

False HOPE

*A Critical Assessment of the HOPE VI
Public Housing Redevelopment Program*

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Foreword

This report, *False HOPE*, was prepared by the National Housing Law Project together with the Poverty & Race Research Action Council, Sherwood Research Associates, and Everywhere and Now Public Housing Residents Organizing Nationally Together (ENPHRONT). We are very grateful for the assistance that we have received from members of the Housing Justice Network and other housing advocates across the country.

False HOPE identifies — and, to the extent possible, documents — serious shortcomings and inconsistencies in the HOPE VI public housing redevelopment program. It proposes specific reforms to address these problems.

This report is intended to support and to complement similar proposals for HOPE VI reform previously produced by ENPHRONT and the National Low Income Housing Coalition.



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Introduction and Summary

Few government programs have as unfavorable a reputation as the federal public housing program. The name “public housing” itself evokes images of bleak, crime-ridden projects.

In fact, the public housing program’s reputation is greatly undeserved. Apart from a comparatively small number of visible and dramatic failures, public housing is a vital national resource that provides decent and affordable homes to over a million families across the country. Public housing is particularly valuable because rents are set at levels guaranteed to be affordable to the families residing in it, even families with the lowest incomes.

Nearly a decade ago, the HOPE VI program was launched to address the most troubled portion of the public housing stock, the small percentage of public housing sites that were “severely distressed.” HOPE VI is a competitive grant program, under which public housing authorities (PHAs), local entities that administer federal housing programs, apply to the U.S. Department of Housing and Urban Development (HUD) for funding to redevelop or demolish public housing sites. While it was intended to be a solution to severely distressed public housing, HOPE VI has been the source of new problems as serious as those it was created to address.

The Origins of the HOPE VI Program

In 1989, as part of the Department of Housing and Urban Development Reform Act, Congress created an independent National Commission on Severely Distressed Public Housing charged with assessing and formulating solutions to the problem severe distress in the public housing. In its final report published in 1992, the Commission concluded that, although the problem was serious, the extent of severe distress in public housing was very limited, estimating that only 6 percent (86,000 units) of the total stock fit into this category. The Commission set forth a National Action Plan to address the human services and modernization needs of the severely distressed public housing sites.

The HOPE VI program, also called the Urban Revitalization Demonstration program, was created by Congress in 1992 in response to the commission’s report. In the first nine years of the program, HUD awarded over \$4.5 billion in competitive grants to PHAs to redevelop 165 public housing sites in 98 cities. In 2001, HUD made 16 HOPE VI redevelopment grants, averaging \$31 million each.

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This report was prepared on the occasion of the expiration of the HOPE VI program’s statutory authorization at the end of the current fiscal year and its possible reauthorization. HOPE VI has been characterized by a lack of clear standards, a lack of hard data on program results, and misleading and contradictory statements made by HUD.

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HUD's failure to provide comprehensive and accurate information about HOPE VI has created an environment in which misimpressions about the program and its basic purposes and outcomes have flourished — often with encouragement from HUD. HOPE VI plays upon the public housing program's unfairly negative reputation and an exaggerated sense of crisis about the state of public housing in general to justify a drastic model of large-scale family displacement and housing redevelopment that increasingly appears to do more harm than good.

It is for these reasons that this report has been titled, *False HOPE*. To the extent possible, given the scarcity of data available on HOPE VI, it tracks the program's shortcomings and inconsistencies and proposes specific reforms.

Problems with the HOPE VI Program

Increasingly, it appears that the HOPE VI program is not addressing the problems identified by the National Commission on Severely Distressed Public Housing in 1992 or the goals set forth in the HOPE VI statutes.

The Loose Definition of "Severely Distressed Public Housing"

It is nearly impossible to determine whether HOPE VI is making meaningful progress towards solving the problem of severely distressed public housing because it is not clear which developments are severely distressed. Nearly any public housing development can meet the open-ended threshold of "severe distress" used by HUD and be eligible for HOPE VI funds. The identity of severely distressed sites should be much clearer than it currently is. HUD was required by statute to publish a comprehensive list of severely distressed public housing developments during the first year of the program, but failed to do so.

Indications are that HOPE VI has drifted sharply from its original purpose. According to recent White House figures, a total of 135,000 public housing units have been approved for demolition to date — at least 70,000 of these under HOPE VI. If trends from previous years continue, by the end of the current fiscal year, HUD will be on pace to approve the demolition of nearly twice the number of units identified as "severely distressed" in 1992.

In addition, federal auditors in the mid-1990s found that HOPE VI increasingly appeared to target not the most severely distressed public housing, but those sites that are most amenable to higher income redevelopment. Surprisingly, given commonly held perceptions, only seven of the first thirty-four HOPE VI redevelopment awards were for high-rise public housing developments.

HOPE VI Worsens Acute Affordable Housing Needs

HOPE VI redevelopment activities reduce the nation's supply of public housing, some of the only housing guaranteed to be affordable to families with the lowest incomes. According to HUD data, families at these income levels — and virtually *only* families at these income levels — are experiencing a dramatic shortage of affordable housing.

According to HUD figures, for every 100 very low income¹ renter households in 1999, there were only 70 units affordable and actually available to them. The situation is even worse for extremely low income² renter households, with only 40 units affordable and available for every 100 households in this income group. Households with higher incomes, even those still classified within the “low income” range,³ are not suffering from such affordable housing shortages.

HUD’s justification for this loss of public housing is a model of “mixed-income” redevelopment. However, even though it has been popular for years, the basic validity and effectiveness of this model has never been established. Cast in the worst light, HUD’s HOPE VI mixed-income model is a social engineering scheme built on a number of inaccurate, irrelevant, and harmful assumptions about low income families and their neighborhoods.

Few Meaningful Opportunities for Resident Participation in HOPE VI

While HUD has emphasized the “crucial” importance of the involvement of public housing residents and other community members in the HOPE VI redevelopment process, HUD has deprived residents of any enforceable rights to participate in the HOPE VI process, after the application stage. HUD has never issued regulations for the HOPE VI program. Instead, HOPE VI redevelopment activities are governed by form grant agreements between HUD and PHAs receiving funds. These grant agreements expressly foreclose the right of residents and others to enforce their terms.

On-going rights of resident participation after the application stage are essential because PHAs’ HOPE VI plans often change over time, sometimes drastically. In fact, grant agreements expressly contemplate amendments to HOPE VI revitalization plans. As actually implemented, a HOPE VI redevelopment may differ substantially from what was described in a PHA’s initial application and explained to residents.

The Exclusion of Public Housing Families from HOPE VI Opportunities

While the first purpose set forth under the HOPE VI statute is to “improve the living environment” of families in severely distressed public housing, HOPE VI is doing little to improve the lives of most of the families it affects. Contrary to impressions conveyed by HUD, only 11.4 percent of former residents overall have returned or are expected to return to HOPE VI sites; only about 30 percent of displaced residents are relocated with portable Housing Choice Vouchers. The bulk of residents, 49 percent, are simply transferred to other public housing developments. And, a disturbing number of the residents who are officially relocated are “lost” along the way, meaning that they no longer receive housing assistance.

¹ Under federal definitions, “very low income” refers to households with incomes at or below 50 percent of the median income of households in their geographic area — “area median income” (AMI).

² i.e., at or below 30 percent of AMI.

³ i.e., at or below 80 percent of AMI.

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HUD has suggested that residents who do not return to HOPE VI sites “choose” not to do so. Other reasons for this trend include harassment, inadequate relocation services and poor lines of communication, the lack of affordable housing on redevelopment sites, and unreasonably stringent re-admission screening criteria. The exclusion of residents from redevelopment sites not only deprives them of high quality housing, it impairs their ability to access HOPE VI community and supportive services, which tend to be based in redevelopment sites.

The Lack of Data on HOPE VI Outcomes

HUD has promoted HOPE VI a “highly effective program,” but has not published the data necessary to support this claim. The reports on HOPE VI outcomes that HUD’s Office of Public and Indian Housing has made generally available to date have focused on case studies of hand-picked sites. Given the large amount of variation among PHAs’ redevelopment plans that HUD itself has emphasized, such an approach cannot help but provide an incomplete and misleading impression of the program.

Audit reports by the General Accounting Office and the HUD Office of Inspector General have provided a more general overview, but have neither provided a comprehensive picture of the program nor were intended to do so. A site profile database maintained by the Housing Research Foundation, an affiliate of the Council of Large Public Housing Authorities, provides only very basic information about HOPE VI sites, much of it drawn from HUD summaries and fact sheets.

HUD now collects a large amount of information about the HOPE VI program — such as grant applications, revitalization plans, and quarterly progress reports submitted by PHAs. Without better access to the information contained in these documents, it is impossible to have a complete picture of how the HOPE VI program is being administered, how grant dollars are being spent, and what outcomes the program is producing.

Summary of Policy Recommendations for HOPE VI Reform

If the HOPE VI program is to be reauthorized, reforms must be made to address the program’s shortcomings and to provide greater clarity of purpose and outcomes.

- *HUD should be required to publish an updated list of public housing developments eligible for HOPE VI funds according to a new definition of “severe distress” created in collaboration with public housing residents, housing advocates, housing experts, and others.*
- *All public housing units subject to demolition or redevelopment under HOPE VI should be replaced with new public housing units on a one-for-one basis.*
- *HUD should be required to issue regulations governing the administration of HOPE VI redevelopment activities, which should provide enforceable, on-going rights of resident participation.*

- *Public housing residents should be guaranteed the right to occupy units redeveloped under HOPE VI, and the relocation rights of displaced residents should be strengthened and clarified.*
- *HUD should be required to make HOPE VI program documents — including approved applications, revitalization plans, financial documents and progress reports — publicly available on its website.*

I. The HOPE VI Program and Its Uncertain Purpose

The HOPE VI program is a multi-billion dollar federal grant program that funds the redevelopment of “severely distressed” public housing.¹ Each year, public housing authorities, state or local entities administering federal housing programs, apply to the U.S. Department of Housing and Urban Development (HUD) for HOPE VI grants on a competitive basis. In 2001, HUD made 16 HOPE VI redevelopment awards, averaging approximately \$31 million each.² Since 1993, over \$4.5 billion in redevelopment grants have been awarded.³ Under the current statute, appropriations and grant making authority for the program is set to expire at the end of fiscal year 2002.⁴

HOPE VI was created to remedy the small percentage of the public housing stock with needs too great to be addressed with conventional modernization resources, “severely distressed” public housing. Today, HUD has approved the demolition of tens of thousands of more units of public housing than ever have been estimated to be severely distressed.

A. *The National Commission on Severely Distressed Public Housing*

The Department of Housing and Urban Development Reform Act of 1989⁵ called for the creation of a National Commission on Severely Distressed Public Housing. The Commission was charged with identifying severely distressed public housing developments, assessing strategies for addressing the problems of these developments, and formulating a plan of action based on this assessment.⁶

The Commission issued its final report in 1992.⁷ In this report, the Commission estimated that 6 percent of the public housing stock, 86,000 units, was severely distressed.⁸ It put forth a “National Action Plan” to address the needs of residents, physical conditions, and

¹ Under current statutory authority, HOPE VI also funds the demolition of public housing sites without rehabilitation or construction of new units. See 42 U.S.C.A. § 1437v(m)-(n) (West Supp. 2001), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi. This discussion will focus primarily on HOPE VI “revitalization” or redevelopment activities.

² See U.S. Department of Housing and Urban Development, *National Fact Sheet: FY 2001 HOPE VI Revitalization Grant Awards* (2002), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/natl_factsheet.pdf.

³ See U.S. Department of Housing and Urban Development, *About HOPE VI* (Apr. 3, 2002), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/about/.

⁴ See 42 U.S.C.A. § 1437v(d),(e)(3) (West Supp. 2001), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

⁵ Pub. L. No. 101-235, Tit. V (Dec. 15, 1989), codified at 12 U.S.C.A. § 1715z-1a note (West 2001), available on-line at thomas.loc.gov/.

⁶ See *id.* at § 501.

⁷ National Commission on Severely Distressed Public Housing, *The Final Report of the National Commission on Severely Distressed Public Housing: A Report to the Congress and the Secretary of Housing and Urban Development* (Aug. 1992).

⁸ See *id.* at 15. In 1992, the federal public housing stock consisted of approximately 1.4 million units.

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management needs of severely distressed public housing developments through a variety of means.⁹

The Commission report emphasized that severely distressed public housing, while an urgent problem, represented only a small portion of the total stock. The report explained that the overwhelming majority of the stock was sound and “continues to provide an important rental housing resource for many low-income families.”¹⁰

B. The Creation of HOPE VI and HUD Public Housing Unit Removal Targets

Also known as the “Urban Revitalization Demonstration” (URD) program in its early years, the HOPE VI program was originally created pursuant to the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act of 1993¹¹ in response to the Commission’s report.¹² Several weeks later, additional statutory criteria for the program were enacted pursuant to the Housing and Community Development Act of 1992,¹³ which amended Section 24 of the U.S. Housing Act.¹⁴

In 1996, HUD “rounded up” the Commission’s 86,000-unit figure and set itself the goal of approving the demolition 100,000 units of public housing by the end of fiscal year 2000.¹⁵ HUD’s reason for settling on this number was not explained. HUD documents referring to the “rounded up” demolition target do not mention the Commission’s 1992 findings or a reason for departing from the original unit figure.¹⁶

⁹ See *id* at 9-33.

¹⁰ *Id* at 2.

