; to encourage the maximum contributions that may be made by vigorous private homebuilding and mortgage lending industries to housing, urban development, and the national economy; and to provide for full and appropriate consideration, at the national level, of the needs and interests of the Nation's communities and of the people who live and work in them.

ESTABLISHMENT OF DEPARTMENT

SEC. 3. (a) There is hereby established at the seat of government an executive department to be known as the Department of Housing and Urban Development (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary"), who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary. The Secretary shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments.

Appointment of
Secretary.

(b) The Secretary shall, among his responsibilities, advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development; provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies, including, when appropriate, holding informal public hearings, with respect to Federal and State programs

Duties.

for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects; encourage comprehensive planning by the State and local governments with a view to coordinating Federal, State, and local urban and community development activities; encourage private enterprise to serve as large a part of the Nation's total housing and urban development needs as it can and develop the fullest cooperation with private enterprise in achieving the objectives of the Department; and conduct continuing comprehensive studies, and make available findings, with respect to the problems of housing and urban development.

(c) Nothing in this Act shall be construed to deny or limit the benefits of any program, function, or activity assigned to the Department by this or any other Act to any community on the basis of its population or corporate status, except as may be expressly provided by law.

UNDER SECRETARY AND OTHER OFFICERS AND OFFICES

Under Secretary. SEC. 4. (a) There shall be in the Department an Under Secretary, Assistant Secretaries. four Assistant Secretaries, and a General Counsel, who shall be appointed by the President by and with the advice and consent of the Senate, who shall receive compensation at the rate now or hereafter provided by law for under secretaries, assistant secretaries, and general counsels, respectively, of executive departments, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time. There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market.

Assistant Secretary for Administration. (b) There shall be in the Department an Assistant Secretary for Administration, who shall be appointed, with the approval of the President, by the Secretary under the classified civil service, who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time, and whose annual rate of compensation shall be the same as that now or hereafter provided by or pursuant to law for assistant secretaries for administration of executive departments.

Director of Urban Program Coordination. (c) There shall be in the Department a Director of Urban Program Coordination, who shall be designated by the Secretary. He shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development. In providing such assistance, the Director shall make such studies of urban and community problems as the Secretary shall request, and shall develop recommendations relating to the administration of Federal programs affecting such problems, particularly with respect to achieving effective cooperation among the Federal, State, and local agencies concerned. Subject to the direction of the Secretary, the Director shall, in carrying out his responsibilities, (1) establish and maintain close liaison with the Federal departments and agencies concerned, and (2) consult with State, local, and regional officials, and consider their recommendations with respect to such programs.

TRANSFERS TO DEPARTMENT

SEC. 5. (a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to and vested in the Secretary all of the functions, powers, and duties of the Housing and Home Finance Agency, of the Federal Housing Administration and the Public Housing Administration in that Agency, and of the heads and other officers and offices of said agencies.

(b) The Federal National Mortgage Association, together with its functions, powers, and duties, is hereby transferred to the Department. The next to the last sentence of section 308 of the Federal National Mortgage Association Charter Act and the item numbered (94) of section 303(e) of the Federal Executive Salary Act of 1964 are hereby repealed, and the position of the President of said Association is hereby allocated among the positions referred to in section 7(c) hereof.

(c) The President shall undertake studies of the organization of housing and urban development functions and programs within the Federal Government, and he shall provide the Congress with the findings and conclusions of such studies, together with his recommendations regarding the transfer of such functions and programs to or from the Department. Notwithstanding any other provision of this Act, none of the functions of the Secretary of the Interior authorized under the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) or other functions carried out by the Bureau of Outdoor Recreation shall be transferred from the Department of the Interior or in any way be limited geographically unless specifically provided for by reorganization plan pursuant to provisions of the Reorganization Act of 1949 (63 Stat. 203), as amended, or by statute.

Repeals.
68 Stat. 620.
12 USC 1723.
78 Stat. 421.
5 USC 2211.
Report to Congress.

16 USC 4601-4 note.

5 USC 133z note.

CONFORMING AMENDMENTS

SEC. 6. (a) Section 19(d)(1) of title 3 of the United States Code is hereby amended by striking out the period at the end thereof and inserting a comma and the following: "Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development."

(b) Section 158 of the Revised Statutes (5 U.S.C. 1) is amended by adding at the end thereof:

"Eleventh. The Department of Housing and Urban Development."

(c) The amendment made by subsection (b) of this section shall not be construed to make applicable to the Department any provision of law inconsistent with this Act.

62 Stat. 677.

ADMINISTRATIVE PROVISIONS

SEC. 7. (a) The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, or other funds held, used, arising from, or available or to be made available in connection with, the functions, powers, and duties transferred by section 5 of this Act are hereby transferred with such functions, powers, and duties, respectively.

(b) No transfer of functions, powers, and duties shall at any time be made within the Department in connection with the secondary market operations of the Federal National Mortgage Association unless the Secretary finds that the rights and interests of owners of outstanding common stock issued under the Federal National Mortgage Association Charter Act will not be adversely affected thereby.

Transfer of personnel, assets, etc.

Restriction.

68 Stat. 622.
12 USC 1716 note.

Compensation of
personnel.

(c) The Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, as shall be necessary to carry out the provisions of this Act and to prescribe their authority and duties: *Provided*, That any other provision of law to the contrary notwithstanding, the Secretary may fix the compensation for not more than six positions in the Department at the annual rate applicable to positions in level V of the Federal Executive Salary Schedule provided by the Federal Executive Salary Act of 1964.

78 Stat. 419.
5 USC 2211.
Delegation of
authority.

(d) The Secretary may delegate any of his functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties. The second proviso of section 101(c) of the Housing Act of 1949 is hereby repealed.

Repeal.
68 Stat. 623.
42 USC 1451.
60 Stat. 810.
5 USC 55a.

(e) The Secretary may obtain services as authorized by section 15 of the Act of August 2, 1946, at rates not to exceed \$100 per diem for individuals.

Working capital
fund.

(f) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space; central services for document reproduction and for graphics and visual aids; and a central library service. In addition to amounts appropriated to provide capital for said fund, which appropriations are hereby authorized, the fund shall be capitalized by transfer to it of such stocks of supplies and equipment on hand or on order as the Secretary shall direct. Such fund shall be reimbursed from available funds of agencies and offices in the Department for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and for depreciation of equipment.

Seal.

(g) The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 8. The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year.

SAVINGS PROVISIONS

SEC. 9. (a) No cause of action by or against any agency whose functions are transferred by this Act, or by or against any officer of any agency in his official capacity, shall abate by reason of this enactment. Such causes of action may be asserted by or against the United States or such official of the Department as may be appropriate.

(b) No suit, action, or other proceeding commenced by or against any agency whose functions are transferred by this Act, or by or against any officer of any such agency in his official capacity, shall abate by reason of the enactment of this Act. A court may at any time during the pendency of the litigation, on its own motion or that of any party, order that the same may be maintained by or against the United States or such official of the Department as may be appropriate.

(c) Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act, by any agency, officer, or office pertaining to any functions, powers, and duties transferred by this Act shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer or office of the Department as, in accordance with applicable law, may be appropriate. With respect to any function, power, or duty transferred by or under this Act and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or to any officer, office, or agency therein, except the Federal National Mortgage Association and its officers, shall be deemed to mean the Secretary. The positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of this Act shall lapse.

SEPARABILITY

SEC. 10. Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provision of this Act, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered.

EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 11. (a) The provisions of this Act shall take effect upon the expiration of the first period of sixty calendar days following the date on which this Act is approved by the President, or on such earlier date as the President shall specify by Executive order published in the Federal Register, except that any of the officers provided for in sections 3(a), 4(a), and 4(b) of this Act may be nominated and appointed, as provided in such sections, at any time after the date this Act is approved by the President.

(b) In the event that one or more officers required by this Act to be appointed, by and with the advice and consent of the Senate, shall not have entered upon office on the effective date of this Act, the President may designate any person who was an officer of the Housing and Home Finance Agency immediately prior to said effective date to act in such

office until the office is filled as provided in this Act or until the expiration of the first period of sixty days following said effective date, whichever shall first occur. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

Approved September 9, 1965.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 337 (Comm. on Government Operations) and No. 884 (Comm. of Conference).

SENATE REPORT No. 536 accompanying S. 1599 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 111 (1965):

June 15: Considered in House.

June 16: Considered and passed House.

Aug. 10: Considered in Senate.

Aug. 11: Considered and passed Senate, amended, in lieu of S. 1599.

Aug. 30: Senate agreed to conference report.

Aug. 31: House agreed to conference report.



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SECRETARY'S ORGANIZATION ORDER NO. 1

February 24, 1966

Subject: Organization of the Department

This Order establishes the organization of the Department of Housing and Urban Development.

There shall be in the Department the following principal officers, who shall be responsible to the Secretary for the administration of the programs and functions assigned to them by this Order:

- Under Secretary
- Assistant Secretary for Mortgage Credit and Federal Housing Commissioner
- Assistant Secretary for Renewal and Housing Assistance
- Assistant Secretary for Metropolitan Development
- Assistant Secretary for Demonstrations and Intergovernmental Relations
- General Counsel
- Assistant Secretary for Administration

Secretary

The Department is administered under the supervision and direction of the Secretary. Among his responsibilities, the Secretary advises the President with respect to Federal programs and activities relating to housing and urban development; develops and recommends to the President policies for fostering the orderly growth and development of the nation's urban areas; and exercises leadership at the direction of the President in coordinating Federal activities affecting housing and urban development.

The Secretary is the Chairman of the Board of Directors of the Federal National Mortgage Association.

Under Secretary

The Under Secretary shall assist the Secretary in the discharge of his duties and responsibilities and serve as Acting Secretary in the absence of the Secretary.

Deputy Under Secretary for Policy Analysis and Program Evaluation

The Deputy Under Secretary for Policy Analysis and Program Evaluation shall advise the Secretary and the Under Secretary with respect to program formulation and evaluation; make comprehensive studies and analyses of developments, trends and problems relating to national housing and community development goals and make recommendations for changes in program policies and objectives; develop a program-planning-budgeting system for the Department; design or direct the design of data systems to serve the needs of the Department; assemble and evaluate statistical data for Department use; and provide functional supervision for the Secretary with regard to the performance of these functions throughout the Department.

Assistant Secretary for Mortgage Credit and Federal Housing Commissioner

The Assistant Secretary for Mortgage Credit and Federal Housing Commissioner shall be the principal adviser to the Secretary with respect to programs involving the private mortgage market. He shall be responsible to the Secretary for the administration of the programs and functions assigned to the Federal Housing Administration, and assist in coordinating them with the activities of the Federal National Mortgage Association.

Deputy Assistant Secretary for Mortgage Credit

The Deputy Assistant Secretary for Mortgage Credit shall assist the Assistant Secretary in the performance of his duties and responsibilities and act for him in his absence.

Federal Housing Administration

The Federal Housing Administration shall carry out the following programs of the Department:

Programs of home improvement loan, mortgage, and land development insurance authorized by the National Housing Act.

All functions not otherwise assigned with respect to the rent supplement program authorized by section 101 of the Housing and Urban Development Act of 1965.

Disposition (including management and liquidation of Government-owned mortgages) of Government-owned property at Richland, Washington; Los Alamos, New Mexico; and Oak Ridge, Tennessee, under the Atomic Energy Community Act of 1955 as amended and Executive Orders 10657 and 11105.