¹¹ Pub. L. No. 102-389, Tit. II (Oct. 6, 1992), codified at 42 U.S.C.A. § 1437l note (West 1994) (“Urban Revitalization Demonstration Program”), available on-line at thomas.loc.gov/.

¹² “HOPE VI” was so named because it was originally styled as a new form of HOPE (“Homeownership and Opportunity for People Everywhere”) grant under the Cranston-Gonzalez National Affordable Housing Act of 1990, Pub. L. No 101-625 (Nov. 28, 1990). See, e.g., S. Rep. No. 356, 102d Cong., 2d Sess. at 40 (Aug. 30, 1992), available on-line at thomas.loc.gov/.

¹³ Pub. L. No. 102-550, Tit. I, § 120 (Oct. 28, 1992), codified at 42 U.S.C.A. § 1437v (West 1994), available on-line at thomas.loc.gov/.

¹⁴ Section 24 was later amended in its entirety by the Quality Housing and Work Responsibility Act of 1998, Pub. L. No. 105-276, Tit. V., § 535(a) (Oct. 21, 1998), available on-line at thomas.loc.gov/. In recent years, HUD has taken the position that the HOPE VI program was not authorized under Section 24 until fiscal year 2000. See, e.g., U.S. Department of Housing and Urban Development, *HOPE VI Program Authority and Funding History*, www.hud.gov/offices/pih/programs/ph/hope6/about/history.cfm (Jan. 2, 2002). This position, probably adopted to avoid complying with provisions of U.S. Housing Act, is directly contradicted by an early HUD-commissioned HOPE VI report. See Abt Assocs., et al., *An Historical and Baseline Assessment of HOPE VI, Vol. I: Cross-site Report*, i (Jul. 1996) (“HOPE VI was authorized by the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act of 1993 (the Appropriations Act). It was also authorized, with slight modifications (amending Section 24 of the 1937 Housing Act), by Section 120 of the Housing and Community Development Act of 1992.”), available on-line at www.huduser.org/publications/pubasst/hopevi.html.

¹⁵ See U.S. Department of Housing and Urban Development, Office of Inspector General, *Nationwide Audit: HOPE VI Urban Revitalization Program*, 99-FW-101-0001 (Dec. 17, 1998), available on-line at www.hud.gov/oig/ig960001.pdf.

¹⁶ See, e.g., 62 Fed. Reg. 47,740 (Sept. 10, 1997), available on-line at www.access.gpo.gov/su_docs/aces/aces140.html.

What is clear is that HUD has met and surpassed its public housing demolition target. According to the President's proposed budget summary for fiscal year 2003, HUD has approved the demolition of about 135,000 public housing units, of which at least 70,000 have been approved under the HOPE VI program.¹⁷ Assuming HOPE VI and other demolition activity continues as it has for the past several years, HUD will be on pace to approve the demolition of *nearly double* the number of units determined by the Commission to be severely distressed by the end of the current fiscal year.¹⁸

C. *The Uncertain Definition of "Severely Distressed Public Housing"*

It is impossible to know whether or to what extent the HOPE VI program is addressing severely distressed public housing because the term "severely distressed public housing" has never been concretely defined. The term has had at least a half a dozen definitions since 1989.¹⁹

As HUD actually administers the HOPE VI program, the definition of "severe distress" is almost an irrelevancy. A PHA applying for HOPE VI funds need only certify that the development for which it seeks HOPE VI funds meets the open-ended definition of

¹⁷ See Fiscal Year 2003 Budget Summary, 11 (Feb. 2002), available on-line at www.hud.gov/about/budget/fy03/bugsum.pdf. According to the summary: "To date, 70,000 units have actually been demolished, 47,268 of which were demolished under the HOPE VI program." *Id.* It is not clear whether the demolition figures reported in the budget summary include units otherwise "disposed" of by means other than outright demolition by a public housing authority, such as sale to a third party. According to the Millennial Housing Commission, 78,000 units have been approved for demolition under HOPE VI, perhaps reflecting new fiscal year 2001 figures. See Millennial Housing Commission, *Meeting Our Nation's Housing Challenges: Report of the Bipartisan Millennial Housing Commission Appointed by the Congress of the United States*, 98, App. 3 (May 30, 2002), available on-line at www.mhc.gov/mhcfinal.pdf.

¹⁸ See HUD Special Applications Center, *Field Office Demo/Dispo Units Total Recap* (Nov. 5, 2001) (reporting units approved for demolition or disposition pursuant to Section 18 of the U.S. Housing Act for fiscal years 1993 to 2001); *National Fact Sheet*, *supra* n. 2.

¹⁹ The 1989 Department of Housing and Urban Development Reform Act set forth a list of criteria for developments to which the Commission was to pay special attention. These included occupancy by families with children, design and management deficiencies and recurrent criminal activity. See Pub. L. No. 101-235, Tit. V, § 504 (Dec. 15, 1989). The 1992 Commission report set forth or used three definitions of "severe distress." Its initial definition of a severely distressed development was one that had 500 units or more, an elevator, a vacancy rate higher than 15 percent, and was predominantly occupied by families with children. See *The Final Report of the National Commission*, *supra* n. 7, at App. B-1. It also set forth a four-part rating system for determining severe distress, which focused indicators of family distress, rates of serious crimes, barriers to management, and physical deterioration. See *id.* at App. B-2-10. In actually arriving at its estimate of the number of severely distressed units, the Commission used HUD modernization cost data and designated developments as severely distressed where their modernization needs exceeded 60 percent of HUD's Total Development Cost (TDC) guidelines. See *id.* at 15. Section 24 of the U.S. Housing Act, the HOPE VI statute, sets forth a multi-part definition of "severe distress" that has much in common with the Commission's four-part rating system. The definition was essentially unchanged by the 1998 amendment. See 42 U.S.C.A. § 1437v(j)(2) (West Supp. 2001); 42 U.S.C.A. § 1437v(h)(5) (West 1994). Finally, the HOPE VI Notices of Funding Availability (NOFAs) set forth a definition of "severe distress." See, e.g., *Notice of Funding Availability: Revitalization of Severely Distressed Public Housing (HOPE VI Revitalization and Demolition) Fiscal Year 2001*, 66 Fed. Reg. 11,638, at IV(A)(1) (Feb. 26, 2001), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/nofa_01.pdf. The text of the definition is taken from the language of the statute.

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“severe distress” set forth in the statute²⁰ and submit a certification of severe physical distress prepared by an architect hired by the PHA.²¹ *Virtually any family public housing development can meet the definition of “severe distress” for HOPE VI purposes.*²²

Severe distress should not be so easy to establish. Not all public housing is severely distressed. Any notion of widespread distress in the stock was expressly refuted in the 1992 Commission report.²³

The actual extent of severe distress in the public housing stock should be much clearer than it currently is. Under the 1992 Housing and Community Development Act, HUD was required to publish a comprehensive list of severely distressed public housing developments eligible for HOPE VI funds before April 1993.²⁴ HUD never did this.²⁵ This failure to provide clarity has had consequences. Far more units than were ever estimated to be severely distressed have been approved for demolition.²⁶ Over half of the HOPE VI redevelopment awards made in past four fiscal years were for developments that would not have met the initial definition of “severe distress” considered by the Commission.²⁷

In addition to its vague eligibility threshold for HOPE VI, HUD has fostered misimpressions about HOPE VI activities and the focus of the program in other ways as well.

1. Shifting Away from the “Most” Severely Distressed Public Housing

General Accounting Office (GAO) and HUD Office of Inspector General (OIG) auditors have noted that after the first years of the program, the focus of HOPE VI appeared to shift away from the “most” severely distressed public housing sites and towards smaller sites with greater potential to attract private investment.²⁸ HUD has not disputed this point. Instead, it has responded that it cannot “guarantee that the most severely distressed

²⁰ *Id* at V.(A)(2)(b).

²¹ *Id* at V.(B)(1)(a).

²² See Part I.C.1., *infra*.

²³ See n. 10 and accompanying text, *supra*.

²⁴ See 42 U.S.C.A. § 1437v(b) (West 1994) (requiring HUD to publish this list “[n]ot later than 180 days after October 28, 1992”).

²⁵ See *Baseline Assessment of HOPE VI*, *supra* n. 14, at 1-15 (Jul. 1996) (“[T]here is not an all inclusive list of distressed developments nationwide...”).

²⁶ See Part I.B., *supra*.

²⁷ See n. 19, *supra*. This is because over half of recent awards were for developments containing fewer than 500 units. See National Housing Law Project, *Survey of the Proportion of Family Public Housing Rentals in HOPE VI Revitalization Sites: FY 1998-2000 Awards*, 31 HOUSING LAW BULLETIN 29, 45-49 (Feb. 2001); U.S. Department of Housing and Urban Development, *FY 2001 HOPE VI Revitalization Grants* (2002), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/rev_highlights.pdf.

²⁸ See U.S. General Accounting Office, *HOPE VI: Progress and Problems in Revitalizing Distressed Public Housing*, GAO/RCED-98-187 at 26 (Jul. 1998), available on-line at www.access.gpo.gov/su_docs/aces/aces160.shtml; U.S. Department of Housing and Urban Development, Office of Inspector General, *Nationwide Audit: HOPE VI Urban Revitalization Program*, 99-FW-101-0001 at 8 (Dec. 17, 1998), available on-line at www.hud.gov/oig/ig960001.pdf.

public housing in the nation will be addressed through HOPE VI” and that such an emphasis would likely be contrary to the intent of Congress.²⁹

HUD’s response directly contradicts its repeated statements about the purpose of HOPE VI. Throughout the history the program, HUD has emphasized HOPE VI’s focus on the *most* distressed public housing developments. In its first formal administrative notice on HOPE VI, HUD described the program as “the opportunity *and mandate* to revitalize some of the *most* distressed public housing developments in the Nation.”³⁰

2. *The Misleading Emphasis on High-Rise Sites in Descriptions of HOPE VI*

Commentary on the HOPE VI program often makes special mention of high-rise public housing developments and how HOPE VI works to address the special problems posed by these sites. The Innovations in American Government Program described HOPE VI as a move away from “isolating the poorest urban residents in stand alone high-rise enclaves.”³¹ Others have described HOPE VI as a program that focused initially on high-rise sites, then became more expansive in later years.³² Statements by HUD have encouraged this association of HOPE VI with high-rise public housing. The current HUD Strategic Plan states that “[t]he high-rise public housing developments constructed in the 1960s” are being redeveloped “into mixed-income communities through the HOPE VI program.”³³

²⁹ *Id* at 70 (HUD Response to Draft Audit Report) (emphasis in original).

³⁰ HUD Notice PIH 95-10, 3 (Feb. 22, 1995) (emphasis added). *See also* *Baseline Assessment of HOPE VI*, *supra* n. 14 (Foreword by then-HUD Assistant Secretary Michael Stegman: “The task of revitalizing the most distressed public housing in America is not an easy one.”); Arthur J. Naparsek, et al. (The Urban Institute), *HOPE VI: Community Building Makes a Difference* (Feb. 2000) (Foreword by then-HUD Secretary Andrew Cuomo describing HOPE VI’s focus on “the largest and most distressed public housing projects in the nation”) available on-line at www.huduser.org/publications/pubasst/hope.html.

³¹ Institute for Government Innovation, *2000 Winner, U.S. Department of Housing and Urban Development, Mixed-Finance Public Housing* (2000) (announcing HOPE VI program as the winner of a 2000 Innovations in American Government award from the Harvard Kennedy School of Government), available on-line at www.innovations.harvard.edu/2000/hopevi00.htm.

The Millennial Housing Commission’s recently published report described “[t]he existence of large, generally high-rise, urban public housing developments — many of which are now being replaced by mixed-income developments under the HOPE VI program.” *Meeting Our Nation’s Housing Challenges*, *supra* n. 17, at 23 (further stating that these high-rise sites have “generally obscured the fact that most public housing is in smaller developments that do not share the problems generally associated with the high-rise, high-density units”).

³² *See, e.g.*, Harry J. Wexler, *HOPE VI: Market Means/ Public Ends — The Goals, Strategies, and Midterm Lessons of HUD’s Urban Revitalization Demonstration Program*, *JOURNAL OF AFFORDABLE HOUSING*, Spring 2001, at 195, 204 (“From the start, dispersing the poorest public housing residents and downsizing large high-rise projects was a goal of HOPE VI, but it soon became the first step in a more ambitious plan to replace the projects altogether with attractively designed mixed income housing communities.”), available on-line at [www.housingresearch.org/hrf/hrfhome.nsf/e9c24279c3bd4d1085256a0300779c07/ce6d9bfe8be32cf885256aaa007328fc/\\$FILE/Wexler%20Article.pdf](http://www.housingresearch.org/hrf/hrfhome.nsf/e9c24279c3bd4d1085256a0300779c07/ce6d9bfe8be32cf885256aaa007328fc/$FILE/Wexler%20Article.pdf).

³³ U.S. Department of Housing and Urban Development, *FY 2000 – FY 2006 Strategic Plan*, 43 (Sept. 2000), available on-line at www.hud.gov/reform/strategicplan.pdf.

In fact, from the data available, relatively few HOPE VI awards have been made to high-rise sites, even in the early years of the program. Among the 34 awards made during the first three annual grant cycles, only seven were for high-rise developments.³⁴ This ratio (21 percent) roughly conforms to the overall composition of the public housing stock.³⁵ It may be that high-rise sites are no more likely to be severely distressed than other sites. Or, it may be that regardless of the facts, emphasizing high-rise sites plays upon widespread negative perceptions of the public housing program in a way that is useful to promote HOPE VI activities.