Federal National Mortgage Association

The Federal National Mortgage Association shall carry out the following programs of the Department in accordance with the policies of the Board of Directors of the Association and with the Federal National Mortgage Association Charter Act, as amended:

The provision of supplementary assistance to the secondary market for insured and guaranteed mortgages, under Section 304 of the FNMA Charter Act.

The provision of special assistance in the financing of eligible types of mortgages, under Section 305 of the FNMA Charter Act.

The management and liquidation of the portfolio of mortgages held by FNMA under Section 306 of the FNMA Charter Act, including management of the Government Mortgage Liquidation Trust.

The chief executive officer of the Federal National Mortgage Association shall be the President of the Association, who shall supervise the activities of the Association in consonance with the policies established by the Board of Directors of the Association.

Assistant Secretary for Renewal and Housing Assistance

The Assistant Secretary for Renewal and Housing Assistance shall be the principal adviser to the Secretary on programs of renewal and housing assistance, and shall be responsible to the Secretary for the administration of these programs. He shall direct and coordinate, on behalf of the Secretary, the Department's activities with respect to these programs, and shall supervise the following organization units:

Renewal Projects Administration

The Renewal Projects Administration, headed by a Deputy Assistant Secretary for Renewal, shall develop policies, standards, and procedures for and provide technical advice and guidance with respect to the conduct of the following programs of the Department:

The program of slum clearance and urban renewal under Title I of the Housing Act of 1949, as amended, including rehabilitation grants, general neighborhood renewal plans, community renewal plans, code enforcement projects, and demolition projects.

Loans for rehabilitation under Section 312 of the Housing Act of 1964, as amended.

Housing Assistance Administration

The Housing Assistance Administration, headed by a Deputy Assistant Secretary for Housing Assistance, shall develop policies, standards, and procedures for and provide technical advice and guidance with respect to the conduct of the following programs of the Department:

The low-rent public housing programs under the United States Housing Act of 1937, as amended.

The college housing loan program under Title IV of the Housing Act of 1950, as amended.

Loans for housing for the elderly or handicapped, under Section 202 of the Housing Act of 1959, as amended.

Office of Special Housing Assistance

The Office of Special Housing Assistance shall be headed by a Director reporting to the Deputy Assistant Secretary for Housing Assistance. The Office shall perform the functions of the Housing Assistance Administration with respect to the college housing loan program and the program of loans for housing for the elderly or handicapped.

Office of Urban Neighborhood Services

The Office of Urban Neighborhood Services shall be headed by a Director, reporting to the Assistant Secretary for Renewal and Housing Assistance. The Office shall develop policies, standards, and procedures for and provide technical advice and guidance with respect to the conduct of the following programs and functions of the Department:

Grants for provision of open-space land in built-up urban areas under Section 705 of the Housing Act of 1961, as amended (urban parks).

Grants for the acquisition and development of open-space land in central cities of urban areas under Section 702(a) of the Housing Act of 1961, as amended.

Grants for central city urban beautification and improvement under Section 706 of the Housing Act of 1961, as amended.

Grants for neighborhood facilities under Section 703 of the Housing and Urban Development Act of 1965.

Coordination of the provision of project social services.

The Assistant Secretary for Renewal and Housing Assistance shall also supervise the following staff units and officials:

The Special Assistant to the Assistant Secretary, who shall coordinate the Department's programs for housing for the elderly and handicapped, and provide liaison with public agencies and private groups with respect to problems of the elderly and handicapped as they relate to programs of the Department.

The Relocation Standards and Services Staff, headed by a Director, who shall develop policies, procedures, and standards for and exercise supervision over the conduct of functions with respect to the relocation of families, persons and businesses displaced as a result of Department programs. The staff shall also represent the Department in the coordination of its relocation policies and practices with those of other Departments and agencies.

The Project Financing Staff, headed by a Director, who shall develop policies, standards, and procedures for and exercise supervision over the conduct of functions with respect to local and Federal financing of projects in programs under the supervision of the Assistant Secretary for Renewal and Housing Assistance.

The Workable Program Standards and Services Staff, headed by a Director, who shall develop policies, standards and procedures for and exercise supervision over the conduct of functions with respect to the Workable Program for Community Improvement.

The Administrative Operations Staff, headed by a Director, who shall provide or arrange for the provision of administrative services.

Assistant Secretary for Metropolitan Development

The Assistant Secretary for Metropolitan Development shall be the principal adviser to the Secretary on programs of metropolitan development, and shall be responsible to the Secretary for the administration of these programs. He shall direct and coordinate, on behalf of the Secretary, the Department's activities with respect to these programs, and shall supervise the following principal staff and organization units:

Deputy Assistant Secretary for Metropolitan Development

The Deputy Assistant Secretary for Metropolitan Development shall assist the Assistant Secretary in the performance of his duties and responsibilities and act for him in his absence.

Office of Planning Standards and Coordination

The Office of Planning Standards and Coordination, headed by a Director, shall develop policies, standards, and procedures for and provide technical advice and guidance with respect to the conduct of the following programs and activities of the Department:

The program of urban planning assistance under Section 701 of the Housing Act of 1954, as amended (except the conduct of studies, research, and demonstration projects under Section 701(b)).

The program of advances for public works planning under Section 702 of the Housing Act of 1954, as amended (except the conduct of surveys of public works planning under Section 702(f)).

The administration of planning requirements affecting the various programs of the Department.

The stimulation and coordination of metropolitan area planning.

The Office shall also perform necessary staff functions with respect to planning for:

- The proposed program of supplementary grants to assist in planned metropolitan development.

Land and Facilities Development Administration

The Land and Facilities Development Administration, headed by a Director, shall develop policies, standards, and procedures for and provide technical advice and guidance with respect to the conduct of the following programs of the Department:

Grants for basic water and sewer facilities under Section 702 of the Housing and Urban Development Act of 1965.

Grants for advance acquisition of land under Section 704 of the Housing and Urban Development Act of 1965.

Grants for the acquisition and development of open-space land under Section 702 of the Housing Act of 1961, as amended, other than central city open-space.

Public Facilities Loans under Title II of the Housing Amendments of 1955, as amended, (except the provision of technical advisory services under Section 207).

Grants for urban beautification and improvement outside the central city, under Section 706 of the Housing Act of 1961, as amended.

Management and liquidation of the Department's responsibilities under the following programs: Alaska Public Works Act, defense community facilities, prefabricated housing loans, war public works under Title II of the Lanham Act; Public Agency Loans (RFC); Alaska Housing Act; Public Works Acceleration Act of 1962; and Sections 7 and 8 of the Area Redevelopment Act of 1961 and delegations of authority from the Secretary of Commerce.

Urban Transportation Administration

The Urban Transportation Administration, headed by a Director, shall develop policies, standards, and procedures for and administer, under the direction of the Assistant Secretary, the following programs of the Department which are not decentralized to the Regional Offices:

Loans and grants for mass transportation under the Urban Mass Transportation Act of 1964.

Mass transportation demonstration, research and development projects under the Urban Mass Transportation Act of 1964.

Administration and liquidation of urban mass transportation loans and demonstration grants under the Housing Act of 1961.

Office of Technical Services

The Office of Technical Services, headed by a Director, shall develop policies, standards, and procedures for and provide technical advice and guidance with respect to the conduct of the following programs for which construction and technical services are provided by the Department of Housing and Urban Development to the Department of Health, Education and Welfare:

The school construction program under Public Law 815, 81st Congress, as amended.

The academic facilities program authorized by the Higher Education Facilities Act of 1963, as amended.

Assistant Secretary for Demonstrations and Intergovernmental Relations

The Assistant Secretary for Demonstrations and Intergovernmental Relations shall be the principal adviser to the Secretary on programs and functions of demonstration, research, intergovernmental relations, and urban program coordination, and shall be responsible to the Secretary for the administration of these programs and functions. He shall direct and coordinate, on behalf of the Secretary, the Department's activities with respect to these programs and functions, and shall supervise the following principal staff and organization units:

Deputy Assistant Secretary for Demonstrations and Intergovernmental Relations and Director of Urban Program Coordination

The Deputy Assistant Secretary for Demonstrations and Intergovernmental Relations shall assist the Assistant Secretary in the performance of his duties and responsibilities and act for him in his absence. He shall serve as Director of Urban Program Coordination, and in that capacity shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development; and shall assure consideration at the highest level of the Department of the issues and problems involved in achieving effective relationships with other Federal departments and agencies.

Demonstration Programs Administration

The Demonstration Programs Administration, headed by a Director, shall develop policies, standards, and procedures for and administer, under the direction of the Assistant Secretary, the following programs and functions of the Department:

The Demonstration Cities Program, when enacted, as proposed in the President's Message on City Demonstration Programs.

Grants to assist and demonstrate slum clearance and urban renewal methods and techniques, under Section 314 of the Housing Act of 1954, as amended.

Grants to develop and demonstrate new or improved means of providing housing for low-income and handicapped persons and families, under Section 207 of the Housing Act of 1961, as amended.

Office of Intergovernmental Relations and Urban Program Coordination

The Office of Intergovernmental Relations and Urban Program Coordination, headed by a Director, shall conduct studies and analyses and provide staff assistance to the Assistant Secretary and Deputy Assistant Secretary in matters of intergovernmental relations and urban program

coordination, including representing the Department in the development of effective working relationships with other Federal agencies that have a major impact on community development; providing a source of information and advice with respect to problems arising in the administration of Federal programs requiring effective cooperation among the Federal, State and local governmental units and agencies concerned; assisting and encouraging State, county, and local governments in the development of intergovernmental arrangements that will assist them in the more effective discharge of their responsibilities for program administration; and consulting with State, local, and regional officials and securing their recommendations with respect to these matters. The Office shall also develop policies, standards and procedures for the conduct of the following programs and activities which have been proposed for activation by the Department:

Metropolitan (Metro) Desks, which shall, as activated, operate out of the Department's Regional Offices to provide representation and coordination for the Department within specific metropolitan areas.

The program of Federal-State training authorized by the Housing Act of 1964, when activated.

The City Planning and Urban Studies Fellowships Program authorized by the Housing Act of 1964, when activated.

Office of Urban Studies and Clearinghouse Services

The Office of Urban Studies and Clearinghouse Services, headed by a Director, shall administer the following programs and activities:

The development and administration of a Clearinghouse Service to supply information covering all aspects of housing and urban development for the benefit of States, counties, and urban areas.

The development of the proposed Institute of Urban Development.

The programs of housing research and urban studies authorized by the Housing Acts of 1948, 1956, and 1957, as amended.

The provision of technical assistance, studies, and publications relating to open-space land and urban beautification and improvement, under Section 708 of the Housing Act of 1961, as amended.

The conduct of studies, research, and demonstration projects for the development and improvement of techniques and methods for comprehensive planning and for the advancement of the purposes of the Urban Planning Grant Program, as authorized under Sec. 701(b) of the Housing Act of 1954, as amended.

The conduct of the study of housing and building codes, zoning, tax policies, and development standards authorized in Section 301 of the Housing and Urban Development Act of 1965.

The establishment and provision of technical advisory services to assist municipalities and other political subdivisions in the budgeting, financing, planning, and construction of community facilities, under Section 207 of the Housing Amendments of 1955, as amended.

The conduct of surveys of the status and current volume of State and local public works planning and surveys of estimated requirements for State and local public works, under Section 702(f) of the Housing Act of 1954, as amended.

The study of alternative programs for providing financial assistance in connection with natural disasters, under the Southeast Hurricane Disaster Relief Act of 1965.

The Office of Urban Studies and Clearinghouse Services shall also develop policies, standards and procedures for and exercise supervision over the conduct of comprehensive market analyses to serve Department programs.

Defense Planning Staff

The Defense Planning Staff, headed by a Director, shall develop mobilization and defense plans, and coordinate and assure the proper performance of these functions throughout the Department in accordance with policies and directives of the Office of Emergency Planning.

General Counsel

The General Counsel shall be the principal legal adviser of the Secretary and the chief law officer of the Department. He shall provide legal opinions on basic legal problems in programs and activities of the Department and provide legal counsel and assistance in the formulation and development of the Department's policies and programs. He shall provide legal services to the Department.

Assistant Secretary for Administration

The Assistant Secretary for Administration shall be the principal adviser to the Secretary with respect to administrative management, including: budget; organization, methods, and directives systems; management of automatic data processing; accounting, audit, and financial management; personnel administration; general administrative services; and planning for occupancy of the new Departmental office building. He shall provide

functional supervision for the Secretary with regard to administrative management functions throughout the Department, and shall provide administrative management services to the Office of the Secretary. He shall conduct a centralized program of audits for the entire Department (other than the audit of FNMA contract servicers), including a program of comprehensive internal audits for all programs and activities of the Department at headquarters and in the field, and a program of audits of projects for which financial assistance is provided by the Department. He shall also prepare or review responses to inquiries and reports of the General Accounting Office relating to Department programs and activities.

Deputy Assistant Secretary for Administration

The Deputy Assistant Secretary for Administration shall assist the Assistant Secretary in the performance of his duties and responsibilities and act for him in his absence.

Division of Congressional Liaison

The Division of Congressional Liaison shall be headed by a Congressional Liaison Officer, who shall be the principal adviser to the Secretary with respect to Congressional liaison and relations. The Division shall provide congressional liaison and relations services on a centralized basis for the entire Department.

Division of Public Affairs

The Division of Public Affairs shall be headed by a Director, who shall be the principal adviser to the Secretary with respect to public affairs, information services, and publications. The Division shall provide public affairs, information, publications, and graphics services on a centralized basis for the entire Department.

Special Assistant to the Secretary for Intergroup Relations

The Special Assistant to the Secretary for Intergroup Relations shall be the principal adviser to the Secretary with respect to minority group relations and policy development and advice in connection with civil rights and equal opportunity as they affect Department programs; and shall provide functional supervision for the Secretary with respect to these functions throughout the Department.

Special Assistant to the Secretary for Equal Opportunity Standards and Regulations

The Special Assistant to the Secretary for Equal Opportunity Standards and Regulations shall have primary responsibility for developing standards, regulations, and procedures for carrying out in the Department the various Executive Orders and statutes relating to civil rights and equal opportunity; and for providing functional supervision for the Secretary with regard to those activities of the Department which are designed to assure full participation and compliance with these standards, regulations, and procedures.

Division of International Affairs

The Division of International Affairs, headed by a Director, shall advise and assist the Secretary with respect to the performance of the international activities of the Department. He shall serve as the Secretary's principal representative in liaison with other Departments and agencies with respect to international functions of the Department; and shall administer or assure the proper performance of the Department's functions under its agreement with the Agency for International Development.

Director of Regional Support

The Director of Regional Support shall provide advice, assistance and information to the Secretary, the Under Secretary, and other Departmental staff with respect to the overall operation of the Department's regional offices, and shall assist in expediting and coordinating requests of regional offices for information and assistance.

Inspection Division

The Inspection Division, headed by a Director, shall conduct a Department-wide inspection program, including making and reporting on investigations with respect to possible violations and irregularities in any of the Department's programs or activities, the investigation and referral to the Department of Justice of possible criminal violations, and inspections under Title VI of the Civil Rights Act of 1964.

Regional Offices of the Department

There shall be seven regional offices of the Department, which shall have regional boundaries and headquarters locations prescribed by the Secretary. The Department's Regional Offices shall each be headed by a Regional Administrator, who shall be responsible to the Secretary and the Under Secretary for the execution of the Department's programs assigned his region, the overall management of the regional office, and the supervision and direction of regional office staff. All of the programs assigned the regional offices for administration shall be carried out in accordance with policies, standards, procedures, and delegations of authority of the Secretary or Department officials authorized by him.

The following organization units and principal staff shall report to the Regional Administrator:

The Deputy Regional Administrator shall be responsible for the administration at the field level of the programs and functions assigned the following staffs under his supervision:

The Demonstration Cities Program Staff shall carry out the proposed new Demonstration Cities Program when it is activated.

The Workable Program Staff shall provide assistance and carry out reviews with respect to workable programs for community improvement, using the Relocation Staff and the Planning Standards and Coordination Staff for reviews and technical assistance in their specialized areas.

The Planning Standards and Coordination Staff shall carry out the urban planning assistance program under Sec. 701 of the Housing Act of 1954, as amended, including the proposed program for planned metropolitan development; carry out reviews of comprehensive planning in relation to Departmental program requirements; and stimulate and provide assistance with respect to metropolitan area planning.

The Relocation Staff shall provide assistance and review project submissions with respect to relocation activities under the programs of the Department.

The Market Analysis Staff shall conduct comprehensive market analyses to serve the programs of the Department.

(7)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,
Plaintiffs,

v.

ROBERT C. WEAVER, Secretary of
the Department of Housing and
Urban Development of the
United States,
Defendant

NO. 66 C 1460

DEFENDANT'S REPLY MEMORANDUM
AND EXHIBITS

Now comes the defendant Robert C. Weaver, Secretary of the Department of Housing and Urban Development of the United States, by Edward V. Hanrahan, United States Attorney for the Northern District of Illinois, and files herewith his Reply Memorandum, together with Exhibits, in response to Plaintiffs' Brief and in further support of his pending Motion to Dismiss.

I. PLAINTIFFS LACK STANDING TO SUE

1. Residents of public housing lack standing to seek
judicial review of the federal assistance program.

Plaintiffs have failed to respond to our original Memorandum on this point, (pp. 7a-12) which is applicable to Counts I and III of the Complaint. They make no attempt to distinguish or answer the many applicable cases cited in that discussion, but rather assert that this court has rejected the argument in its order of March 2, 1967, in cause 66 C 1459. In that order, the court dealt with quite a different issue, namely, whether plaintiffs had standing to sue the local agency, in this case the Chicago

Housing Authority. Suit of the federal agency administering housing assistance is quite a different proposition, as found by the courts in four circuits including the Seventh Circuit (cases cited and discussed pp. 9-12, original Memorandum.)

The issue plaintiffs now raise , as to whether the Federal agency "selects" sites or merely "approves" them once selected, misstates the relevant question. The key issue is whether plaintiffs have standing to sue that agency, and to this question the courts have uniformly answered in the negative.

Moreover, the cases cited by plaintiffs (Brief pp. 5-6) all involved suits of state or local officials or of private entities so involved in state authority that their action was held to be state action.^{/1} In those cases, active state or local actions or policies were designed to thwart desegregation. It cannot possibly be contended that the Federal agency here has engaged in such unconstitutional practices in view of statutory policy and administrative procedures designed to prevent discriminatory practices, as was more fully discussed in the original and supplemental memoranda . In this regard we note the comment of this court in its opinion in 66 C 1459, there applicable to the CHA:

^{/1} In Simkins v. Moses H. Cone Memorial Hospital, 323 F 2d 959 (CA 4, 1963), the Government intervened on behalf of plaintiffs' attempt to seek declaration of the unconstitutionality of a

federal statute. No action was sought against a federal agency.

"A public housing program, conscientiously administered in accord with the statutory mandates surrounding its inception and free of any intent or purpose, however slight, to segregate the races, cannot be condemned even though it may not affirmatively achieve alterations in existing patterns of racial concentration, however desirable such alterations may be."

Moreover, while the federal activity here involved is of great significance to the CHA program, and indeed is calculated to motivate CHA to consider some of the very considerations asserted by plaintiffs here, no power exists in the federal government to make the initial site selections. The power of approval is not the power of selection of new sites.

Accordingly, not only do plaintiffs lack standing to sue this Federal defendant under the authorities previously cited, but they have failed to show or allege any unconstitutional conduct on the part of this defendant that could entitle them to relief.

2. Title VI of the Civil Rights Act of 1964 does not confer standing on plaintiffs to bring suit challenging the disbursement of Federal funds.

In dealing with our discussions on this point (original Memorandum pp. 12-18, and Supplemental Memorandum pp. 2-5), plaintiffs attempt to buttress Counts II and IV of the Complaint first by attempting to reargue GreenStreet Association v. Daley, 373 F. 2d 1 (CA 7, 1967). Certiorari having been denied by the United States Supreme Court in that case just last week, we consider that case controlling on this point.

Arguments by the Government in Bossier Parish School Board v. Lemon, 370 F 2d 847 (CA 5, 1967) in support of the standing of private parties to sue local defendants in no way contradicted the ruling of the Seventh Circuit in Green Street. As the Court of Appeals observed, and as we previously argued, the Civil Rights Act itself requires detailed procedures to be followed before any cut-off of funds is permitted. Plaintiffs cannot pull themselves up by their bootstraps, arguing that they have standing based on a statute while they seek a court order to compel the Federal defendant to thwart the procedures required by that statute. Plaintiffs cannot look to the statute for authority in this court to do that which the statute makes impossible.

II
III. PLAINTIFFS FAILED TO EXHAUST THEIR ADMINISTRATIVE REMEDIES

In response to our original argument (Memorandum pp. 19-22; Supplemental Memorandum pp. 5-6; and Second Supplemental Memorandum), plaintiffs first assume that the argument applies only to Counts II and IV. That is not so. The cases cited, to which no answer has been made, apply to any situation where the agency is competent to review the issues in question, where the administrative relief is possible and available, and where plaintiffs have failed to seek that possible relief.

Arguing further, plaintiffs then make the extraordinary assertion that "there is no administrative remedy available to plaintiff under the 1964 Civil Rights Act," as if to argue themselves out of any right to seek relief from the agency.

Regulations heretofore cited to the court were promulgated to effectuate the purposes of the Act, including those purposes asserted by plaintiffs. "Any person" may complain to the agency of matters such as those raised in this suit. (See original Memorandum, p. 19). No formal means of complaint are required and informal complaints are therefore considered, such as the letter of complaint in 1965 of which a copy is attached to plaintiffs' Brief. When plaintiffs complain of lack of formal procedures, they really charge that an administrative virtue, i.e. simple informal procedure, is instead some kind of vice or significant lack. When they argue further (Brief p. 13) that there is no regulatory provision requiring defendant to take any action at all based upon the complaint, they are simply ignoring the facts. As we pointed out in the original Memorandum (p. 19), Section 1.7(c) of the Regulations, 24 C.F.R. 1.1 etc, requires that after complaint by "any person," an investigation by the agency is then required. The seven page response from the Commissioner of the former agency in 1965 (attached as an exhibit to Plaintiffs' Brief) shows the care and attention given to the informal complaint made in that year, although the 1965 sites complained of were not disapproved. *erroneously*

Plaintiffs argue instead that the 1965 exchange of letters with the old agency shows that an effort to employ their administrative remedy would be "futile." In clear answer to that contention, we have attached hereto as additional exhibits in support of our motion the affidavit of Francis X. Servaites, Acting General Deputy, Housing Assistance Administration,

Department of Housing and Urban Development, and of the regulations to which his affidavit refers. Those papers reflect the very effective consideration given by the defendant's agency of the requirement of the Civil Rights Act of 1964, at the same time that it performs its function of assisting in the providing of low-rent housing for low income families and the elderly where it is most needed and most wanted. Every complaint is carefully investigated and evaluated. (Affidavit, para 2). That was done with regard to the 1965 sites. (Affidavit, para. 6).