Policy Recommendations:

Reserve HOPE VI for the Most Distressed Public Housing

HUD has met and exceeded its public housing unit removal targets by tens of thousands of units. Nearly any public housing site is can qualify for HOPE VI funds, as HUD administers the program. There is evidence that HOPE VI redevelopment grants now being awarded are for developments that would not have met the definition of “severe distress,” as originally conceived.

If the program is to be reauthorized, it needs better focus and direction. The program lacks clear standards and seems to feed upon a sense of crisis regarding public housing that is overstated and may not exist at all. HUD’s own descriptions of the purposes of the program have become inconsistent and contradictory.

- *The HOPE VI program should be reserved for the most severely distressed portion of the nation’s public housing stock.*
- *HUD should be required to publish an updated list of the specific public housing developments eligible for HOPE VI funds according to a new definition of “severe distress” created in collaboration with public housing residents, housing advocates, housing experts, and others.*
- *No new HOPE VI grants should made until this list is produced and only developments included on this list should be eligible for HOPE VI funding.*

³⁴ See *Baseline Assessment*, *supra* n. 30, at 1-20.

³⁵ According to figures from approximately ten years ago, high-rise sites accounted for 27 percent of the total number of public housing units. See John Atlas and Peter Dreier, *From “Projects” to Communities: Redeeming Public Housing*, JOURNAL OF HOUSING (1993).

II. The National Shortage of Affordable Housing and the HOPE VI Mixed-Income Model

The HOPE VI program has resulted in the loss of tens of thousands of public housing units, thereby exacerbating a nation-wide affordable housing shortage that HUD itself has documented. HUD's justification for this reduction in affordable housing is a theory of "mixed-income" redevelopment, the basic validity of which has never been established.

A. *Estimates of the Number of Public Housing Units Lost to Date*

According to recent figures, at least 70,000 public housing units have been approved for demolition under HOPE VI.¹ Based on the average proportion of public housing units replaced under HOPE VI² and the number of public housing units to be demolished outside of HOPE VI redevelopment activities,³ the country is facing an estimated net loss of over 107,000 public housing units through demolition.⁴

Public housing is an extremely valuable resource because it is housing that is *guaranteed* to be affordable to families at a wide range of incomes. This includes families with the lowest incomes, who are not directly served under other federal housing programs, such as the Low Income Housing Tax Credit (LIHTC) program.⁵ Public housing's affordability is guaranteed because, in nearly all situations, rents are set at a level equal to 30 percent of an eligible family's household income.⁶

¹ See *Fiscal Year 2003 Budget Summary*, 11 (Feb. 2002), available on-line at www.hud.gov/about/budget/fy03/bugsum.pdf. See also Millennial Housing Commission, *Meeting Our Nation's Housing Challenges: Report of the Bipartisan Millennial Housing Commission Appointed by the Congress of the United States*, 98, App. 3 (May 30, 2002) (stating that 78,000 units have been approved for demolition under HOPE VI, perhaps reflecting new fiscal year 2001 figures), available on-line at www.mhc.gov/mhcfinal.pdf.

² See National Housing Law Project, *Survey of the Proportion of Family Public Housing Rental Units Included in HOPE VI Revitalization Sites: FY 1998, 1999, 2000 Awards*, 31 HOUSING LAW BULLETIN 29, 45-49 (Feb. 2001) (This survey focuses on on-site replacement of units; however, according to the site profiles examined in the survey, off-site unit replacement is rare and does not involve a substantial portion of overall replacement activities.)

³ *Fiscal Year 2003 Budget Summary*, *supra* n. 1, at 11.

⁴ The total number of units lost may be even higher if mechanisms other than outright demolition, such as disposition (sale or transfer) or conversion to tenant-based voucher assistance, are considered. HUD has not released comprehensive figures.

⁵ Only a portion of the units in a LIHTC development have affordability restrictions. In general, either 20 percent of the units in a development must be affordable to households at 50 percent of area median income (AMI) or 40 percent of the units must be affordable to households at 60 percent of AMI. See BARRY JACOBS, HDR HANDBOOK OF HOUSING AND DEVELOPMENT LAW, ¶ 10.01[2][a] (2000). According to the latest available HUD figures, the average annual median income for public housing households is \$10,091, 18.5 percent of the estimated national median income for fiscal year 2002. See U.S. Department of Housing and Urban Development, *Multifamily Tenant Characteristics System, Resident Characteristics Report, Public Housing, National* (data retrieved Jun. 13, 2002), available on-line at pic.hud.gov/pic/RCRPublic/rcrmain.asp; HUD Notice PDR-2002-01 (Jan. 31, 2002) ("Estimated Median Family Incomes for FY 2002"), available on-line at www.huduser.org/datasets/il/fmr02/medians.pdf.

⁶ Families of "low income" under federal definitions — at or below 80 percent of area median income (AMI) — are eligible for public housing. Because of its rent calculation structure, public housing is

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The value of public housing is largely obscured by the program's widespread negative reputation. But, this reputation is greatly undeserved.⁷ Built over a period of decades,⁸ under many different circumstances, in many different cities, and for many different purposes, essentially only generalization that can be made about public housing is that it provides guaranteed affordable housing.

Public housing is also an increasingly scarce resource. No significant amount of federal public housing has been constructed since the early 1980s.⁹ The net unit losses occurring in the public housing stock today are permanent losses.

The mounting losses in public housing stock are being keenly felt. Across the county, public housing waiting lists have grown dramatically. On average, families must wait almost a year for a public housing unit. In larger metropolitan areas, public housing waits range from almost *three* to *eight* years.¹⁰ From 1998 to 1999, the number of families on waiting lists that were not closed due to their overwhelming size increased between 10 and 25 percent.¹¹ Based on data submitted to HUD, over 73,000 families were on public housing waiting lists in jurisdictions that received fiscal year 2001 HOPE VI redevelopment awards, with the average waiting list containing over 4,900 families.¹²

1. The National Shortage of Affordable Housing

Public housing unit losses in HOPE VI have a special urgency in light of the country's affordable housing shortage. Analyses by HUD indicate that this shortage is affecting only families with the lowest incomes. According to figures cited by HUD in testimony to Congress last year, the nation's total rental housing stock actually *increased* by about 725,000 units from 1991 to 1999, with essentially all of this housing being affordable to

affordable to the lowest income families — those of “very low income” (at or below 50 percent of AMI) and “extremely low income” (at or below 30 percent of AMI). *See generally* 24 C.F.R. Part 5, Subpart F (2001), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

⁷ *See, e.g., Meeting Our Nation's Housing Challenges*, *supra* n. 1, at 23 (“most public housing is in smaller developments that do not share the problems generally associated with . . . high-rise, high-density units. . .”); John Atlas and Peter Dreier, *From “Projects” to Communities: Redeeming Public Housing*, JOURNAL OF HOUSING (1993).

⁸ Public housing originated with the U.S. Housing Act of 1937, Pub. L. No. 412 (Sept. 1, 1937), codified at 42 U.S.C.A. § 1437 *et seq.* (West 1994), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

⁹ *See* Cushing Dolbeare (National Low Income Housing Coalition) *Changing Priorities: The Federal Budget and Housing Assistance 1976-2002* (May 2001), available on-line at www.nlihc.org/pubs/changingpriorities.pdf. No significant amounts of other HUD-assisted multifamily housing with affordability guarantees similar to public housing have been constructed since the early 1980s either. *See id.* And, like the public housing stock, the HUD-assisted multifamily housing stock has seen significant unit losses. As many as 191,275 of these units have been lost to date. *See* National Housing Trust, *Summary of Opt Out Data* (2002); National Housing Trust, *Summary of Prepayment Data* (2002).

¹⁰ *See* U.S. Department of Housing and Urban Development, *Waiting in Vain: Update on America's Rental Housing Crisis* (Mar. 1999), no longer available on-line.

¹¹ *See id.*

¹² This figure is based on data reported in grantees' approved annual public housing agency plans, which are available on the HUD website, www.hud.gov/offices/pih/pha/approved/index.cfm. Data for the Housing Authority of Portland, Oregon is not available on HUD's website has not been included in this figure.

households broadly defined as “low income,” at or below 80 percent of area median income (AMI).¹³

However, in its testimony, HUD further stated that the situation is very different for “low income” households with the *lowest* incomes. The number of units affordable to renters with “very low incomes,” at or below 50 percent of AMI, fell by 1.3 million from 1991 to 1999, an 8 percent loss overall.¹⁴ The number of units affordable to “extremely low income” renters, at or below 30 percent of AMI, fell by 940,000 units during this period, a 14 percent reduction.¹⁵

According to HUD, there is technically no shortage of affordable housing overall *except* for households with the lowest incomes:

In 1999, for every 100 renters with incomes below 30% AMI, there were only 75 units with affordable rents, that is, only 3 units for every 4 renters. ... At higher incomes, by contrast, there were *not* shortages of affordable units on average across the U.S.¹⁶

HUD explained that these figures “underestim[ate] actual shortages for a number of reasons,” in particular because many units technically affordable to very and extremely low income renters are occupied by higher income households and are not actually available to renters with the lowest incomes.¹⁷

According to data released by HUD in a separate report, for every 100 very low income renter households in 1999, there were only 70 units affordable and actually available to them.¹⁸ The situation is even worse for extremely low income renter households, with only 40 units affordable and available for every 100 households in this income group.¹⁹

In short, the HOPE VI program has directly resulted in the loss of tens of thousands of units of some of the only housing guaranteed to be affordable to *exactly* those families suffering from a severe shortage of affordable housing.²⁰

¹³ See Kathryn P. Nelson, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, *Testimony before the House Committee on Financial Services, Subcommittee on Housing and Community Opportunity* (May 3, 2001), available on-line at financialservices.house.gov/media/pdf/050301ne.pdf. Following the usual federal definition, Nelson explains that housing is “considered ‘affordable’ if housing costs (rent plus utilities) equal 30% or less of [a household’s] gross income.” *Id.*

¹⁴ *See id.*

¹⁵ *See id.*

¹⁶ *Id.* (emphasis in original).

¹⁷ *Id.*

¹⁸ See U.S. Department of Housing and Urban Development, *A Report on Worst Case Housing Needs in 1999: New Opportunity Amid Continuing Challenges* at 8-9 (Jan. 2001) available on-line at www.huduser.org/publications/affhsg/wc99.pdf.

¹⁹ *See id.* at 9.

²⁰ HUD Secretary Mel Martinez informed the U.S. Conference of Mayors at a recent housing summit: “Housing issues are predominantly local issues. ... The solution to meeting the nation’s affordable housing needs will not come out of Washington.” David Broder, *Housing on the Back Burner*, THE WASHINGTON

B. HOPE VI and the Mixed-Income Model

HUD's justification for this loss of public housing units under HOPE VI is a model of "mixed-income" redevelopment and "poverty deconcentration". This model involves

- Creating income diversity in new or redeveloped housing projects, including former public housing projects redeveloped under the HOPE VI program; [and]
- Encouraging the use of tenant-based housing vouchers for families to locate in neighborhoods that will improve the life opportunities of family members.²¹

Essentially, the model calls for setting aside units for higher-income households in HOPE VI sites and for dispersing lower-income residents of public housing developments into other areas with portable Housing Choice vouchers.²² HUD has endorsed the replacement of public housing units in HOPE VI award sites with "a mix of one-third public housing, one-third tax credit or other subsidized housing, and one-third market rate rental or homeownership housing."²³

In spite of what might be assumed from press releases and other materials, HUD has placed less actual emphasis on relocation of public housing households with vouchers in its administration of HOPE VI. According to HUD figures, less than one-third of the displaced families receive voucher assistance; the bulk of families are simply transferred to other public housing sites.²⁴

The mixed-income model is said by HUD and other supporters to have a number of benefits. The proximity to higher income households is supposed to "reduce the social pathology caused by [the] concentration" of poverty suffered by public housing resi-

POST, Jun. 9, 2002, B07, available on-line at www.washingtonpost.com/wp-dyn/articles/A15230-2002Jun7.html. Not only is HUD not providing solutions, through HOPE VI, it is making affordable housing problems worse.

²¹ Jill Khadduri, *Deconcentration: What Do We Mean? What Do We Want?*, CITYSCAPE: A JOURNAL OF POLICY DEVELOPMENT AND RESEARCH, Vol. 5, No. 2, at 69 (2001), available on-line at www.huduser.org/periodicals/cityscape/vol5num2/khadduri.pdf.

²² See, e.g., Alex Schwartz and Kian Tajbakhsh, *Mixed-Income Housing: Unanswered Questions*, CITYSCAPE: A JOURNAL OF POLICY DEVELOPMENT AND RESEARCH, Vol. 3, No. 2, at 71 (1997), available on-line at www.huduser.org/periodicals/cityscape/vol3num2/unanswer.pdf.

²³ *Notice of Funding Availability: Revitalization of Severely Distressed Public Housing (HOPE VI Revitalization and Demolition) Fiscal Year 2001*, 66 Fed. Reg. 11,638, at VI (Rating Factor 3(1)(a)) (Feb. 26, 2001), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/nofa_01.pdf. HUD's unit mix preferences have profoundly influenced applicants' plans. Miami-Dade Housing Authority submitted a series of HOPE VI applications for its Scott Homes development, each calling for greater reductions in the number of public housing units to be replaced. The application that HUD finally approved in 1999 called for a permanent reduction of 770 units of conventional rental public housing in two sites. See Miami-Dade Housing County, *1999 HOPE VI Grant Application*, Att. 22, 24 (May 17, 1999).