Being aware of the 1965 complaint, the agency made careful investigation and evaluation of the 1966 sites as well. In the light of resulting discussions between HUD and CHA, CHA withdrew from consideration five sites containing 375 dwelling units, while approving four sites containing 832 units. (Affidavit, para. 8, 9) What better illustration of the effectiveness of administrative remedy could ever be offered? Despite the lack of complaint by these plaintiffs, the earlier complaint lead to inquiry that in turn lead to results that plaintiffs here sought to produce by court order. Recent amendments to the regulations clarify and strengthen the Civil Rights Act policies thus effectuated. (Affidavit, para. 10; Second Supplemental Memorandum, pp. 2-3 and exhibits thereto).

Accordingly, these plaintiffs and all future complainants should be required to exhaust their administrative remedies.

IV. THE COURT LACKS JURISDICTION

Plaintiffs have not responded to our original argument on this

point (Memorandum, pp. 23-25) which we respectfully reassert to the Court.

¹²
V. THERE IS NO JUSTICIABLE CONTROVERSY BETWEEN PLAINTIFFS
AND DEFENDANT UNDER THE FIFTH AMENDMENT OR SECTION 601
OF THE CIVIL RIGHTS ACT OF 1964.

Plaintiffs have not responded to our original argument on this point (Memorandum, pp. 26-27) which we respectfully reassert to the Court.

The Metropolitan Desks, when activated, shall within specified metropolitan areas, represent the Regional Administrator with respect to the functions and programs assigned him, including assisting metropolitan area officials in securing a coordinated approach to their housing and urban development needs and the use of the Department's programs in meeting those needs.

The Special Assistant for Housing for the Elderly and Handicapped shall assist the Regional Administrator in coordinating the programs of the Department which provide housing for the elderly and the handicapped, including the provision of a central point of information and referral within the regional office on such programs.

The Special Assistant for Rehabilitation shall assist the Regional Administrator in coordinating those aspects of Department programs which involve assistance for the rehabilitation of existing structures.

The Special Assistant for Public Affairs shall assist the Regional Administrator in matters of public affairs and information services, and shall provide public affairs and information services on a centralized basis for all of the programs and activities of the Regional Office.

Regional Counsel

Special Assistant for Equal Opportunity

Director, Administrative Division

The above members of the principal staff of the Regional Office, reporting to the Regional Administrator, shall advise and assist him in their areas of specialized competence, provide such centralized services in these areas as may be assigned, and represent the Regional Administrator in coordinating the proper performance of functions in their assigned fields.

The following principal operating officials of the Department's regional offices shall report to the Regional Administrator and shall be responsible for carrying out the programs assigned them in the listing below:

Assistant Regional Administrator for Renewal Projects

The program of slum clearance and urban renewal under Title I of the Housing Act of 1949, as amended, including rehabilitation grants, general neighborhood renewal plans, community renewal plans, code enforcement projects, and demolition projects.

Loans for rehabilitation under Sec. 312 of the Housing Act of 1964, as amended.

Assistant Regional Administrator for Housing Assistance

The low-rent public housing programs, under the U. S. Housing Act of 1937, as amended.

College housing loan program under Title IV of the Housing Act of 1950, as amended.

Loans for housing for the elderly and handicapped under Sec. 202 of the Housing Act of 1959, as amended.

The programs of college housing loans and loans for housing for the elderly and handicapped shall be carried out by a Director of Special Housing Assistance reporting to the Assistant Regional Administrator for Housing Assistance.

Assistant Regional Administrator for Land and Facilities Development

Grants for basic water and sewer facilities under Sec. 702 of the Housing and Urban Development Act of 1965.

Grants for advance acquisition of land under Section 704 of the Housing and Urban Development Act of 1965.

Grants for open-space land under Section 702 of the Housing Act of 1961, other than central city open space.

Public Facilities Loans under Title II of the Housing Amendments of 1955, as amended.

Grants for urban beautification and improvement outside the central city, under Sec. 706 of the Housing Act of 1961, as amended.

Advances for Public Works Planning under Sec. 702 of the Housing Act of 1954, as amended.

Public Facilities Liquidating Programs

Director of Technical Services

The Director of Technical Services, reporting to the Assistant Regional Administrator for Land and Facilities Development, shall carry out the following programs:

School construction program under P. L. 815, 81st Congress.

Academic facilities program under the Higher Education Facilities Act of 1963, as amended.

Assistant Regional Administrator for Urban Neighborhood Services

Grants for open space land in built-up urban areas under Sec. 705 of the Housing Act of 1961, as amended (urban parks).

Grants for acquisition and development of open space land in central city urban areas under Sec. 702(a) of the Housing Act of 1961, as amended.

Grants for central city beautification and improvement under Sec. 706 of the Housing Act of 1961, as amended.

Grants for neighborhood facilities under Sec. 703 of the Housing and Urban Development Act of 1965.

Coordination of the provision of project social services.

Assistant Regional Administrator for FHA

The Assistant Regional Administrator for FHA shall be an assistant to the Regional Administrator for the review of specified proposals enumerated below for their general acceptability, technical accuracy, and for consistency with other departmental programs or comprehensive plans:

All multifamily housing projects over \$1 million.

Any action proposed by the insuring office to restrict insurance activity because of market conditions and any action by the insuring office to resume complete insuring activity in an area where restrictive measures had previously been imposed.

Rent supplement proposals.

Section 221(d)(3) BMIR proposals.

Military housing proposals.

Land development proposals.

The availability of properties acquired by the FHA for coordination with other departmental activities and review for possible purchase by other departmental authorities for use in their programs.

Other cases requested for review because the proposals impinge on or relate to other Department programs or projects.

Coordination of FHA insuring operations with urban renewal project operations, under existing operating procedures and agreements.

The Assistant Regional Administrator for FHA shall coordinate activities of the FHA insuring offices in the regional area, but only the categories of cases listed above will be transmitted for regional office review; other case review and processing will continue to be handled by FHA insuring offices under present FHA procedures without regional office review.

Additional details regarding the organization relationships of the Assistant Regional Administrator for FHA will be described in a separate Organization Order.

Effective Dates

Transfers of duties and responsibilities and of related staff and funds pursuant to the provisions of this Order shall be made effective upon the issuance of necessary amendatory delegations of authority and the issuance of Secretary's Organization Orders specifying the effective dates of such transfers. In the meantime, duties, responsibilities, and authorities shall continue to be carried out or exercised in accordance with the provisions of Interim Order II.

Arrangements for the provision of common services on a centralized basis by organization units in the Office of the Secretary will continue in effect until changed by organization order.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SECRETARY'S ORGANIZATION ORDER NO. 12

June 23, 1966

Subject: Implementation of Department Organization
Assistant Secretary for Renewal and Housing Assistance

1. Transfer of Programs, Organization Units, Functions, Duties, Personnel, and Positions

Pursuant to Secretary's Organization Order No. 1, there are transferred to the Assistant Secretary for Renewal and Housing Assistance:

- a. The low-rent public housing programs under the United States Housing Act of 1937, as amended, together with all of the organization units, functions, duties, personnel, and positions of the Public Housing Administration (including the PHA Regional Offices).
- b. The following programs, together with the related organization units, functions, duties, and the affected personnel and positions of the Urban Renewal Administration:

The program of slum clearance and urban renewal under Title I of the Housing Act of 1949, as amended, including rehabilitation grants, general neighborhood renewal plans, community renewal programs, code enforcement programs, and demolition projects.

Loans for rehabilitation under Section 312 of the Housing Act of 1964, as amended.

Grants for provision of open-space land in built-up urban areas under Section 705 of the Housing Act of 1961, as amended (urban parks).

Grants for the acquisition and development of open-space land in central cities of urban areas under Section 702(a) of the Housing Act of 1961, as amended.

Grants for central city urban beautification and improvement under Section 706 of the Housing Act of 1961, as amended.

Grants for neighborhood facilities under Section 703 of the Housing and Urban Development Act of 1965.

- c. The following functions heretofore performed by the Secretary:

Determinations and certifications with respect to Workable Programs for Community Improvement under Sections 101(c) and 101(e) of the Housing Act of 1949, as amended.

Determinations with respect to relocation requirements for urban renewal projects under Section 105(c)(1) of the Housing Act of 1949, as amended.

Certifications to the Federal Housing Commissioner of the eligibility of urban renewal projects under Section 220 of the National Housing Act, as amended.

Authorizations of the undertaking of contracts with local housing authorities for the planning and development of low-rent public housing projects under Executive Order 11196.

Determinations that the objectives of an Urban Renewal Plan could not be achieved through rehabilitation of the urban renewal project area, under Section 110(c) of the Housing Act of 1949, as amended.

- d. The functions, personnel, and positions of the Office of Community Programs, Office of the Secretary.
- e. The functions, personnel, and positions of the office of the Director, Housing for Senior Citizens, Office of the Secretary.
- f. The following programs, together with the College Housing Division and the Senior Citizens Housing Division and the personnel of these two Divisions, which were temporarily assigned to the Assistant Secretary for Metropolitan Development:

The college housing loan program under Title IV of the Housing Act of 1950, as amended.

Loans for housing for the elderly or handicapped, under Section 202 of the Housing Act of 1959, as amended.

Paragraph 3 of Secretary's Organization Order No. 10 is modified accordingly.

2. Organization

The program and functions assigned to the Assistant Secretary for Renewal and Housing Assistance shall be carried out within the organizational pattern set forth herein.

a. Assistant Secretary for Renewal and Housing Assistance

The Assistant Secretary for Renewal and Housing Assistance shall be the principal adviser to the Secretary on programs of renewal and housing assistance, and shall be responsible to the Secretary for the administration of these programs. He shall direct and coordinate, on behalf of the Secretary, the Department's activities with respect to these programs, and shall supervise the following principal staff and organization units:

b. Deputy Assistant Secretary

The Deputy Assistant Secretary for Renewal and Housing Assistance shall assist the Assistant Secretary in the performance of his duties and responsibilities. With certain exceptions, he will have the powers and authorities of the Assistant Secretary when both are on duty, and shall serve as Acting Assistant Secretary in the absence of the Assistant Secretary.

c. Renewal Projects Administration

The Renewal Projects Administration, headed by a Deputy Assistant Secretary for Renewal, shall develop policies, standards, and procedures for and provide technical advice and guidance with respect to (1) the slum clearance and urban renewal program, and (2) loans for rehabilitation. The General Deputy, RPA, will have the powers and authorities of the Deputy Assistant Secretary when both are on duty and shall serve as Acting Deputy Assistant Secretary in the absence of the Deputy Assistant Secretary.

The assignment of functions to the organization units transferred from the Urban Renewal Administration shall continue in effect until changed by further implementing organization orders, except that any final authorities which had been exercised by officials in such organization units shall be exercised from the effective date of this Order only to the extent that current delegations of authority permit.

d. Housing Assistance Administration

The Housing Assistance Administration, headed by a Deputy Assistant Secretary for Housing Assistance, shall develop policies, standards, and procedures for and provide technical advice and guidance with respect to (1) the low-rent housing programs, (2) the college housing loan program, and (3) loans for housing for the elderly or handicapped. The General Deputy, HAA, will have the powers and authorities of the Deputy Assistant Secretary when both are on duty and shall serve as Acting Deputy Assistant Secretary in the absence of the Deputy Assistant Secretary.

The Public Housing Administration Regional Offices are retitled Housing Assistance Regional Offices. These Offices shall continue to be headed by Regional Directors, who shall report to the Deputy Assistant Secretary for Housing Assistance.

The present assignment of functions to the organization units transferred from the Public Housing Administration shall continue in effect until changed by further implementing organization orders, except that any final authorities which have been exercised by officials in such organization units shall be exercised from the effective date of this Order only to the extent that current delegations of authority permit.

The Office of Special Housing Assistance, headed by a Director reporting to the Deputy Assistant Secretary for Housing Assistance, shall perform the functions of the Housing Assistance Administration with respect to the college housing loan program and the program of loans for housing for the elderly or handicapped. Field activities for these programs shall continue to be carried out by the HUD Regional Offices. Administrative, legal, and technical support functions shall continue to be performed for the Office by the Office of the Secretary and appropriate organizational units under the Assistant Secretary for Metropolitan Development.

e. Office of Urban Neighborhood Services

The Office of Urban Neighborhood Services, headed by a Director, shall develop policies, standards, and procedures for and provide technical advice and guidance with respect to (1) grants for provision of open-space land in built-up urban areas, (2) grants for the acquisition and development of open-space land in central cities of urban areas, (3) grants for central city urban beautification and improvement, and (4) grants for neighborhood facilities.

Administrative, legal, and technical support functions shall continue to be performed for the Office by the Office of the Secretary and appropriate organizational units of the Renewal Projects Administration.

The establishment of the function of coordinating the provision of project social services, assigned to this Office by Secretary's Organization Order No. 1, is deferred until the issuance of subsequent organization orders.

f. Special Assistant to the Assistant Secretary

The Special Assistant to the Assistant Secretary shall coordinate the Department's programs for housing for the elderly and handicapped, and provide liaison with public agencies and private groups with respect to problems of the elderly and handicapped as they relate to programs of the Department.

g. Workable Program Standards and Services Staff

The Workable Program Standards and Services Staff, headed by a Director, shall develop policies, standards, and procedures for and exercise supervision over the conduct of functions with respect to the Workable Program for Community Improvement.

The Staff shall also perform reviews and make recommendations to the Assistant Secretary with respect to (1) determinations that the relocation requirements of Section 105(c)(1) of the Housing Act of 1949, as amended, have been met, (2) certifications to the Federal Housing Commissioner of the eligibility of urban renewal projects under Section 220 of the National Housing Act, as amended, and (3) authorizations of the undertaking of contracts with local housing authorities for the planning and development of low-rent public housing projects.

3. Later Activation of Certain Organizational Units

The following organizational units under the Assistant Secretary for Renewal and Housing Assistance, which were established by Secretary's Organization Order No. 1, will be activated at a later date:

Project Financing Staff
Administrative Operations Staff
Relocation Standards and Services Staff

4. Abolitions

The Public Housing Administration is abolished, together with the position of Public Housing Commissioner.

The Urban Renewal Administration is abolished, together with the position of Urban Renewal Commissioner.

The Office of Community Programs, Office of the Secretary, is abolished.

The office of the Director, Housing for Senior Citizens, Office of the Secretary, is abolished.

5. Effective Date

This Order shall be effective as of July 1, 1966.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
HOUSING ASSISTANCE ADMINISTRATION
WASHINGTON, D.C. 20413

CIRCULAR
7-1-66

TO: Employees with Delegated Powers

FROM: Marie C. McGuire

SUBJECT: Delegations of Authority

Attached is a copy of the Federal Register publication for the Department of Housing and Urban Development covering delegations under the low-rent housing program.

These should be applied in the light of Renewal and Housing Assistance Bulletin No. 1 dated June 30, 1966, and subject to the provisions of applicable policies, procedures, and other pertinent directives or regulations.


Acting Deputy Assistant Secretary

Attachment

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR RENEWAL AND HOUSING ASSISTANCE

Delegations of Authority

SECTION A. *Authority delegated to Assistant Secretary for Renewal and Housing Assistance.* The Assistant Secretary for Renewal and Housing Assistance is hereby authorized to exercise the following powers and authorities:

1. All the powers and authorities of the Secretary of Housing and Urban Development with respect to the low-rent public housing program under the U.S. Housing Act of 1937, as amended (42 U.S.C. 1401 et seq.), including the powers and authorities of the Secretary under Title IV of the Housing and Urban Development Act of 1965 (42 U.S.C. 3071 et seq.) insofar as related to such program, and all other powers and authorities of the Public Housing Administration and of the head and other officers and offices of the Public Housing Administration transferred to and vested in the Secretary by section 5(a) of the Department of Housing and Urban Development Act, Public Law 89-174, 79 Stat. 667, 5 U.S.C. 624-624f; except power and authority to establish the rate of interest on Federal loans.

2. Power and authority to exercise the authority referred to in subsection 1(1) of Executive Order 11196, to approve the undertaking of any annual contribution, grant, or loan, or any contract for any annual contribution, grant, or loan.

3. Power and authority to exercise the authority referred to in subsection 1(2) of Executive Order 11196, to approve the amending or superseding of any contract for annual contributions or loans, or both, so that the going Federal rate on the basis of which such annual contributions or the interest rate on the loans, or both, respectively, are fixed shall mean the going Federal rate on the date of approval of the amending or superseding contract.

4. Power and authority to make such rules and regulations as may be necessary to carry out the powers, authorities, functions, and duties delegated herein.

5. Power and authority to redelegate to each Housing Assistance Regional Director and to other officials and individuals in each Housing Assistance Regional Office, any of the powers, authorities, functions, and duties delegated herein except the powers and authorities stated in "2", "3", and "4" above.

6. Power and authority to redelegate to the Deputy Assistant Secretary for Housing Assistance, to the General Deputy, Housing Assistance Administration, and to other officials in the Housing Assistance Administration (except in Regional Offices) any of the powers, authorities, functions, and duties delegated herein except the powers and authorities stated in "2", "3", and "4" above, and except further the following:

a. With respect to low-rent housing in private accommodations pursuant to

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

Wednesday, June 29, 1966

section 23 of the United States Housing Act of 1937, as amended (42 U.S.C. 1421b), approval of Federal commitments to pay annual contributions for leases entered into or extending more than 10 years beyond the date of the annual contributions contract.

b. Finding pursuant to section 15(5) of the U.S. Housing Act of 1937, as amended (42 U.S.C. 1415(5)), that in the geographical area of any project (a) it is not feasible under otherwise applicable cost limitations to construct the project without sacrifice of sound standards of construction, design, and livability and (b) there is an acute need for the housing; and prescribing room cost limitations in excess of the limitations that would otherwise be applicable to such project.

c. Suspension, reduction, or cancellation of dwelling units covered by Program Reservations, Preliminary Loan Contracts, or Annual Contributions Contracts when initiated by the Federal Government.

d. Termination of Preliminary Loan Contracts and Annual Contributions Contracts when initiated by the Federal Government.

e. Invoking any remedy on behalf of the Federal Government upon default or breach by a local housing authority in any of the terms, covenants, or conditions of an Annual Contributions Contract.

f. Approval of local housing authorities' disposition or other removal of low-rent housing units in operation from the federally aided low-rent housing program.

g. Approval of local housing authorities' disposition of excess land, including utilization of such land for a new project.

h. Debarring contractors from contracting with the Federal Government or with local housing authorities, and authorizing exceptions therefrom.

SEC. B. Authority delegated to Deputy Assistant Secretary for Renewal and Housing Assistance. The Deputy Assistant Secretary for Renewal and Housing Assistance is hereby authorized to exercise all the powers and authorities delegated to the Assistant Secretary for Renewal and Housing Assistance in section A above except the powers and authorities set forth in subsections "2," "3," and "4" of section A.

SEC. C. Redelegations of authority. Power and authority to redelegate, as stated in subsections "5" and "6" of section A above, shall include power and authority to redelegate by continuing in effect in the respective officials and individuals of the Housing Assistance Administration (including Housing Assistance Regional Offices) the powers and authorities vested in them as Public Housing Commissioner and other officials and employees of the Public Housing Administration pursuant to Department Interim Order II (31 F.R. 815-16). As to any such powers and authorities so continued in effect, wherever the title "Regional Director" appears such title shall be deemed to refer to "Housing Assistance Regional Director"; refer-

ences to "Regional Offices" shall be deemed to be references to "Housing Assistance Regional Offices"; references to the "PHA" and the "Public Housing Administration" shall be deemed to be references to the "Department of Housing and Urban Development," the "Secretary of Housing and Urban Development," or the Federal Government, as may be appropriate; and references to powers, duties, functions and authorities vested in the "Commissioner" shall be taken to mean powers, duties, functions and authorities vested in the Secretary of Housing and Urban Development.

Effective date. These delegations of authority shall be effective as of July 1, 1966.

ROBERT C. WEAVER,
Secretary of Housing and
Urban Development.

[F.R. Doc. 66-7135; Filed, June 28, 1966;
8:50 a.m.]

DEPUTY ASSISTANT SECRETARY FOR HOUSING ASSISTANCE ET AL.

Redelegations of Authority

Deputy Assistant Secretary for Housing Assistance and Other Officials in Housing Assistance Administration.

SECTION A. The Deputy Assistant Secretary for Housing Assistance and the General Deputy, Housing Assistance Administration, each is hereby authorized to exercise all the powers and authorities of the Secretary vested in the Public Housing Commissioner pursuant to Department Interim Order II (31 F.R. 815-16), except the following:

1. With respect to low-rent housing in private accommodations pursuant to section 23 of the United States Housing Act of 1937, as amended (42 U.S.C. 1421b), approval of Federal commitments to pay annual contributions for leases entered into or extending more than 10 years beyond the date of the annual contributions contract.

2. Finding pursuant to section 15(5) of the United States Housing Act of 1937, as amended (42 U.S.C. 1415(5)), that in the geographical area of any project (a) it is not feasible under otherwise applicable cost limitations to construct the project without sacrifice of sound standards of construction, design, and livability and (b) there is an acute need for the housing; and prescribing room cost limitations in excess of the limitations that would otherwise be applicable to such project.

3. Suspension, reduction, or cancellation of dwelling units covered by Program Reservations, Preliminary Loan Contracts, or Annual Contributions Contracts when initiated by the Federal Government.

4. Termination of Preliminary Loan Contracts and Annual Contributions Contracts when initiated by the Federal Government.

5. Invoking any remedy on behalf of the Federal Government upon default or breach by a local housing authority in respect to the terms, covenants, or con-

ditions of an Annual Contributions Contract.