²⁴ See Part IV.B.1., *infra*.

dents.²⁵ This reduction in “social pathology” is said to occur because higher-income households serve as positive role models for lower-income residents.²⁶ The presence of higher-income households is also supposed to increase the quality of housing, amenities, and municipal services for all members of the mixed-income community because these households are said to be more sophisticated and demanding consumers.²⁷ And, a mix of incomes is said to result in a healthier community and the “building [of] human and social capital” — positive community interactions, mutually beneficial networking, and the reduced isolation of public housing residents.²⁸

1. *The Mixed-Income Model and the Loss of Public Housing Units*

HUD generally has not acknowledged the net loss of units that has occurred as a result of HOPE VI or the extent to which this reduction in public housing units has prevented displaced residents from returning to redevelopment sites.²⁹ HUD has typically suggested that residents who do not return do so by “choice,” when contrary evidence shows that they are priced out of new HOPE VI housing or other otherwise excluded through heightened screening policies or extra-procedural means.³⁰

Others have dealt with the issue of public housing unit loss in a more straightforward fashion, arguing that the loss of units, and the resulting hardships to public housing families, is a worthwhile trade-off:

The chief argument against mixed income housing ... is one of resource allocation, i.e., scarce public resources should be allocated to those most in need. But this approach led to the concentration effects described by Wilson.^[31] HOPE VI attempts to redress the costs of concentration effects by permitting [public housing authorities] to employ scarce resources to lure working class and middle class families into mixed income developments containing public housing residents. An economist of the Chicago School might put it more bluntly: we should tolerate some measure of inequity as a matter of public policy in order to produce a greater benefit to the larger community.³²

²⁵ See Paul C. Brophy and Rhonda N. Smith, *Mixed-Income Housing: Factors for Success*, CITYSCAPE: A JOURNAL OF POLICY DEVELOPMENT AND RESEARCH, Vol. 3, No. 2, at 6, 9 (1997) (The authors state in a note that “William Julius Wilson’s *The Truly Disadvantaged* makes this point clearly.”), available on-line at www.huduser.org/periodicals/cityscape/vol3num2/success.pdf.

²⁶ See *id.*

²⁷ See Khadduri, *Deconcentration*, *supra* n. 21, at 77-8.

²⁸ See Arthur J. Naparsek, et al. (The Urban Institute), *HOPE VI: Community Building Makes a Difference*, 2, Exh. 1.1 (Feb. 2000), available on-line at www.huduser.org/publications/pubasst/hope.html.

²⁹ See Part IV.A., *infra*.

³⁰ *Id.*

³¹ Apparently referring to WILLIAM J. WILSON THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY, 58, 137, 144 (1986).

³² Harry J. Wexler, *HOPE VI: Market Means/ Public Ends —The Goals, Strategies, and Midterm Lessons of HUD’s Urban Revitalization Demonstration Program*, JOURNAL OF AFFORDABLE HOUSING, Spring 2001, at 195, 205 (The author is an alumnus of the Community Renaissance Fellows Program, jointly sponsored by HUD and Yale University.), available on-line at

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This trade-off is built on faulty and uncertain premises. First, it misstates the negative effects of the loss of public housing units. The reduction of units is not simply a matter of diverting “scarce public resources [from] those *most* in need.” Instead, according to HUD’s own analysis, it is a matter of diverting resources from the *only* families who are in need — the *only* families who experiencing an actual shortage, or lack of availability, of affordable housing. Second, the “benefit to the larger community” that is supposed to accrue from this mixed-income trade-off is speculative and hypothetical.

2. *Little Evidence Supports the Mixed-Income Model*

Despite its popularity over the past decade, the effectiveness of the mixed-income model has not been proven. An article by independent researchers published by HUD in 1997 concluded:

Mixed-income housing may be the current direction of U.S. housing policy, but its effectiveness remains open to question. At present there is little understanding of its social benefits, costs, and necessary preconditions. Until the questions raised here about these aspects have been answered, advocacy of mixed-income housing will be based largely on faith ...³³

Basic questions about the mixed-income model still have not been answered. Despite HUD’s promotion of mixed-income “community building” in HOPE VI,³⁴

there is no empirical evidence that it is even possible to artificially create a *community* where people interact rather than a development or neighborhood where people of different income levels simply share the same physical space.³⁵

Similarly, there is no “strong evidence that exposing low-income public housing tenants to higher-income residents has any effect on their employment or educational outcomes.”³⁶

The invocation of the concept of social capital in the community development field has been criticized as “deeply flawed [with] little empirical or theoretical support.”³⁷ One problem is that “social capital” is “an elastic term” whose meaning continually seems to shift.³⁸ Another is that proponents of social capital in community development make

[www.housingresearch.org/hrf/hrfhome.nsf/e9c24279c3bd4d1085256a0300779c07/ce6d9bfe8be32cf885256aaa007328fc/\\$FILE/Wexler%20Article.pdf](http://www.housingresearch.org/hrf/hrfhome.nsf/e9c24279c3bd4d1085256a0300779c07/ce6d9bfe8be32cf885256aaa007328fc/$FILE/Wexler%20Article.pdf).

³³ Schwartz and Tajbakhsh, *Mixed-Income Housing*, *supra* n. 22, at 81.

³⁴ *See generally Community Building*, *supra* n. 28.

³⁵ Susan J. Popkin, et al., *The Gautreaux Legacy: What Might Mixed-Income and Dispersal Strategies Mean for the Poorest Public Housing Tenants?*, 11 HOUSING POLICY DEBATE 911, 928 (2000) (emphasis in original), available on-line at www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1104_popkin.pdf.

³⁶ *Id.*

³⁷ James DeFilippis, *The Myth of Social Capital in Community Development*, 12 HOUSING POLICY DEBATE 781, 782 (2001), available on-line at www.fanniemaefoundation.org/programs/hpd/pdf/HPD_1204_defilippis.pdf.

³⁸ *Id.*

simplistic and contradictory assumptions about how social capital networks are supposed to operate.³⁹

HUD has done little to resolve the unanswered questions about the mixed-income model, even in a recent “best practices” report it commissioned on the subject.⁴⁰ The report, *Community Building Makes a Difference*, is a collection of case studies of the seven award sites that presumably provide HUD’s most favorable examples of the mixed-income community building concept. Tellingly, it overwhelmingly ascribes positive outcomes on “lives, neighborhoods, and communities” not to positive role models or social capital, but to factors such as new infrastructure and improved community and municipal services. Examples include: new “multiservice centers that house services such as childcare, afterschool programs, computer labs, employment services, training, recreation, and healthcare,” “a technology-oriented magnet school,” “new community policing arrangements,” and “a new neighborhood transit center,” as recent amendments to the federal welfare laws unrelated to HOPE VI.⁴¹

3. *Regardless of the Validity of the Model, HUD’s Implementation of Mixed-Income Redevelopment Under HOPE VI Is Unnecessary and Inconsistent*

Some of the positive effects the mixed-income model is said to produce can be achieved in HOPE VI without use of the model at all. The mixed-income model is supposed to increase the quality of services and amenities in underserved neighborhoods. HOPE VI already does this directly by supporting the development of the childcare and healthcare centers, schools, job training programs, and retail space described in HUD reports on HOPE VI.⁴²

If income-mixing is to be a goal of HOPE VI, it can be pursued without relying on the displacement and exclusion of public housing residents from redevelopment sites. HUD and grantees could instead make use of existing resources to promote self-sufficiency among public housing residents. Mixed-income public housing might be accomplished “from within” — by assisting current residents to secure new or better-paying employment, rather than simply forcing residents out.

³⁹ “If social capital as a set of networks means anything, it means that some people will be connected and others will not. . . . If everyone is connected, then everyone by definition would lose the benefits of those connections because they would no longer gain capital from them,” such as a special referral to a job. *Id* at 792-3. For this reason, according to DeFilippis, there is little to indicate that introducing people with special connections into a neighborhood will do anything to increase the ability of their neighbors to access these networks to jobs or other economic opportunities. People “network precisely to get ahead of everyone else. If they shared the fruits of their networking with others, they would . . . [be] acting against their own self-interest.” *Id* at 793.

⁴⁰ *Community Building*, *supra* n. 28.

⁴¹ *See id* at 4-7. One description of role modeling does figure prominently in the report, a “Wall of Work” display in a multiservice center at a Milwaukee site. According to the report, the display contains “portraits of . . . residents, taken a week or two into their new jobs — for many of them, their first real jobs.” *Id* at 6. While this display is intended to foster a “change in values,” it has little to do with the HUD’s mixed-income model. Here, public housing residents, and not higher income neighbors, are acting as their role models.

⁴² *See, e.g., id.*

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Significant opportunities have always been available to further such an approach. Public housing authorities (PHAs) can use up to 15 percent of their HOPE VI funds, up to \$5.25 million per grant, for community and supportive services (CSS) to increase opportunities for resident employment and self-sufficiency.⁴³ Section 3 of the Housing Act of 1968⁴⁴ requires the use of hiring preferences for public housing residents and low income persons by PHAs and others participating in HUD housing programs, including HOPE VI.⁴⁵ Rather than encouraging self-sufficiency by providing residents with higher-income neighbors, self-sufficiency might be encouraged by providing jobs — and training, childcare, and other services to allow residents to take these jobs.

HUD has not made sufficient use of these opportunities. While HUD has emphasized its commitment to CSS programs, actual expenditures have declined steadily since the establishment of the HOPE VI program, both in percentages of grant amounts and in total dollars allocated.⁴⁶ HUD has never finalized its interim Section 3 regulations or provided any meaningful guidance on Section 3 as it relates to HOPE VI.⁴⁷

The emphasis on wholesale displacement and exclusion to accomplish income-mixing in HOPE VI suggests a pessimistic attitude about the ability of public housing residents to achieve greater self-sufficiency. This is a toxic brand of pessimism that assumes that public housing residents as a class are somehow unable to realize their potential as individuals, to participate more fully in the broader economy and society. Pessimistic assumptions of this kind are contrary to basic American values.⁴⁸

It also appears to be unwarranted based on HUD's own resident income characteristics data. According to HUD figures, and likely a result of amendments to federal welfare laws, the number of public housing households with wage income has *increased* by nearly one-third since 1993, while the number of households receiving welfare benefits

⁴³ See Part IV.C., *infra*.

⁴⁴ 12 U.S.C.A. § 1701u (West 2001), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

⁴⁵ See generally Barbara Sard, *Outline of How Federal Housing Programs Can Help Provide Employment and Training Opportunities and Support Services to Current and Former Welfare Recipients* (Apr. 8, 2002), available on-line at www.cbpp.org/1-6-00hous.pdf.

⁴⁶ See Part IV.C.2., *infra*.

⁴⁷ See *Employment and Training*, *supra* n. 45. In addition, while the fiscal year 2001 HOPE VI NOFA states that PHAs must comply with Section 3 requirements, it does not mention Section 3 in its scoring criteria. See *Notice of Funding Availability: Revitalization of Severely Distressed Public Housing (HOPE VI Revitalization and Demolition) Fiscal Year 2001*, 66 Fed. Reg. 11,638, at VI (Feb. 26, 2001), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/nofa_01.pdf.

⁴⁸ In a “democratic nation,” like the United States, “the notion of advancement suggests itself to every mind, the desire to rise swells in every heart, and all men want to mount above their station; ambition is the universal feeling.” ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA*, VOL. II, § 3, CH. XIX (1835-1840), available on-line at xroads.virginia.edu/~HYPER/DETOC/toc_indx.html. See also *id* at VOL. I, CH. XVIII:

Communities have existed which were aristocratic from their earliest origin . . . and which became more democratic in each succeeding age. . . . But a people, having taken its rise in civilization and democracy, which should gradually establish inequality of condition, until it arrived at inviolable privileges and exclusive castes, would be a novelty in the world; and nothing indicates that America is likely to be the first to furnish such an example.

of any kind has *decreased* by nearly two-thirds.⁴⁹ In addition, HUD’s “best practices” report on community building in HOPE VI cites a number of examples of increased employment rates and incomes among public housing residents at redevelopment sites.⁵⁰

Policy Recommendations:

Replace Public Housing Units on a One-for-One Basis

In the middle of a nation-wide affordable housing shortage, public housing is a exceedingly valuable source of guaranteed affordable housing. We simply cannot afford to lose any more of these units, for any reason.

- *All public housing rental units affected by demolition or redevelopment should be replaced with new or redeveloped public housing rental units on a one-for-one basis.*

These replacement units could be constructed on the HOPE VI site or in other neighborhoods with access to services and amenities equal to that of the redeveloped site.

⁴⁹ See *Resident Characteristics Report*, *supra* n. 5 (current percentages of households “With any Welfare” income (15 percent) or “With any wages” (29 percent)); U.S. Department of Housing and Urban Development, Office of Policy Development and Research, *The Location and Racial Composition of Public Housing in the United States*, 85, Table B.4 (Dec. 1994) (percentage of households with “Public Assistance” income (44 percent) or with “Wages” (21 percent), based on a 1993 data file).

⁵⁰ See *Community Building*, *supra* n. 28, at 6. While HUD is willing to use these examples to promote HOPE VI, it is apparently not willing to use them to inform its program decisions.

III. The Exclusion of Public Housing Residents from Participation in the HOPE VI Process

In its 1992 report, the National Commission on Severely Distressed Public Housing emphasized the importance of resident participation in redevelopment efforts, especially in the planning of community and supportive services.¹ HUD's HOPE VI policies also stress the "crucial" importance of the participation of public housing residents and other members of the community in the redevelopment process. However, in actual practice, the rights of residents and others to participate in the HOPE VI process are much more limited than HUD's policies suggest and have little enforceability.