6. Approval of local housing authorities' disposition or other removal of low-rent housing units in operation from the federally-aided low-rent housing program.

7. Approval of local housing authorities' disposition of excess land, including utilization of such land for a new project.

8. Debarring contractors from contracting with the Federal Government or with local housing authorities, and authorizing exceptions therefrom.

9. Establishing the rate of interest on Federal loans.

10. Making rules and regulations.

SEC. B. The powers and authorities vested in officials of the Public Housing Administration other than the Public Housing Commissioner, Deputy Commissioner, and Regional Office officials and employees pursuant to Department Interim Order II (31 F.R. 815-16) except any such powers and authorities as may be listed in items 1 through 10 under Section A above, shall continue to be vested in such officials as officials of the Housing Assistance Administration.

SEC. C. The powers and authorities vested in Regional Directors and other Regional Office officials and employees of the Public Housing Administration pursuant to Department Interim Order II (31 F.R. 815-16) shall continue to be vested in such officials and employees as Housing Assistance Regional Office officials and employees, except power and authority to establish the rate of interest on Federal loans and to make rules and regulations.

Effective date. These redelegations of authority shall be effective as of July 1, 1966.

DON HUMMEL,
Assistant Secretary for
Renewal and Housing Assistance.

[F.R. Doc. 66-7136; Filed, June 28, 1966;
8:50 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SECRETARY'S DELEGATION ORDER NO. 18

September 14, 1966

Subject: Delegations of Authority Regarding Low-Rent Public Housing to the Assistant Secretary and Deputy Assistant Secretary for Renewal and Housing Assistance

The delegations of authority to the Assistant Secretary for Renewal and Housing Assistance and to the Deputy Assistant Secretary for Renewal and Housing Assistance effective July 1, 1966 (31 F.R. 8967-8) are hereby amended as follows:

1. Subsection 5 of section A is amended to read as follows:

5. Power and authority (a) to redelegate to Regional Administrators, Deputy Regional Administrators, and other Regional Office officials and employees any of the powers and authorities delegated in subsection 1 of this section A, and (b) to authorize further redelegation by Regional Administrators and by Deputy Regional Administrators to other Regional Office officials and employees of any of such powers and authorities redelegated to them.

2. Section 2 is amended to read as follows:

SEC. C. Redelegations of authority. Power and authority to redelegate, as stated in subsections 5 and 6 of section A above, shall include power and authority to redelegate by continuing in effect in the respective officials of the Housing Assistance Administration and in the respective officials and employees of the Regional Offices of the Department the powers and authorities continued in or delegated to them as Public Housing Commissioner and other officials and employees of the Public Housing Administration pursuant to Department Interim Order II (31 F.R. 815-16) and continued in them as officials of the Housing Assistance Administration or as Housing Assistance Regional Office officials and employees by the redelegations of authority of the Assistant Secretary for Renewal and Housing Assistance effective July 1, 1966 (31 F.R. 8968). As to any such powers and authorities so continued in effect, wherever the title "Regional Director" appears such title shall be deemed to refer to "Assistant Regional Administrator for Housing Assistance"; the titles "Assistant Director for Development", "Assistant Director for Management", and "Assistant Director for Programs" shall be deemed to refer to "Development Director", "Management Director", and "Programs Director", respectively; references to "Regional Offices" shall be deemed to be references to the Housing Assistance Offices in the Regional Offices of the Department; references to the "PHA" and the "Public Housing Administration" shall be deemed to be references to the Department of Housing and Urban Development, the Secretary of Housing and Urban Development, or the Federal Government, as may be appropriate; and references to powers, duties, functions, and

authorities vested in the "Commissioner" shall be taken to mean powers, duties, functions, and authorities vested in the Secretary of Housing and Urban Development.

(79 Stat. 670, 5 U.S.C. 624d(d))

3. Effective date. These amendments shall be effective August 19, 1966.
4. Published in the Federal Register September 2, 1966.
5. This Secretary's Delegation Order amends Secretary's Delegation Order No. 5, dated July 19, 1966.

Site Selection and Tentative Site Approval

1. General. This Section sets forth the criteria to be used in judging the suitability of proposed sites for low-rent housing and the procedure for obtaining tentative PHA approval of proposed sites. Special cases are outlined, involving urban renewal sites and the use of existing buildings.

2. Redevelopment and Conservation Programs

a. Relocation

(1) If the Local Authority proposes to acquire a site in an urban renewal area, or outside the area, for the purpose of relocating residents, there are several special considerations. The interdependence of housing and urban renewal is frequently the key to the success or failure of a city's redevelopment efforts.

(2) Joint agreements between the PHA and the Urban Renewal Administration are in effect to coordinate their respective activities. If PHA-aided housing is a necessary resource for the relocation of urban renewal site occupants, coordinated time schedules for development will generally be required. Advice should be obtained from the PHA Regional Office.

b. Conservation Areas

(1) The rehabilitation of existing housing structures and the construction of new dwellings in conservation areas are expected to become increasingly important. In addition to the responsibility of the Local Authority for providing low-rent public housing, the local administration and development of conservation programs may involve many organizations, such as city governments, local public agencies, and private and non-profit agencies, as well as individual property owners.

(2) The PHA Project Planner and Land Adviser are available to assist the Local Authority in providing PHA-aided housing in conservation areas. Generally, such projects will require special handling with regard to site approval and valuation of buildings.

c. Land Price. Section 107 of the Housing Act of 1949, as amended, prescribes the price to be charged the Local Authority for land which is part of an urban renewal project. The PHA Land Adviser is expected to serve as a liaison officer with local and Federal urban renewal agencies concerning land acquisition procedures and agreements.

(Cont'd)

NOTE: This Section supersedes Section 205.1 pages variously dated. Paragraphs 4a, 4g, and 7b have been changed to reflect the requirements of Title VI of the Civil Rights Act of 1964 and agency regulations and requirements issued pursuant thereto.

3. Available Properties in Which the United States Has an Interest

a. In cases where properties owned by the United States or in which the Federal Government has an interest are available in the locality, the Local Authority shall give full consideration to their use for the low-rent program. (As used in this paragraph, "properties" refers to buildings which could be used for low-rent housing.) The feasibility of using available FHA and VA properties shall be considered from the date Program Reservation for housing has been approved by the PHA until the Regional Director approves the Initial Request for Land Purchase Approval. (See Section 205.2.)

b. The PHA Project Planner and Land Adviser are available for consultation and for liaison with the Federal Housing Administration, Veterans Administration, and other Federal agencies.

c. Before tentative site approval is given by the PHA, all such properties which the Local Authority wishes to include in its program will be inspected by the Project Planner and Land Adviser. (See paragraph 7a below.)

4. Criteria for Site Selection

a. General. The considerations involved in site selection include:

- (1) The suitability of the site in relation to the surrounding neighborhood and the city plan.
- (2) The physical characteristics of the site, which should be of a nature to permit an orderly and appropriate arrangement of the proposed number and type of units and should make economical construction and management costs possible.
- (3) The cost of the site itself and of the required site improvements.
- (4) In the case of slum sites, the feasibility of relocating the site occupants without undue hardship.
- (5) The suitability of the site from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 and agency regulations and requirements issued pursuant thereto (and of Executive Order 11063, with respect to creed).

b. Single Sites Versus Scattered Sites

- (1) Nothing in this Section shall be construed as requiring that the site for a project must consist of one large parcel or an assembly of parcels. A single project may be located on one or more relatively large sites; or scattered sites (each accommodating one or more dwellings) may be used.

(Cont'd)

(2) In selecting sites, due consideration should be given to any features of neighborhood renewal proposals which might influence the choice or affect suitable planning and economic development of the individual sites. Scattered sites should not be chosen if a decent standard of livability in the proposed housing is not possible because of intermingled neighborhood blight, unless reasonable steps are taken through urban renewal or other proper means to ensure rehabilitation of the neighborhood.

c. Suitability in Relation to Surrounding Neighborhood and City Plan

(1) The site shall be chosen with due regard for and consistency with local plans for long-range city plans and related development and slum clearance and urban renewal proposals which would control or influence the site location.

(2) The site shall be located where zoning laws protect its residential character, or agreements for obtaining such protection through amendment of existing requirements must be made in advance. This requirement shall not be construed as prohibiting the location of a project in the general proximity of business, manufacturing, or industry, but is intended to ensure that the project and its immediate environment are reasonably free from danger of adverse effect by nonresidential land use.

(3) The site shall be well related to public transportation, public schools, shopping, and all other facilities necessary to the health, safety, and general welfare of the tenants.

(4) In addition to appropriate population density, due consideration shall be given to local regulations regarding off-street parking. Accessibility and adequacy of existing neighborhood playgrounds require careful appraisal, as the presence or lack of these facilities may materially affect the size of the site to be acquired. Also, where sub-surface sewage disposal is planned, the site shall be of ample size for disposal fields plus sufficient space for 100 percent expansion.

(5) Systems of water and sewerage, electricity, and other utilities available to the community must also be available to the project site at reasonable cost. When water and sewerage are not so available to the project, water supply and sewage disposal systems provided and operated by the project will be permitted on condition that an adequate supply of potable water can be made obtainable without excessive cost, and provided that the proposed method of sewage disposal is feasible, is economical in initial and operating cost, and will not result in actual or possible contamination of any water supply or involve a nuisance of any kind.

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(6) In the standard form of Cooperation Agreement, the city agrees to grade and pave boundary and necessary access streets and to provide or cause to be provided water mains and storm and sanitary sewers leading to and serving the bounding streets of the project. In each case the Local Authority agrees to pay to the city such amount as would be assessed against the project site for such work if the site were privately owned. If any substantial amount of such work will be required, the Local Authority should, at the time of preliminary site selection, advise the city by letter of the approximate extent and type of facilities which the city will need to provide for the site pursuant to the terms of the Cooperation Agreement. If any substantial extensions of electric lines or gas mains will be necessary, at least verbal assurance must be obtained from responsible officials that such facilities will be provided and that the Local Authority will not be charged for any costs which would not be charged to a private owner.

(7) No project shall be located where it would be subject to serious and chronic nuisances such as smoke, fumes, odors, or open sewerage. So far as local choice will reasonably permit, sites near or adjacent to railroads, waterways, expressways, airports, and similar hazards shall be avoided.

d. Physical Characteristics. No site shall be selected where topographic or subsurface conditions prevent economical and well-planned development and operation of the project.

(1) As a general rule any site with dominant grades in excess of 10 percent involves costly development and management expense and shall not be selected unless adequate advance planning studies demonstrate the feasible and economic use of such a site. Conversely, a low-lying and relatively flat site shall not be selected unless it is susceptible to practical and economical means of quick and complete disposal of surface water under normally expected heavy rainfall. Where the topography obviously is such that feasible use of the site is subject to question, topographic information should be sought from available sources such as the U.S. Geological Survey maps and the local City Engineer's office. In cases of rugged topography it will be necessary, prior to tentative site approval, to have some preliminary surveys and drawings made to demonstrate the feasibility of the site.

(2) Where septic tanks and subsurface sewage disposal are to be employed, the site should slope downward away from existing or proposed streets to permit disposal fields near the surface (18-36 inches in depth) and in rear-yard areas. Appropriate subsurface investigation shall be made to determine that (a) the percolation rate is satisfactory for this type of sewage disposal; (b) rock formations or other impervious strata are at a depth greater than six feet below the ground

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surface; and (c) the maximum elevation of the ground-water table is at least four feet below the ground surface. Unless these conditions are satisfied the site is unsuitable for a subsurface sewage-disposal system, except in certain localities where State or local authorities may grant approval under special conditions.

(3) Sites located where there is any evidence of unsuitable bearing qualities for foundation and underground utilities or of excessive areas of rock to be excavated shall not be selected unless and until it is demonstrated that the site is, in fact, subject to proper and economical development. As a rule, careful inquiry will disclose information at least as to the general conditions which may be expected (see Bulletin No. IR-2, Subsurface Soil Investigation). If such inquiry points to the need for more specific information, the Local Authority should obtain sufficient test borings and/or pits to determine within reasonable limits whether the subsurface conditions will permit economical development of the site. In case of doubtful subsurface conditions, tentative site approval will not be given until such tests have been made and have indicated acceptable conditions.

(4) No site shall be selected where there is suspicion of potential danger of earth slides either on the site itself or on adjacent or nearby land until it has been conclusively established that such danger is non-existent. This injunction must take into consideration the fact that in hilly terrain existing soil conditions may be stable in undisturbed but may tend to move because of grading operations. Expert consulting services will be required in such cases prior to tentative site approval.

(5) No project shall be located where it would be subject to flooding. Where there is even a suspicion of such potential hazard the conditions must be thoroughly investigated and authoritative opinion obtained before tentative site approval will be given.

e. Acquisition Cost

(1) The cost of acquiring the site should bear a reasonable relationship to total development cost. While a higher cost can be justified for a slum site than for a vacant site, the costs of acquiring the most densely developed slum areas are usually greater than can be justified for low-rent housing projects.

(2) In no event shall parcels or blocks that are conspicuously expensive in comparison with the remainder of a site be included within the site boundary merely to facilitate the planning of a symmetrical project or for other similar reasons. Whenever possible, such parcels must

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be omitted as exceptions to the proposed taking. The provisions in paragraph 4b above, relative to planning projects in sections or on scattered sites, should be given consideration in connection with this question.

(3) No improved site which includes any substantial number of dwellings which are not substandard shall be selected.

(4) No improved site shall be selected if such site includes any substantial number of dwellings which are substandard but which may be rehabilitated at modest cost, unless most of such dwellings are to be rehabilitated and included in the low-rent project.

(5) Special care should be taken to ensure that the estimate of cost of acquiring the proposed site is a realistic one. The estimate shall be made on a parcel-by-parcel basis. The Local Authority should utilize the best information and advice available from public records, previous experience, revenue-producing capacity of the properties comprising the proposed site, and opinions expressed by real estate brokers who have knowledge of recent sales prices or asking prices for properties comparable to those comprising the site. The estimate and the information upon which it is based shall be discussed fully with the PHA Land Adviser (see paragraph 7a below) in order that there shall be mutual agreement between the Local Authority and the PHA that the estimate of site acquisition cost is a valid and realistic one.

f. Feasibility of Relocation. No improved site will be approved by the PHA until there has been submitted a feasible and satisfactory plan demonstrating that the site occupants to be displaced can be relocated without undue hardships to such occupants (see Section 209.1).

g. Nondiscrimination in Housing. Section 1.4(b)(2) of the regulations of the Housing and Home Finance Agency issued under Title VI of the Civil Rights Act of 1964 provides in pertinent part that:

"A recipient [Local Authority], in determining the location or types of housing, accommodations, facilities, services, financial aid, or other benefits which will be provided * * * may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity as respect persons of a particular race, color, or national origin."

The housing on the site to be selected must be operated in accordance with all applicable requirements of Title VI of the Civil Rights Act of 1964 and

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of Executive Order 11063, and agency regulations and requirements issued pursuant thereto. The aim of a Local Authority in carrying out its responsibility for site selection should be to select from among otherwise available and suitable sites those which will afford the greatest acceptability to eligible applicants regardless of race, color, creed, or national origin (see paragraph 3, Commissioner's Circular of 8-27-65, Title VI of Civil Rights Act of 1964). This objective applies regardless of the date on which the project involved was initially covered by Annual Contributions Contract. The advice and assistance of the PHA are available to Local Authorities in respect to the selection of sites under the special conditions and considerations pertaining to any particular case.

5. Policy on Purchase of Excess Land

a. No cost for land in excess of that required in connection with the construction of the project (including dwelling and nondwelling facilities and playgrounds) may be included in the development cost of a project except where the site consists of one parcel (or includes a large parcel) with an area in excess of that required for the development of the project and where the severance damage involved in purchasing only the land required for the project would exceed the cost of the excess land. Cost of acquiring land for development of future projects may not be included in the development cost of a project.

b. If existing circumstances should justify approval of the purchase of excess land to obtain a site, the Annual Contributions Contract requires that the excess real property be sold as soon as practicable at public sale for not less than the fair value thereof, unless other disposition or method of disposition is approved by the PHA. The project shall be so planned as to provide adequate access to the excess land in order that it may be sold.

c. In cases where the excess land is unsuitable for improvement because it is unbuildable or inaccessible, or for other reasons, Local Authorities are urged to give full consideration to the disposition of the property to eligible public bodies under the Open-Space Land Program administered by the Urban Renewal Administration. Details of the program may be obtained from the office of the Regional Administrator, HHFA.

6. Condemnation of Property Owned by Another Public Body. There have been court decisions adversely affecting attempts by local public agencies to acquire, by condemnation, properties belonging to other public or quasi-public bodies. The PHA will not approve any site containing any property belonging to another public or quasi-public body or institution until the Local Authority, after conferring with responsible persons, obtains written assurance from such body or institution that such property may be acquired by amicable negotiation at a cost not in excess of its fair value.

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7. Procedure for Site Selection and Tentative Approval

a. Selection by Local Authority and Inspection by Regional Office. Having reached its conclusions as to a suitable site, the Local Authority shall request the Regional Office to send a Project Planner and a Land Adviser to inspect the proposed site and to consider all of the reasons advanced for the Local Authority's selection.

b. Tentative Site Approval. After inspecting the proposed site, the PHA Project Planner and Land Adviser will prepare a report which will be submitted to the Regional Director. The Local Authority shall furnish to the Project Planner and the Land Adviser, for inclusion in their report, such material as may be required to support their conclusions, including such supporting data or information as may be required to enable the PHA to include, in its tentative approval of the site selected by the Local Authority, a specific determination that the selection is in accordance with the policy established by the PHA under Title VI of the Civil Rights Act of 1964 (see Commissioner's Circular of 8-27-65, Title VI of Civil Rights Act of 1964). If the report is favorable and if the Regional Director agrees with the recommendations contained in the report, he will, by letter, give tentative approval of the site, whereupon the Local Authority may proceed with completion of the Development Program (see Section 206.3) based upon use of the site proposed. The term "tentative approval" means merely that the Regional Office and the Local Authority have agreed on the site to be presented in the Development Program; such tentative approval does not in any way bind the PHA to give final approval to the site.

Department of Housing and Urban Development
Housing Assistance Administration

2-28-67

Low-Rent Housing Manual

Transmittal No. 490

Distribution: Local Authorities With Active Low-Rent Programs in Precon-
struction or Construction (Not Yet Covered by Actual
Development Cost Certificate)

REMOVE: Pages 7-8 of Section 205.1, Site Selection and Tentative Site
Approval, dated September 1965.

INSERT: Pages 7-8 of Section 205.1, Site Selection and Tentative Site
Approval, dated February 1967.

<p>A copy of this Transmittal, with its attachment(s), should be furnished by the Local Authority to its architect. (See Section 206.2, Supplement 2, <i>Material for Use by Architects and Engineers.</i>)</p>

Site Selection and Tentative Site Approval

1. General. This Section sets forth the criteria to be used in judging the suitability of proposed sites for low-rent housing and the procedure for obtaining tentative PHA approval of proposed sites. Special cases are outlined, involving urban renewal sites and the use of existing buildings.
2. Redevelopment and Conservation Programs
 - a. Relocation
 - (1) If the Local Authority proposes to acquire a site in an urban renewal area, or outside the area, for the purpose of relocating residents, there are several special considerations. The interdependence of housing and urban renewal is frequently the key to the success or failure of a city's redevelopment efforts.
 - (2) Joint agreements between the PHA and the Urban Renewal Administration are in effect to coordinate their respective activities. If PHA-aided housing is a necessary resource for the relocation of urban renewal site occupants, coordinated time schedules for development will generally be required. Advice should be obtained from the PHA Regional Office.
 - b. Conservation Areas
 - (1) The rehabilitation of existing housing structures and the construction of new dwellings in conservation areas are expected to become increasingly important. In addition to the responsibility of the Local Authority for providing low-rent public housing, the local administration and development of conservation programs may involve many organizations, such as city governments, local public agencies, and private and non-profit agencies, as well as individual property owners.
 - (2) The PHA Project Planner and Land Adviser are available to assist the Local Authority in providing PHA-aided housing in conservation areas. Generally, such projects will require special handling with regard to site approval and valuation of buildings.
 - c. Land Price. Section 107 of the Housing Act of 1949, as amended, prescribes the price to be charged the Local Authority for land which is part of an urban renewal project. The PHA Land Adviser is expected to serve as a liaison officer with local and Federal urban renewal agencies concerning land acquisition procedures and agreements.

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NOTE: This Section supersedes Section 205.1 pages variously dated. Paragraphs 4a, 4g, and 7b have been changed to reflect the requirements of Title VI of the Civil Rights Act of 1964 and agency regulations and requirements issued pursuant thereto.

3. Available Properties in Which the United States Has an Interest

a. In cases where properties owned by the United States or in which the Federal Government has an interest are available in the locality, the Local Authority shall give full consideration to their use for the low-rent program. (As used in this paragraph, "properties" refers to buildings which could be used for low-rent housing.) The feasibility of using available FHA and VA properties shall be considered from the date Program Reservation for housing has been approved by the PHA until the Regional Director approves the Initial Request for Land Purchase Approval. (See Section 205.2.)

b. The PHA Project Planner and Land Adviser are available for consultation and for liaison with the Federal Housing Administration, Veterans Administration, and other Federal agencies.

c. Before tentative site approval is given by the PHA, all such properties which the Local Authority wishes to include in its program will be inspected by the Project Planner and Land Adviser. (See paragraph 7a below.)

4. Criteria for Site Selection

a. General. The considerations involved in site selection include:

- (1) The suitability of the site in relation to the surrounding neighborhood and the city plan.
- (2) The physical characteristics of the site, which should be of a nature to permit an orderly and appropriate arrangement of the proposed number and type of units and should make economical construction and management costs possible.
- (3) The cost of the site itself and of the required site improvements.
- (4) In the case of slum sites, the feasibility of relocating the site occupants without undue hardship.
- (5) The suitability of the site from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 and agency regulations and requirements issued pursuant thereto (and of Executive Order 11063, with respect to creed).

b. Single Sites Versus Scattered Sites

- (1) Nothing in this Section shall be construed as requiring that the site for a project must consist of one large parcel or an assembly of parcels. A single project may be located on one or more relatively large sites; or scattered sites (each accommodating one or more dwellings) may be used.