A. HUD's HOPE VI Resident and Community Participation Policies

HUD's policies on resident and community participation in HOPE VI embrace citizen participation with enthusiasm:

Full resident involvement and community input are crucial elements of the HOPE VI Program. The spirit of the HOPE VI Program is one of full consultation and collaboration among the Grantee, affected residents and the broader community.²

HOPE VI notices of funding availability (NOFAs) require public housing authorities (PHAs) applying for HOPE VI funding to hold a "resident training session" and several "public meetings" on its HOPE VI plans prior to submission of applications.³ HUD's form HOPE VI grant agreements state that HOPE VI grantees are required to involve public housing residents and other community members in the redevelopment process "beginning with the Grantee's preparation of its HOPE VI Application and throughout the implementation of [HOPE VI] activities."⁴

¹ See National Commission on Severely Distressed Public Housing, *The Final Report of the National Commission on Severely Distressed Public Housing: A Report to the Congress and the Secretary of Housing and Urban Development*, 49 (Aug. 1992).

² U.S. Department of Housing and Urban Development, *General Guidance on Community and Resident Involvement*, www.hud.gov/offices/pih/programs/ph/hope6/css/guidance.cfm (Jun. 18, 2001). See also Arthur J. Naparsek, et al. (The Urban Institute), *HOPE VI: Community Building Makes a Difference*, 2, Exh. 1.1 (Feb. 2000), available on-line at www.huduser.org/publications/pubasst/hope.html (encouraging PHAs to "[i]nvolve residents in setting goals and strategies. Resident involvement requires collaboration, inclusion, communication, and participation.").

³ *Notice of Funding Availability: Revitalization of Severely Distressed Public Housing (HOPE VI Revitalization and Demolition) Fiscal Year 2001*, 66 Fed. Reg. 11,638, at IV(C)(1)-(2) (Feb. 26, 2001), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/nofa_01.pdf.

⁴ U.S. Department of Housing and Urban Development, *FY 2001 Revitalization Grant Agreement*, Art. XIII(A)(1) (2001), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/rev_agreement.pdf.

B. HUD's Failure to Allow Residents to Enforce Its HOPE VI Participation Policies

While HUD's HOPE VI policies appear to be very supportive of resident and community participation on their face, HUD has provided few mechanisms to allow public housing residents and other community members actually to enforce these policies. One of the main reasons for this is that HUD has never issued regulations for the HOPE VI program.⁵ Instead of regulations, HUD has administered the HOPE VI program primarily through NOFAs and grant agreements⁶ — and by sub-regulatory “guidances” and “work plans” in recent years, some of which exist only in “draft” form.⁷

HUD's stated reason for refusing to issue regulations is that regulations would be “difficult to modify” as necessary to reflect the requirements of annual HOPE VI appropriations acts.⁸ However, since the fiscal year 1995 act, there have been few changes in the requirements imposed by the annual appropriations acts.⁹ The principal changes since 1995 have had to do with specific funding levels for certain activities.¹⁰ None of these changes would have prevented HUD from issuing regulations clarifying day-to-day administration of the program.

HUD's refusal to issue formal regulations has frustrated public participation in the HOPE VI program. A lack of regulations has meant that there has been a lack of clear rules for the program. This lack of rules has impeded public understanding of the way in which the program operates and has shielded HUD and public housing authorities (PHAs) from accountability for their activities under HOPE VI.

HUD's refusal to issue HOPE VI regulations has also excluded the public from having input into HUD's standards for the administration of the program. By refusing to issue regulations, HUD has violated its own policies regarding public rulemaking.¹¹ HUD's generally applicable regulations on rulemaking in its programs state that “[i]t is the policy of [HUD] to provide for public participation in rulemaking with respect to all HUD programs and functions, including matters that relate to public property, loans, grants, benefits, or contracts.”¹² HUD's policy requires it to publish proposed program rules for

⁵ See U.S. General Accounting Office, *HOPE VI: Progress and Problems in Revitalizing Distressed Public Housing*, GAO/RCED-98-187 at 17 (Jul. 1998), available on-line at www.access.gpo.gov/su_docs/aces/aces160.shtml. HUD was required under the original HOPE VI statute to issue regulations governing the award of HOPE VI funds, but failed to do so. See Section 24 of the U.S. Housing Act of 1937, Pub. L. No. 102-550, Tit. I, § 120 (Oct. 28, 1992), codified at 42 U.S.C.A. § 1437v(d)(4) (West 1994), available on-line at thomas.loc.gov/.

⁶ See *HOPE VI: Progress and Problems*, supra n. 5, at 17, 19.

⁷ For current HOPE VI guidances and work plans, see www.hud.gov/offices/pih/programs/ph/hope6/index.cfm.

⁸ See *HOPE VI: Progress and Problems*, supra n. 5, at 17.

⁹ See U.S. Department of Housing and Urban Development, *HOPE VI Appropriations* (2002) (text of fiscal year 1993 to 2002 appropriations acts), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/about/approp.pdf.

¹⁰ See, e.g., *id* at 6 (fiscal year 1996 appropriation act, Pub. L. No. 104-134 (Apr. 26, 1995), permitting HUD to use up to 0.67 percent of the total annual appropriation for “technical assistance” purposes).

¹¹ See 24 C.F.R. Part 10 (2001), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

¹² *Id.*

public review and to allow members of the public the “opportunity to participate in ... rulemaking through submission of written data, views, and arguments” regarding any proposed rules.¹³

1. Rights of On-going Participation and Revitalization Plan Amendments Are Essential to Meaningful Resident Involvement

HUD’s form grant agreements are not a sufficient substitute for formal regulations. Not only were these grant agreements not issued in compliance with public notice and comment rulemaking procedures, these agreements expressly foreclose third parties from seeking to enforce any of their terms, even the provisions regarding resident and community participation.¹⁴ In other words, they spell out resident and community participation rights, then deny the possibility of enforcing these rights.

HUD’s HOPE VI NOFAs are also not a sufficient substitute. Like the form grant agreements, the NOFAs have not been issued according to public notice and comment rulemaking procedures. In addition, while the NOFAs do set forth relatively detailed standards — requiring applicants to hold training and information sessions for residents and other community members and to allow the public to submit letters of dissent¹⁵ — the NOFAs deal only with the application process.

HOPE VI redevelopment activities, as actually they are carried out, often differ dramatically from what PHAs originally propose in their applications and describe in their trainings and public information sessions.¹⁶ A HUD-commissioned HOPE VI report published in 1996 found that “[m]any ... HOPE VI plans have changed considerably since the initial application ... Some [public housing authorities] have abandoned their original plans altogether and are in the process of developing new ones.”¹⁷ The report describes original plans being “scrapped” and “extensively revised” — in several instances, renovation plans were abandoned in favor of total demolition and new construction.¹⁸

Serious unfairness can result from grantees’ failure to conduct redevelopment activities in accordance with representations made to residents in the application process. As the HOPE VI program is currently administered, public housing authorities have little incentive to comply with promises made to residents, or even to involve residents, after securing residents’ support in the application planning stage.

¹³ *Id.*

¹⁴ See *FY 2001 HOPE VI Revitalization Grant Agreement*, *supra* n. 4, at Art. XIII(E).

¹⁵ See *FY 2001 NOFA*, *supra* n. 3, at IV(C)(1)-(2), VI (Rating Factor 3(8)(d)).

¹⁶ Form HUD grant agreements expressly contemplate changes to grantees’ HOPE VI revitalization plans. See *FY 2001 HOPE VI Revitalization Grant Agreement*, *supra* n. 4, at Art. IV (“Changes to the Revitalization Plan”).

¹⁷ Abt Assocs., et al., *An Historical and Baseline Assessment of HOPE VI, Vol. I: Cross-site Report*, 5-3, 5-4 (Jul. 1996) (The report cautions: “Because of the constant flux in the plans, those presented in the HOPE VI Baseline Case Studies and summarized here may ultimately bear little resemblance to the final HOPE VI revitalization effort for any specific development.”), available on-line at www.huduser.org/publications/pubasst/hopevi.html.

¹⁸ *Id.* (describing Atlanta, Boston, Detroit, and New Orleans award sites).

Residents of Steel City Terrace Extension, a fiscal year 2000 award site, agreed to support Mercer County, Pennsylvania Housing Authority's HOPE VI application based on the housing authority's promise to develop a detailed memorandum of understanding setting forth procedures for on-going resident participation and decision-making by consensus during the implementation of the redevelopment.¹⁹ A detailed memorandum of agreement was not prepared at the application stage because the housing authority claimed there was not time to do so. However, after the application was approved, the housing authority informed residents that a detailed memorandum of understanding was "unnecessary and would be counterproductive" and refused to discuss it further.²⁰

Policy Recommendations:

Residents Must Have Enforceable Participation Rights Throughout the HOPE VI Process

- *Public housing residents and other community members should have enforceable rights of participation at every stage of the HOPE VI process.*

HUD should give actual substance to its endorsement of resident and community participation in HOPE VI. For participation to have any significance, these rights must be privately enforceable and must extend beyond the application stage and throughout the redevelopment process.

- *HUD should issue formal HOPE VI regulations.*

The lack of transparency, certainty, and accountability that has resulted from HUD's failure to issue HOPE VI regulations limits meaningful public participation in HOPE VI. Clear rules for the program must be issued with *at least* the level of public involvement required under existing HUD rulemaking policies. Preferably, the negotiated rulemaking process set forth under subchapter III of chapter 5 of title 5, United States Code²¹ should be used in order to maximize public involvement.

¹⁹ See Resident Council Letter of Support from Carol Gregory, President of the Steel City Terrace Resident Council (May 16, 2000) (L. DeWitt Boosel, the executive director of the housing authority, certified to "have reviewed and agree with the principles set forth" in the letter of support.)

²⁰ Letter from Frank Gargiulo, Mercer County Housing Authority HOPE VI Coordinator, to Joani Harris, President of Steel City Terrace Resident Council (Nov. 9, 2000). The letter also attempts to discourage residents from involving their attorney and technical assistance provider in the HOPE VI process, stating that the housing authority "strongly oppose[s] third party involvement." *Id.* This is despite the fact that the housing authority's attorney and consultants appear to be substantially involved and are mentioned in the letter several times. *Id.*

²¹ 5 U.S.C.A. § 561 *et seq.* (West 1996).

- *Public housing authorities not in compliance with generally applicable resident participation requirements should not be eligible to receive HOPE VI funding.*

If resident participation is “crucial” to the HOPE VI program, a public housing authority’s track record on resident participation should be a key factor in making award decisions. Public housing authorities that are not in compliance with existing and generally applicable resident participation requirements outside of the HOPE VI program — such as the rule on tenant participation and tenant opportunities in public housing,²² resident participation rules in the public housing agency planning process,²³ and public housing resident participation funding requirements²⁴ — should not be eligible for HOPE VI funding.

²² 24 C.F.R. Part 964 (2001), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

²³ *Id* at Part 903. A public housing agency plan is an administrative document setting forth a PHA’s policies, programs, and procedures for meeting local housing needs. It must be drafted with input from residents and other community members. *See id.* *See also* Public Housing Residents’ National Organizing Campaign (now “ENPHRONT”) and Center for Community Change, *Action Guide to Public Housing — Part I: Residents’ Guide to the New Public Housing Authority Plans* (Jun. 1999).

²⁴ *See generally* National Housing Law Project, *Questions and Answers Re: Public Housing Resident Participation Funding* (May 30, 2002), available on-line at www.nhlp.org/html/pubhsg/tenant_participation.htm.

IV. The Exclusion of Public Housing Residents from HOPE VI Opportunities

[The public housing commissioner] told us to dream, dream about what this neighborhood could be [but] he didn't tell us ... that the dream meant we wouldn't be included.¹

While the first purpose set forth under the HOPE VI statute is to “[i]mprove the living environment for public housing residents of severely distressed public housing projects,” HOPE VI is doing little to improve the lives of the majority of public housing families it affects.²

A. Very Few Residents Return to HOPE VI Redevelopment Sites

Given the lack of concrete information about program outcomes,³ it is difficult to say for certain, but it appears that the housing developed under HOPE VI has generally been of high quality.⁴ The problem is that few public housing residents can expect to live in this high quality housing. According to HUD figures for fiscal year 1993 to 1999 HOPE VI revitalization awards, only 2,568 (11.4 percent) of the total 22,500 displaced public housing residents were slated for “re-occupancy” in HOPE VI sites after redevelopment.⁵

HUD has provided little explanation as to why so few residents return to HOPE VI sites. Most of HUD’s materials and announcements hardly acknowledge the issue. In fact, HUD’s press releases generally suggest that public housing residents are to be the principal beneficiaries of the new housing and infrastructure to be constructed under HOPE VI. For example, according to a press release announcing a fiscal year 1999 redevelopment award for the Scott and Carver Homes site in Miami, the HOPE VI program

goes far beyond improving housing opportunities in Miami-Dade [County, Florida] — it actually allows [the public housing authority] to turn public housing units into true communities that provide a comprehensive network

¹ Walter F. Roche, Jr., *Housing Reform's Victims*, THE BALTIMORE SUN, September 24, 2001, at A1, A4 (quoting Lawrence Campbell, former resident of Lexington Terrace, a fiscal year 1995 HOPE VI award site in Baltimore, Maryland) (cited in *Thompson v. U.S. Department of Housing and Urban Development*, 2001 WL 1636517, *4 (D.Md.)).

² Section 24 of the U.S. Housing Act of 1937, 42 U.S.C.A. § 1437v(a)(1) (West Supp. 2001), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

³ See Part V, *infra*.

⁴ See, e.g., Arthur J. Naparsek, et al. (The Urban Institute), *HOPE VI: Community Building Makes a Difference* (Feb. 2000), available on-line at www.huduser.org/publications/pubasst/hope.html; Christopher Swope, *Public Housing Rehab Refugees*, GOVERNING MAGAZINE, May 2001 (Describing the redeveloped East Lake Meadows HOPE VI site in Atlanta, Georgia: “From the wicker rocking chairs behind the leasing office, the view is one of country club elegance: an enticing swimming pool, a pair of gleaming new tennis courts, golf carts buzzing to the next tee.”), available on-line at www.governingmagazine.com/archive/2001/may/housing.txt.

⁵ KPMG Consulting, L.L.C., *HOPE VI National Aggregate Summary for 1QFY00* (2000) (defining households slated for “re-occupancy” as “households that have been temporarily relocated as a result of the HOPE VI project and are projected to return to HOPE VI units once the project has been completed.”)

of services. The residents of Scott and Carver Homes will now have a greater opportunity to become self-sufficient homeowners, productive employees and residents who can be proud of their neighborhood.⁶

To the extent that HUD has recognized that residents do not always return to HOPE VI sites, it has generally claimed that this is because residents “choose” not to do so.⁷ However, the ability of residents to return to revitalization sites is significantly constrained in ways that HUD has not openly acknowledged.

1. *Lack of Housing Affordable to Former Residents in Redeveloped HOPE VI Sites*

HOPE VI redevelopment activity is resulting in a net loss of public housing units.⁸ HUD’s latest round of revitalization awards will involve the net loss of 3,092 public housing units — of the 7,961 units affected, only 4,869 will be replaced with public housing rental units, a 38.8 percent reduction overall.⁹ Because public housing units are generally the only units affordable to public housing residents,¹⁰ reductions in these units tend to result in public housing families being “priced out” of housing at HOPE VI sites.¹¹

The Miami-Dade HOPE VI plan mentioned in the press release excerpt above calls for the demolition of 850 units of rental public housing. These units are to be replaced with only 80 units of rental public housing and 382 homeownership units of various kinds.¹² The bulk of these homeownership units, while described as “affordable,” are well beyond the means of current Scott and Carver Homes residents. According to the Miami-Dade HOPE VI application, the minimum qualifying income levels for these homeownership

⁶ HUD No. 99-162 (Aug. 25, 1999) (“Cuomo Announces \$78.3 Million in HOPE VI Grants to Miami-Dade, Lakeland, and Bradenton, Florida to Transform Public Housing”), available on-line at www.hud.gov/library/bookshelf18/pressrel/pr99-162.html.

⁷ See, e.g., U.S. Department of Housing and Urban Development, *HOPE VI: Building Communities, Transforming Lives*, 10 (Dec. 1999) (“Housing authorities today are moving aggressively to ensure that public housing residents relocating from HOPE VI sites during the redevelopment process are able to choose homes and the neighborhoods that suit their needs.”), available on-line at www.huduser.org/publications/pubasst/bldgcomm.html.

⁸ See Part II, *supra*.

⁹ See U.S. Department of Housing and Urban Development, *National Fact Sheet: FY 2001 HOPE VI Revitalization Grant Awards* (2002), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/natl_factsheet.pdf.

¹⁰ See Part II.A., *supra*. According to the latest available HUD figures, the average annual median income for public housing households is \$10,091, 18.5 percent of the estimated national median income for fiscal year 2002. See U.S. Department of Housing and Urban Development, *Multifamily Tenant Characteristics System, Resident Characteristics Report, Public Housing, National* (data retrieved Jun. 13, 2002), available on-line at pic.hud.gov/pic/RCRPublic/rcrmain.asp; HUD Notice PDR-2002-01 (Jan. 31, 2002) (“Estimated Median Family Incomes for FY 2002”), available on-line at www.huduser.org/datasets/il/fmr02/medians.pdf.

¹¹ In some instances, additional restrictions may be attached to replacement public housing units. Occupancy may be restricted to households with incomes above a certain level or to households with elderly or disabled members. Such restrictions may further limit the ability of residents to return to revitalization sites.

¹² See Miami-Dade Housing County, *1999 HOPE VI Grant Application*, Exh. A (May 17, 1999).

units all range from *nearly twice to over three times* the income of the average Scott and Carver Homes family.¹³

2. *Vague, Unreasonable Screening Policies Bar Families' Return to HOPE VI Sites*

Even when public housing units are available, former residents may be prevented from returning to revitalization sites because of heightened screening criteria. In general, public housing authorities will only allow residents in “good standing” the option of returning to HOPE VI sites.¹⁴

While this would seem to be reasonable, “good standing” has no formal or official definition for HOPE VI purposes. In practice, the term can mean whatever a public housing authority (PHA) chooses it to mean.¹⁵ According to HUD, most PHAs apply admissions criteria for HOPE VI sites that are much more stringent than those they normally use. Former residents, who might have complied with public housing occupancy policies for years, have been prevented from returning to HOPE VI sites because of inadequate credit histories.¹⁶

B. Resident Hardship in the Relocation Process

Residents displaced from their homes in the HOPE VI process do not realize the benefits HUD has suggested that they do.

1. *Most Displaced Families Are Relocated to Other Public Housing Sites*

HUD press releases announcing HOPE VI awards for the past several fiscal years create a misimpression about the means by which displaced residents are relocated. In these press releases, HUD has stated that “if residents choose not to return to public housing, they will be given vouchers to subsidize their rents in privately owned apartments.”¹⁷

¹³ See *id.*, Att. 20, 26i.

¹⁴ See U.S. Department of Housing and Urban Development, *Relocation and Expanding Opportunities for Public Housing Residents: Draft Recommendations on Relocation Guidance for the HOPE VI Program*, 4 (Nov. 2000), available on-line at www.housingresearch.org/hrf/hrf_RefLib.nsf/320d38b6b455f6fb8525699a005e0617/a7cb68f55a0598728525699a005e509f?OpenDocument.

¹⁵ HUD has provided almost no specific information or figures on PHAs' actual admissions practices. It is possible, given the elasticity of the term, that some or many PHAs make “good standing” determinations for readmission eligibility on an ad hoc basis without clear or consistently applied standards.

¹⁶ See U.S. Department of Housing and Urban Development, *HOPE VI: Building Communities, Transforming Lives*, 14 (Dec. 1999), available on-line at www.huduser.org/publications/pubasst/bldgcomm.html.

¹⁷ See, e.g., HUD No. 01-087 (Sept. 28, 2001) (“HUD Awards \$35 Million Grant to Portland to Transform Public Housing, Help Residents”), available on-line at www.hud.gov/news/release.cfm?content=pr01-087.cfm; HUD No. 00-187 (Jul. 27, 2000) (“HUD Awards \$35 Million Grant to Chicago to Transform Public Housing, Help Residents”), available on-line at www.hud.gov/library/bookshelf18/pressrel/pr00-187.html; HUD No. 99-164 (Aug. 26, 1999) (“Cuomo Announces \$35 Million Hope VI Grant to Seattle, Washington to Transform Public Housing and Help Residents”) (“Relocated residents in good standing will be given the first opportunity to move back to the newly constructed units at the site, or will be given rental assistance vouchers that will subsidize their rents in privately owned apartments if they choose not to return to public housing.”), available on-line at www.hud.gov/library/bookshelf18/pressrel/pr99-164.html; HUD

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Such statements are misleading. Not only is the ability of residents to “choose” to return to redeveloped public housing sites severely constrained by the lack of affordable units and unreasonable screening criteria¹⁸ — HUD’s own data shows that relatively few public housing families displaced by HOPE VI are relocated with vouchers.

According to a January 2001 report prepared by the Urban Institute on HUD’s behalf: “Section 8 [voucher] assistance is not the dominant modality for HOPE VI relocation. Far from it.”¹⁹ Analyzing relocation data for those fiscal year 1993 to 1998 award sites for which adequate data was available, the report concluded that only 30.8 percent of families were relocated with vouchers. According to the report, the “dominant modality” for HOPE VI relocation was other public housing — 49 percent of families displaced by HOPE VI were simply transferred to other public housing sites.²⁰

2. “Lost” Families

The January 2001 relocation report further states “that in some developments [PHAs] operating HOPE VI have, in effect, ‘lost’ many original residents in the process of displacement and relocation.”²¹ The report cites harassment, inadequate information, a lack of supportive services, and inflexible reoccupancy criteria as possible factors leading to the “loss” of residents.²²

“Lost” is actually something of a euphemism here. PHAs only lose track of families when families stop receiving housing assistance. In other words, “lost” families are families who have fallen out of, or been pushed out of, federal housing assistance through harassment, neglect, or exclusionary screening policies. According to the January 2001 report, as many as 20.2 percent of the families displaced from the sites examined in the report may have lost assistance, but an exact figure is not provided.²³

The actual percentage of “lost” families may be significantly higher.²⁴ Of the 103 total sites that received fiscal year 1993 to 1998 awards, only 73 were covered in the report.²⁵

No. 98-407 (Aug. 20, 1998) (“Cuomo Announces \$35 Million Grant to Chicago to Transform Public Housing and Help Residents Get Jobs”) (“Relocated residents of a development will be given the first opportunity to move back to the newly constructed units at the site, or will be given rental assistance vouchers that will subsidize their rents in privately owned apartments if they choose not to return to public housing.”), available on-line at www.hud.gov/library/bookshelf18/pressrel/pr98-407.html.

¹⁸ See Part IV.A., *supra*.

¹⁹ G. Thomas Kinglsey, et al. (The Urban Institute), *HOPE VI and Section 8: Spatial Patterns in Relocation*, 7 (Jan. 2001), not available on-line.

²⁰ See *id* at 7.

²¹ *Id* at 2, n. 3.

²² See *id*.

²³ See *id* at 2, n. 4, 8. This 20.2 percent figure represents an “Other” category that appears to include “lost” residents, residents who return to redevelopment sites, and residents who relocate to other HUD-assisted housing. More specific details are not provided.

²⁴ The HUD figures only reflect official relocation results, which may not provide a complete picture. Georgia Tech planning professor Larry Keating has expressed concerns that the Atlanta Housing Authority stepped up evictions and withheld building maintenance at its Techwood development, a fiscal year 1993 HOPE VI award site, in order to induce residents to leave and reduce the housing authority’s relocation burden. The housing authority has denied this, but

PHAs operating the remaining 30 sites (approximately one-third of the total) failed to submit sufficient records to HUD on the relocation of residents. It would not be unreasonable to assume that PHAs that were unable to manage basic data reporting on relocation also had difficulty successfully managing the relocation process itself. The bottom line is that HUD does not have an adequate picture of HOPE VI relocation outcomes.²⁶

3. *Mixed Signals from HUD on Residents' Federal Relocation Rights*

Even though resident relocation has occurred in every HOPE VI project for the past nine fiscal years and is a basic component of HUD's mixed-income approach,²⁷ HUD has not devoted significant effort to encourage positive relocation practices among PHAs receiving HOPE VI funds and has never issued regulations for HOPE VI.²⁸ Unofficially, HUD has circulated a set of draft recommendations, but has done little to see that they are actually implemented.²⁹ After more than a year, these recommendations still have not been finalized.

The only final, non-draft guidance HUD has provided is a brief document "summarizing the various regulatory requirements for HOPE VI relocation."³⁰ It addresses only the applicability of the Uniform Relocation Assistance and Real Property Acquisition Policies Act³¹ (URA) and related regulatory authorities in HOPE VI redevelopment activities.

The purpose of the URA is much narrower than the purpose of the HOPE VI program. The URA is intended only to minimize and manage the hardships resulting from displacement caused by federally funded activities, largely by providing relocation assistance to displaced persons.³² The more expansive purposes of HOPE VI — to *improve* the lives of residents — will not be advanced simply by adhering to limited URA and related requirements.

In addition, HUD has taken the position that in a number of cases even the minimal protections of the URA are not applicable in HOPE VI in many cases. HUD's final relocation guidance states that URA protections do not apply to "temporary relocation" at

by the time relocation began at Techwood, half of the 1,115 original families had already left, forfeiting their right to relocation benefits. "The housing authority offered relocation assistance to 545 families," Keating says, "it should have been 1,115 families, not 545."

Swope, *Public Housing Rehab Refugees*, *supra* n. 4.

²⁵ See *Spatial Patterns*, *supra* n. 19, at 6.

²⁶ See *id* ("Where are [displaced residents] now? Unfortunately, no one has a complete accounting.").

²⁷ See *Relocation and Expanding Opportunities*, *supra* n. 14.

²⁸ See Part III.B., *supra*.

²⁹ See *Relocation and Expanding Opportunities*, *supra* n. 14.

³⁰ U.S. Department of Housing and Urban Development, *HOPE VI Guidance: Relocation Authority for HOPE VI Grants* (Oct. 2000), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/admin/relocation_auth.pdf.

³¹ 42 U.S.C.A. § 4601 *et seq.* (West 1995), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

³² See *id* at § 4621(b) ("The primary purpose of [the URA] is to ensure that such persons shall not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons.")