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(2) In selecting sites, due consideration should be given to any features of neighborhood renewal proposals which might influence the choice or affect suitable planning and economic development of the individual sites. Scattered sites should not be chosen if a decent standard of livability in the proposed housing is not possible because of intermingled neighborhood blight, unless reasonable steps are taken through urban renewal or other proper means to ensure rehabilitation of the neighborhood.

c. Suitability in Relation to Surrounding Neighborhood and City Plan

(1) The site shall be chosen with due regard for and consistency with local plans for long-range city plans and related development and slum clearance and urban renewal proposals which would control or influence the site location.

(2) The site shall be located where zoning laws protect its residential character, or agreements for obtaining such protection through amendment of existing requirements must be made in advance. This requirement shall not be construed as prohibiting the location of a project in the general proximity of business, manufacturing, or industry, but is intended to ensure that the project and its immediate environment are reasonably free from danger of adverse effect by nonresidential land use.

(3) The site shall be well related to public transportation, public schools, shopping, and all other facilities necessary to the health, safety, and general welfare of the tenants.

(4) In addition to appropriate population density, due consideration shall be given to local regulations regarding off-street parking. Accessibility and adequacy of existing neighborhood playgrounds require careful appraisal, as the presence or lack of these facilities may materially affect the size of the site to be acquired. Also, where sub-surface sewage disposal is planned, the site shall be of ample size for disposal fields plus sufficient space for 100 percent expansion.

(5) Systems of water and sewerage, electricity, and other utilities available to the community must also be available to the project site at reasonable cost. When water and sewerage are not so available to the project, water supply and sewage disposal systems provided and operated by the project will be permitted on condition that an adequate supply of potable water can be made obtainable without excessive cost, and provided that the proposed method of sewage disposal is feasible, is economical in initial and operating cost, and will not result in actual or possible contamination of any water supply or involve a nuisance of any kind.

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(6) In the standard form of Cooperation Agreement, the city agrees to grade and pave boundary and necessary access streets and to provide or cause to be provided water mains and storm and sanitary sewers leading to and serving the bounding streets of the project. In each case the Local Authority agrees to pay to the city such amount as would be assessed against the project site for such work if the site were privately owned. If any substantial amount of such work will be required, the Local Authority should, at the time of preliminary site selection, advise the city by letter of the approximate extent and type of facilities which the city will need to provide for the site pursuant to the terms of the Cooperation Agreement. If any substantial extensions of electric lines or gas mains will be necessary, at least verbal assurance must be obtained from responsible officials that such facilities will be provided and that the Local Authority will not be charged for any costs which would not be charged to a private owner.

(7) No project shall be located where it would be subject to serious and chronic nuisances such as smoke, fumes, odors, or open sewerage. So far as local choice will reasonably permit, sites near or adjacent to railroads, waterways, expressways, airports, and similar hazards shall be avoided.

d. Physical Characteristics. No site shall be selected where topographic or subsurface conditions prevent economical and well-planned development and operation of the project.

(1) As a general rule any site with dominant grades in excess of 10 percent involves costly development and management expense and shall not be selected unless adequate advance planning studies demonstrate the feasible and economic use of such a site. Conversely, a low-lying and relatively flat site shall not be selected unless it is susceptible to practical and economical means of quick and complete disposal of surface water under normally expected heavy rainfall. Where the topography obviously is such that feasible use of the site is subject to question, topographic information should be sought from available sources such as the U.S. Geological Survey maps and the local City Engineer's office. In cases of rugged topography it will be necessary, prior to tentative site approval, to have some preliminary surveys and drawings made to demonstrate the feasibility of the site.

(2) Where septic tanks and subsurface sewage disposal are to be employed, the site should slope downward away from existing or proposed streets to permit disposal fields near the surface (18-36 inches in depth) and in rear-yard areas. Appropriate subsurface investigation shall be made to determine that (a) the percolation rate is satisfactory for this type of sewage disposal; (b) rock formations or other impervious strata are at a depth greater than six feet below the ground

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surface; and (c) the maximum elevation of the ground-water table is at least four feet below the ground surface. Unless these conditions are satisfied the site is unsuitable for a subsurface sewage-disposal system, except in certain localities where State or local authorities may grant approval under special conditions.

(3) Sites located where there is any evidence of unsuitable bearing qualities for foundation and underground utilities or of excessive areas of rock to be excavated shall not be selected unless and until it is demonstrated that the site is, in fact, subject to proper and economical development. As a rule, careful inquiry will disclose information at least as to the general conditions which may be expected (see Bulletin No. LR-2, Subsurface Soil Investigation). If such inquiry points to the need for more specific information, the Local Authority should obtain sufficient test borings and/or pits to determine within reasonable limits whether the subsurface conditions will permit economical development of the site. In case of doubtful subsurface conditions, tentative site approval will not be given until such tests have been made and have indicated acceptable conditions.

(4) No site shall be selected where there is suspicion of potential danger of earth slides either on the site itself or on adjacent or nearby land until it has been conclusively established that such danger is non-existent. This injunction must take into consideration the fact that in hilly terrain existing soil conditions may be stable in undisturbed but may tend to move because of grading operations. Expert consulting services will be required in such cases prior to tentative site approval.

(5) No project shall be located where it would be subject to flooding. Where there is even a suspicion of such potential hazard the conditions must be thoroughly investigated and authoritative opinion obtained before tentative site approval will be given.

e. Acquisition Cost

(1) The cost of acquiring the site should bear a reasonable relationship to total development cost. While a higher cost can be justified for a slum site than for a vacant site, the costs of acquiring the most densely developed slum areas are usually greater than can be justified for low-rent housing projects.

(2) In no event shall parcels or blocks that are conspicuously expensive in comparison with the remainder of a site be included within the site boundary merely to facilitate the planning of a symmetrical project or for other similar reasons. Whenever possible, such parcels must

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be omitted as exceptions to the proposed taking. The provisions in paragraph 4b above, relative to planning projects in sections or on scattered sites, should be given consideration in connection with this question.

(3) No improved site which includes any substantial number of dwellings which are not substandard shall be selected.

(4) No improved site shall be selected if such site includes any substantial number of dwellings which are substandard but which may be rehabilitated at modest cost, unless most of such dwellings are to be rehabilitated and included in the low-rent project.

(5) Special care should be taken to ensure that the estimate of cost of acquiring the proposed site is a realistic one. The estimate shall be made on a parcel-by-parcel basis. The Local Authority should utilize the best information and advice available from public records, previous experience, revenue-producing capacity of the properties comprising the proposed site, and opinions expressed by real estate brokers who have knowledge of recent sales prices or asking prices for properties comparable to those comprising the site. The estimate and the information upon which it is based shall be discussed fully with the PHA Land Adviser (see paragraph 7a below) in order that there shall be mutual agreement between the Local Authority and the PHA that the estimate of site acquisition cost is a valid and realistic one.

f. Feasibility of Relocation. No improved site will be approved by the PHA until there has been submitted a feasible and satisfactory plan demonstrating that the site occupants to be displaced can be relocated without undue hardships to such occupants (see Section 209.1).

g. Nondiscrimination in Housing. Section 1.4(b)(2) of the regulations of the Housing and Home Finance Agency issued under Title VI of the Civil Rights Act of 1964 provides in pertinent part that:

"A recipient [Local Authority], in determining the location or types of housing, accommodations, facilities, services, financial aid, or other benefits which will be provided * * * may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity as respect persons of a particular race, color, or national origin."

The housing on the site to be selected must be operated in accordance with all applicable requirements of Title VI of the Civil Rights Act of 1964 and

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of Executive Order 11063, and Department regulations and requirements issued pursuant thereto. The aim of a Local Authority in carrying out its responsibility for site selection should be to select from among sites which are acceptable under the other criteria of this Section those which will afford the greatest opportunity for inclusion of eligible applicants of all groups regardless of race, color, creed, or national origin, thereby affording members of minority groups an opportunity to locate outside of areas of concentration of their own minority group. Any proposal to locate housing only in areas of racial concentration will be prima facie unacceptable and will be returned to the Local Authority for further consideration and submission of either (1) alternative or additional sites in other areas so as to provide more balanced distribution of the proposed housing or (2) a clear showing, factually substantiated, that no acceptable sites are available outside the areas of racial concentration. Such submissions by Local Authorities may be made to the Project Planner and Land Adviser for inclusion in their report. (See paragraph 7b below.) The advice and assistance of the Regional Office are available to Local Authorities in respect to the selection of sites under the special conditions and considerations pertaining to any particular case.

5. Policy on Purchase of Excess Land

a. No cost for land in excess of that required in connection with the construction of the project (including dwelling and nondwelling facilities and playgrounds) may be included in the development cost of a project except where the site consists of one parcel (or includes a large parcel) with an area in excess of that required for the development of the project and where the severance damage involved in purchasing only the land required for the project would exceed the cost of the excess land. Cost of acquiring land for development of future projects may not be included in the development cost of a project.

b. If existing circumstances should justify approval of the purchase of excess land to obtain a site, the Annual Contributions Contract requires that the excess real property be sold as soon as practicable at public sale for not less than the fair value thereof, unless other disposition or method of disposition is approved. The project shall be so planned as to provide adequate access to the excess land in order that it may be sold.

c. In cases where the excess land is unsuitable for improvement because it is unbuildable or inaccessible, or for other reasons, Local Authorities are urged to give full consideration to the disposition of the property to eligible public bodies under the Open-Space Land Program administered by the Renewal Assistance Administration. Details of the program may be obtained from the office of the Regional Administrator.

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NOTE: These pages 7-8 supersede pages 7-8 of Section 205.1 dated September 1965. Paragraph 4g has been amplified.

6. Condemnation of Property Owned by another Public Body. There have been court decisions adversely affecting attempts by local public agencies to acquire, by condemnation, properties belonging to other public or quasi-public bodies. A site containing any property belonging to another public or quasi-public body or institution will not be approved until the Local Authority, after conferring with responsible persons, obtains written assurance from such body or institution that such property may be acquired by amicable negotiation at a cost not in excess of its fair value.

7. Procedure for Site Selection and Tentative Approval

a. Selection by Local Authority and Inspection by Regional Office. Having reached its conclusions as to a suitable site, the Local Authority shall request the Regional Office to send appropriate personnel to inspect the proposed site and to consider all of the reasons advanced for the Local Authority's selection.

b. Tentative Site Approval. After inspecting the proposed site, the Project Planner and the Land Adviser will prepare a report which will be submitted to the Assistant Regional Administrator for Housing Assistance. The Local Authority shall furnish to the Project Planner and the Land Adviser, for inclusion in their report, such material as may be required to support their conclusions, including such supporting data or information as may be required to enable the Regional Office to include, in its tentative approval of the site selected by the Local Authority, a specific determination that the selection is in accordance with HUD policy established under Title VI of the Civil Rights Act of 1964 (see Exhibit 2, Low-Rent Housing Manual Section 102.1). If the report is favorable and if the Assistant Regional Administrator agrees with the recommendations contained in the report, he will, by letter, give tentative approval of the site, whereupon the Local Authority may proceed with completion of the Development Program (see Section 206.3) based upon use of the site proposed. The term "tentative approval" means merely that the Regional Office and the Local Authority have agreed on the site to be presented in the Development Program; such tentative approval does not in any way bind HUD to give final approval to the site.