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all.³³ Instead, according to the guidance, the “only” protection to which temporarily relocated families are entitled are HUD provisions relating to rehabilitation and property disposition.³⁴

“Temporary” HOPE VI relocations are typically not short-term relocations. According to HUD’s own estimates, the average HOPE VI redevelopment takes four to five years to implement.³⁵ And, for “lost” households, a “temporary” relocation may well become permanent by default.³⁶

C. *Reductions in Community and Supportive Services for Displaced Residents*

In its final report, the National Commission on Severely Distressed Public Housing emphasized that “[n]o successful strategy for addressing the conditions of severely distressed public housing can ignore the support service needs of residents.”³⁷ This was the very first issue addressed in the Commission’s National Action Plan.³⁸ Nonetheless, HUD has not taken adequate steps to see that the needs of families are addressed in HOPE VI.

1. Despite Draft HUD Policy, Exclusion from Sites Means Exclusion from Services

HOPE VI funds may be used for community and supportive services (CSS), which include a wide range of possible programs to promote the well-being and self-sufficiency of residents, such as education, child care, and health services. HUD issued a draft guidance on the provision of community and supportive services to original residents of HOPE VI sites³⁹ over two years ago, but this guidance still has not been finalized.

The policy described in this draft guidance is encouraging. It states: “The [HOPE VI] program must offer appropriate services toward these ends to all families who reside in a development when the HOPE VI process begins.”⁴⁰

However, actual practice falls short. HUD’s form CSS workplan, completed by HOPE VI grantees for submission to HUD, focuses on providing services only to “residents of the

³³ *HOPE VI Guidance: Relocation Authority for HOPE VI Grants*, *supra* n. 30, at 7.

³⁴ *Id.* at 7.

³⁵ See U.S. General Accounting Office, *Public Housing: Status of the HOPE VI Demonstration Program*, GAO/RCED-97-44 at 17 (Feb. 1997), available on-line at www.access.gpo.gov/su_docs/aces/aces160.shtml.

³⁶ In addition, logic would suggest that many residents who intend to return to redevelopment sites would be temporarily relocated at some point.

³⁷ National Commission on Severely Distressed Public Housing, *The Final Report of the National Commission on Severely Distressed Public Housing: A Report to the Congress and the Secretary of Housing and Urban Development*, 46 (Aug. 1992).

³⁸ See *id.* at 10.

³⁹ U.S. Department of Housing and Urban Development, *General Guidance for the HOPE VI Program [Draft]: Community and Supportive Services for Original Residents* (Feb. 18, 2000), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/css/cssguidance2-18-00c.pdf.

⁴⁰ *Id.* at 1.

HOPE VI site.”⁴¹ Based on available HOPE VI materials, the bulk of CSS resources appear to be devoted to providing services on the HOPE VI site itself with new infrastructure — such as child care centers, health clinics, schools, and community centers — constructed on-site as part of the redevelopment.⁴² Families who do not return to HOPE VI redevelopment sites — i.e., the overwhelming majority of families — move an average of 3.9 miles away from their original homes.⁴³ They, therefore, will have more limited ability to access CSS resources. HUD has acknowledged this issue, obliquely, but has not taken any meaningful action to address the problem.⁴⁴

2. *Reduction in Community and Supportive Services Overall*

Not only are CSS resources difficult for most residents to access, the overall amount of HOPE VI resources devoted to these services has declined significantly since the establishment of the program. In the first three fiscal years, PHAs allocated an average of 13 percent of their grants to CSS.⁴⁵ According to an analysis of the first four fiscal years, this figure had dropped to 12 percent.⁴⁶ Currently, the figure for all awards to date stands at “over 9 percent.”⁴⁷ Further, while these percentages have been falling, the size of HOPE VI awards themselves have also been reduced — from a maximum of \$50 million per award from fiscal years 1993 to 1998 to a \$35 million maximum for fiscal year 1999 to 2001 awards.⁴⁸

⁴¹ U.S. Department of Housing and Urban Development, *CSS Workplan*, 10 (Jan. 1, 1999), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/css/cssworkplan.pdf.

⁴² See, e.g., *Building Communities*, *supra* n. 7, at 14 (“HOPE VI developments are being enriched with a vast array of resources and services that can help any motivated resident climb toward a better future.”); GAO, *Status of HOPE VI*, *supra* n. 35, at 12 (“At its HOPE VI project located at the Outhwaite Homes/King Kennedy development, Cuyahoga provides community and supportive services through a ‘village concept’ where services are centrally located.”). See also *id* at App. III (describing site-based supportive services in other developments).

⁴³ See *Spatial Patterns*, *supra* n. 19, at 8.

⁴⁴ See *Community Building*, *supra* n. 4, at 26 (“It should be noted, however, that in ... many ... sites, even excellence in personally serving residents did not add up to an overall strategy ... for working to extend community building to strengthen the service provision network in receiving neighborhoods.”).

⁴⁵ See *Status of HOPE VI*, *supra* n. 35, at 5.

⁴⁶ U.S. General Accounting Office, *HOPE VI: Progress and Problems in Revitalizing Distressed Public Housing*, GAO/RCED-98-187, 11-12 (Jul. 1998), available on-line at www.access.gpo.gov/su_docs/aces/aces160.shtml.

⁴⁷ See *Fiscal Year 2003 Budget Summary*, 11 (Feb. 2002), available on-line at www.hud.gov/about/budget/fy03/bugsum.pdf.

⁴⁸ See U.S. Department of Housing and Urban Development, *HOPE VI Guidance: HOPE VI Appropriations* (2002), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/about/approp.pdf.

Policy Recommendations:

**Improving the Lives of Families in Severely Distressed
Public Housing Should Be the Primary Focus of HOPE VI**

- *Public housing residents should be guaranteed the right to occupy units redeveloped through HOPE VI; redevelopments should include a sufficient number of appropriately sized and configured units to ensure this.*

Heightened screening policies have not been successful. They have excluded the very families HOPE VI was intended to serve from some of the most important benefits of the program. The way to ensure real resident “choice” is to give residents real options.

- *Final regulations on relocation and CSS that advance the purposes of HOPE VI should be issued.*

The program has been administered for too long without adequate direction on relocation and supportive services. As a result, residents have suffered hardship and been denied important opportunities for increased self-sufficiency, undermining the basic purposes of HOPE VI. HUD should be required to develop final regulations with significant opportunities for public input.⁴⁹

⁴⁹ See also Part III, *supra* (Policy Recommendations).

V. HUD's Inadequate Reporting of HOPE VI Outcomes

HUD has enthusiastically promoted the HOPE VI program. In press releases announcing fiscal year 2001 redevelopment awards, HUD Secretary Mel Martinez was quoted to say: “Across the country, we have seen HOPE VI developments transform aging public housing units into beautiful, thriving, mixed-income communities.”¹ HUD simply has not produced sufficient evidence to support such a sweeping declaration of the success of HOPE VI.

A. Broad Generalizations Based on a Small Sample of Hand-Picked Sites

In its first formal notice to public housing authorities on the HOPE VI program, HUD stated that it “intend[ed] for HOPE VI to be the laboratory for the reinvention of public housing.”² Nearly a decade of experimentation in this laboratory has produced surprisingly little data. HUD’s reporting on HOPE VI outcomes has been selective and incomplete.

1. HOPE VI reports published to date

Three major HOPE VI reports commissioned by the HUD Office of Public and Indian Housing (PIH) have been produced³ — *An Historical and Baseline Assessment of HOPE VI*,⁴ *HOPE VI: Community Building Makes a Difference*,⁵ and *HOPE VI and Section 8: Spatial Patterns in Relocation*.⁶ Of these, only the *Baseline Assessment* and *Community*

¹ HUD No. 01-088 (Sept. 27, 2001) (“HUD Awards \$35 Million Grant to King County, Washington to Transform Public Housing, Help Residents”), available on-line at www.hud.gov/news/release.cfm?content=pr01-088.cfm. See also U.S. Department of Housing and Urban Development, *FY 2000 – FY 2006 Strategic Plan*, 31 (“The HOPE VI program is maturing into a highly effective way of redeveloping the most distressed public housing developments into mixed-income neighborhoods of opportunity.”) (Sept. 2000), available on-line at www.hud.gov/reform/strategicplan.pdf; U.S. Department of Housing and Urban Development, *A Promise Being Fulfilled: The Transformation of America’s Public Housing* (Jul. 2000) (“HOPE VI is succeeding in rebuilding public housing neighborhoods as communities of opportunity.”), no longer available on-line.

² HUD Notice PIH 95-10 (Feb. 22, 1995) (“HOPE VI - Urban Revitalization Demonstration (HOPE VI) Program Notice”), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi. See also Abt Assocs., *An Historical and Baseline Assessment of HOPE VI, Vol. I: Cross-site Report* (Jul. 1996) (Foreword by then HUD Assistant Secretary Michael Stegman: “HOPE VI provides an opportunity to test ideas that have promise.”), available on-line at www.huduser.org/publications/pdf/hopevi_voll.pdf.

³ In addition, Congress has directed HUD to produce another report on “lessons learned from HOPE VI” in June 2002. See H.R. CONF. REP. NO. 107-272, at 64 (Nov. 6, 2001), available on-line at frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_reports&docid=f:hr272.107.pdf. KPMG Consulting, L.L.C. has also produced a number of HOPE VI National Aggregate Summary Reports compiled from Quarterly Progress Reports grantees submit to HUD. These compilations — which include data on demolition and physical redevelopment, relocation, and funds expended and leveraged — have not been made widely available.

⁴ Abt Assocs., et al., *An Historical and Baseline Assessment of HOPE VI* (Jul. 1996), available on-line at www.huduser.org/publications/pubasst/hopevi.html.

⁵ Arthur J. Naparsek, et al. (The Urban Institute), *HOPE VI: Community Building Makes a Difference* (Feb. 2000), available on-line at www.huduser.org/publications/pubasst/hope.html.

⁶ G. Thomas Kinglsey, et al. (The Urban Institute), *HOPE VI and Section 8: Spatial Patterns in Relocation* (Jan. 2001), not available on-line.

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Building have been made widely available by HUD on its website. In addition to the PIH-commissioned reports, the HUD Office of Inspector General (OIG) published two of its own program-wide audit reports in 1997 and 1998.⁷

The U.S. General Accounting Office (GAO) has published two HOPE VI reports — *Public Housing: Status of the HOPE VI Demonstration Program*⁸ and *HOPE VI: Progress and Problems in Revitalizing Distressed Public Housing*.⁹ Private researchers have also published studies of HOPE VI redevelopments.¹⁰

The HOPE VI reports produced to date fall into two general categories. Some, like the HUD's *Baseline Assessment* and *Community Building* reports, examine a small sample of HOPE VI sites in detailed case studies.¹¹ Others, like the GAO and OIG reports, provide an overview and highlights from a large number of sites. There is a substantial amount of overlap among the two categories.¹²

⁷ U.S. Department of Housing and Urban Development, Office of Inspector General, *Audit of Fiscal Year 1996 HOPE VI Grant Award Process*, 98-FO-101-0001 (Oct. 20, 1997), available on-line at www.hud.gov/oig/ig8h0001.pdf; U.S. Department of Housing and Urban Development, Office of Inspector General, *Nationwide Audit: HOPE VI Urban Revitalization Program*, 99-FW-101-0001 (Dec. 17, 1998), available on-line at www.hud.gov/oig/ig960001.pdf. HUD OIG has also produced a number of audit reports for individual HOPE VI sites, in cities such as, Atlanta, Dallas, El Paso, New Orleans, and San Antonio. See www.hud.gov/oig/states/oigstate.html.

⁸ U.S. General Accounting Office, *Public Housing: Status of the HOPE VI Demonstration Program*, GAO/RCED-97-44 (Feb. 1997), available on-line at www.access.gpo.gov/su_docs/aces/aces160.shtml. This report focuses primarily on fiscal year 1993 to 1995 awards. See *id.* at 1, n. 3.

⁹ U.S. General Accounting Office, *HOPE VI: Progress and Problems in Revitalizing Distressed Public Housing*, GAO/RCED-98-187 (Jul. 1998), available on-line at www.access.gpo.gov/su_docs/aces/aces160.shtml. This report focuses primarily on fiscal year 1993 to 1997 awards. See *id.* at 32.

¹⁰ See, e.g., Salama, *The Redevelopment of Distressed Public Housing: Early Results from HOPE VI Projects in Atlanta, Chicago, and San Antonio*, 10 HOUSING POLICY DEBATE 1, 95 (1999), available on-line at www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1001_salama.pdf.

¹¹ The *Baseline Assessment* examines fifteen redevelopment sites with the intent of tracking their progress over time: Techwood and Clarke Howell in Atlanta, Georgia; Lafayette Courts in Baltimore, Maryland; Mission Main in Boston, Massachusetts; McGuire Gardens in Camden, New Jersey; Earle Village in Charlotte, North Carolina; Cabrini Homes Extension in Chicago, Illinois; King Kennedy and Outhwaite Homes in Cuyahoga County, Ohio; Jeffries Homes in Detroit, Michigan; Ellen Wilson Dwellings in the District of Columbia; Hillside Terrace in Milwaukee, Wisconsin; Elm Haven in New Haven, Connecticut; Desire in New Orleans, Louisiana; Coliseum Gardens, Lockwood Gardens, and Lower Fruitvale in Oakland, California; Springview Apartments in San Antonio, Texas; and Bernal Dwellings and Yerba Buena Homes in San Francisco, California. See *Baseline Assessment*, *supra* n. 4, at ii. The *Baseline Assessment* provides more cursory information about 19 other sites comprising the remainder of the fiscal year 1993 and 1994 implementation award sites and most of the fiscal year 1995 sites. See *id.* *Community Building* is a “best practices” report that covers seven sites — all but two of which, Windsor Terrace in Columbus, Ohio and Kennedy Brothers Memorial Apartments in El Paso, Texas, were reported on in the *Baseline Assessment*. See *Community Building*, *supra* n. 5, at 17, 53.

¹² The GAO and OIG reports involve the use of case studies of varying degrees of detail. The *Baseline Assessment* includes overview data for most fiscal year 1993 to 1995 awards.

B. No Comprehensive Source of HOPE VI Data Has Been Produced

HUD has emphasized the “near-unprecedented degree of control” and flexibility afforded public housing authorities (PHAs) under HOPE VI, which has allowed for a substantial amount of variation among different HOPE VI initiatives.¹³ HUD has said that “[e]very HOPE VI development is unique in terms of unit mix, geographic area, local needs and desires, and social and economic history.”¹⁴

However, none of the reports published to date have been sufficiently comprehensive, in light of this “near-unprecedented” potential for variation in the administration of HOPE VI at the local level. The overview reports, while useful, are just that — overviews of only certain aspects of the program. As such, they cannot capture local variations. Further, the most recent of these reports are several years old and therefore address only the awards made during the first five fiscal years of the program.¹⁵

The case study reports, the format favored by HUD, are limited in even more problematic ways. By providing detailed information about a small number of sites, HUD creates the impression of a thorough evaluation, but there is no way to know if these hand-picked sites are representative of the program as a whole. Because HUD’s *Baseline Assessment* and *Community Building* reports cover only 17 sites between them,¹⁶ all from the early years of the program, and a total of 166 redevelopment awards have been made to date,¹⁷ it is very likely that these reports *do not* provide a representative picture of the program.

For at least the first five years of the program, HUD had no central mechanism to track HOPE VI activities.¹⁸ HUD’s *Baseline Assessment* and a database HUD contracted with the Housing Research Foundation (HRF) to produce were intended to meet this need.¹⁹ However, the results of both efforts have been limited and disappointing.

In implementing the *Baseline Assessment*, HUD has fallen behind in even the narrow task that it set for itself, tracking 15 redevelopment sites over a period of years. The second phase of the *Baseline Assessment* evaluation was to have begun five years ago, but no

¹³ *Community Building*, *supra* n. 5, at 9.

¹⁴ U.S. Department of Housing and Urban Development, *General Guidance on Resident and Community Involvement* (Jun. 18, 2001), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/css/guidance.cfm. See also *Community Building*, *supra* n. 5, at 2 (Noting that redevelopment strategies “tend to be community specific, because neighborhoods have different characteristics, resources, natural advantages, strengths, traditions, potential community partners, and leadership. One size does not fit all.”)

¹⁵ See n. 9, *supra*.

¹⁶ See n. 11, *supra*.

¹⁷ See U.S. Department of Housing and Urban Development, *National Fact Sheet: FY 2001 HOPE VI Revitalization Grant Awards* (2002), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/natl_factsheet.pdf.

¹⁸ See *Status of HOPE VI*, *supra* n. 8, at 6 (“Officials in HUD’s Office of Urban Revitalization told us that HUD does not currently maintain a centralized database to track all HOPE VI activities, including those associated with improving the housing stock.”)

¹⁹ See *id.* The Housing Research Foundation is an affiliate of the Council of Large Public Housing Authorities (CLPHA).

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additional materials have been published.²⁰ The HRF database consists primarily of brief “site profiles” of award sites.²¹ For awards made in recent fiscal years, these profiles simply repeat information from summaries and fact sheets already produced by HUD.²²

C. HUD’s Current HOPE VI Data Collection Practices

Even though HUD has shared little information about the program publicly, HUD’s HOPE VI current data collection practices now appear to be fairly extensive. According to a recent HOPE VI guidance, each HOPE VI redevelopment is assigned a HUD Office of Public Housing Investments (OPHI) grant manager responsible for on-going monitoring of progress of the redevelopment and compliance with program requirements.²³

Quarterly progress reports prepared by grantees for submission to HUD are HUD’s “primary instrument used to collect data about ongoing HOPE VI revitalization progress.”²⁴ HUD’s latest guidance on quarterly progress reports omits a full description of the information included in these reports, stating that grantees use the report “to provide HUD with data in several key program areas” — as well as “comprehensive information” about redevelopment progress and budget status.²⁵ Based on national aggregate summary reports that have been compiled from quarterly progress reports on HUD’s behalf, it appears that relocation data are also included in grantees reports to HUD.²⁶ HUD seems to have a great deal of data on HOPE VI, but it is not making this data available to the public.

D. The Lack of Financial Data on HOPE VI

The HOPE VI statute requires HUD to make annual reports on the HOPE VI program to Congress.²⁷ These reports are required to include, among other things, “the number, type, and cost of public housing units” redeveloped under HOPE VI, “the status of projects identified as severely distressed public housing,” and “the amount and type of financial

²⁰ See *Progress and Problems*, *supra* n. 9, at 14. The *Community Building* “best practices” report was “not a formal program evaluation,” had a much narrower scope than the *Baseline Assessment*, and therefore is not an adequate substitute. *Community Building*, *supra* n. 5, at 3.

²¹ See www.housingresearch.org/hrf/hrfhome.nsf/.

²² See, e.g., www.housingresearch.org/hrf/hrf_SiteProfile.nsf/254b06df1ba91eff852569d50006a045/37a733fd289caffd85256ae7005f6e6e?OpenDocument (site profile for the Bridgeton, New Jersey Housing Authority Cohansey View fiscal year 2001 award site).

²³ See U.S. Department of Housing and Urban Development, *HOPE VI Guidance: HOPE VI Revitalization Grant, HUD Management and Monitoring*, 2-4 (Oct. 2001) (describing fourteen major monitoring criteria), available on-line at

www.hud.gov/offices/pih/programs/ph/hope6/grants/revitalization/rev_oversightmonitoring.pdf. In some instances, certain monitoring tasks may be assigned to HUD field office personnel. See *id.* at 5.

²⁴ U.S. Department of Housing and Urban Development, *HOPE VI Guidance: Revitalization Grant Reporting Requirements* (Feb. 2001), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/revitalization/rev_reportingreqs.pdf.

²⁵ See *id.*

²⁶ See n. 3, *supra*. None of these National Aggregate Summary Reports are available on HUD’s website.

²⁷ See 42 U.S.C.A. § 1437v(l) (West Supp. 2001), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi. The version of this statute prior to the 1998 amendment, 42 U.S.C.A. § 1437v(i) (West 1994), also included this annual reporting requirement. See Part I, n. 14, *supra*.

assistance provided under and in conjunction with” HOPE VI.²⁸ It is unclear whether HUD has ever complied with this requirement. No such annual reports are available on HUD’s HOPE VI website.²⁹

HUD’s failure to release specific data to the public about the use of HOPE VI funds has made it impossible to judge the cost-effectiveness of this multi-billion dollar program. According to HUD, \$4,854,836,640 in HOPE VI grants have been awarded to date, \$4,546,775,473 of this (94 percent) in redevelopment grants.³⁰ It is not clear how this money is being spent. Even basic financial and budgetary information about the program such as per-unit construction costs and administrative expenses³¹ are not available. What little financial data HUD has made available raises serious questions about soundness of the program’s administration. In December 2001, only 42 percent of the HOPE VI funds awarded as of that date had actually been expended.³²

Policy Recommendations:

Greater Transparency and Accountability in HOPE VI

In its 1992 report, the National Commission on Severely Distressed Public Housing explained that

[a] major problem in addressing the service needs of severely distressed public housing and in identifying various approaches to developing effective programs is a lack of data on certain critical aspects of the public housing program.³³

A versions of this problem persists today. The absence of detailed, publicly available data about HOPE VI, numerous misimpressions about the program, its purpose, and its outcomes flourished. Based on the information that has been made available, the program is not targeting the developments³⁴ and is not providing the housing, relocation, or supportive services to residents³⁵ that HUD has suggested it does.

²⁸ 42 U.S.C.A. § 1437v(l)(1)-(3) (West Supp. 2001), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

²⁹ See www.hud.gov/offices/pih/programs/ph/hope6/index.cfm.

³⁰ See U.S. Department of Housing and Urban Development, *About HOPE VI* (Apr. 3, 2002), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/about/. See also *National Fact Sheet*, supra n. 17 (stating that 165 redevelopment grants have been made in 98 cities).

³¹ Including developer, consultant, and legal fees.

³² See U.S. Department of Housing and Urban Development, *HOPE VI Revitalization Grant Program: Quarterly Progress Report* (Dec. 31, 2001) (for some reason, only 149 grants were included in this report). It would be a mistake to address the problem of unexpended funds with “streamlining” approach to encourage more rapid expenditure. HOPE VI award dollwars must also be spent wisely and with full public disclosure.

³³ National Commission on Severely Distressed Public Housing, *The Final Report of the National Commission on Severely Distressed Public Housing: A Report to the Congress and the Secretary of Housing and Urban Development*, 46 (Aug. 1992).

³⁴ See Part I, supra.

³⁵ See Part IV, supra.

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The best way to dispel misimpressions about HOPE VI is for HUD to make more complete information about the program available to the public. HUD should be required to make HOPE VI documents available on its website in the same way that it makes electronic copies of public housing agency plans publicly available.³⁶

Specifically, the following HOPE VI documents should be made available on-line for all redevelopment sites:

- *HOPE VI applications;*
- *Grant agreements;*
- *Revitalization plans;*
- *Community and supportive services plans;*
- *Relocation plans;*
- *Project financial and budget documents showing how funds are used;*³⁷
- *Quarterly progress reports;*
- *National aggregate summary reports of quarterly progress report data; and*
- *Any amendments or proposed amendments to the documents described above.*

³⁶ See www.hud.gov/offices/pih/pha/approved/index.cfm. A public housing agency plan is an administrative document setting forth a PHA's policies, programs, and procedures for meeting local housing needs. See 24 C.F.R. Part 903 (2001), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

³⁷ These should include HOPE VI budget forms, development agreements, regulatory and operating agreements, mixed-finance proposals, rental term sheets, operating subsidy calculation forms, Low Income Housing Tax Credit applications, and bond proposals.

Epilogue — HOPE VI and Urban Renewal

HOPE VI, in many ways, bears a striking resemblance to the Urban Renewal program¹ of the 1950s, 1960s, and later. Urban Renewal took control of property not functioning for what planners labeled as the “highest and best use,” displaced existing residents, and replaced on the former site something regarded as an improved use of the land.

Beyond the social engineering aspects of Urban Renewal, in which racial patterns of residence played a key role, considerations of municipal tax revenues were also strong motivations. The availability of large amounts of federal dollars, dollars that could be used only for a specific purpose, also were a powerful incentive. Administratively, both HOPE VI and Urban Renewal involve federal funds sent to a local public body: an Urban Renewal agency in the earlier program, a public housing authority in the case of the later program.²

The Wholesale Destruction of Communities Under Urban Renewal

While the Urban Renewal program had some notable successes, it also was justifiably subject to serious criticism on a number of grounds — much of which is applicable to HOPE VI. In both programs, a large amount of good and salvageable affordable housing was destroyed — most estimates put the net loss of such units under Urban Renewal at close to a million.³ Under Urban Renewal, insensitive, inaccurate definitions and depictions of “slum housing” were used to justify the land use changes. Entire communities, such as Boston’s West End, were uprooted, with extremely serious consequences not only for subsequent housing conditions of the displaced, but in social and psychological terms.⁴

In all too many cases under Urban Renewal, rehabilitation would have been the better course than using wholesale clearance: faster, cheaper, less disruptive of both personal and community life. Similarly, studies of a Boston low income housing site has shown the ways in which staged, careful renovation accomplishes housing goals better than the wholesale demolition approach used in HOPE VI.⁵

¹ Created pursuant to the Housing Act of 1949, Pub. L. No. 81-171, § 101(c).

² Similarities exist as well with respect to construction and displacement activities under the federal interstate highway program and the state agencies that carried out these projects. *See generally* Raymond A. Mohl, *Interstate Highways and the Central Cities in Postwar America* (2000) (unpublished paper presented at the Fifth International Conference on Urban History, Berlin).

³ HERBERT J. GANS, *THE URBAN VILLAGERS: GROUP AND CLASS IN THE LIFE OF ITALIAN-AMERICANS*, 386 (1982) (“The total number of households displaced and low-cost dwelling units eliminated through 1980 must therefore be at least a million.”).

⁴ *See* Marc Fried, *Grieving for a Lost Home*, in *The Urban Condition*, . 151-72 (Leonard J. Duhl, ed., 1963) (describing how the symptoms and management of the grieving mechanism, previously identified in terms of lost loved ones, matched perfectly with long-term residents responded to the loss of their communities).

⁵ *See* Lawrence J. Vale, *The Revitalization of Boston’s Commonwealth Development*, in *AFFORDABLE HOUSING AND URBAN DEVELOPMENT IN THE UNITED STATES* (Willem van Vliet, ed., 1996). *See also* LAWRENCE J. VALE, *RECLAIMING PUBLIC HOUSING: A HALF-CENTURY OF STRUGGLE IN THREE PUBLIC NEIGHBORHOODS* (Nov. 2002, forthcoming).

Urban Renewal, HOPE VI, and Civil Rights

While the scale of Urban Renewal clearance was larger than that of HOPE VI, both programs involve the displacement of very large numbers of low income households of color. The Urban Renewal program, concentrating as it did on inner-city areas, soon bore the informal title “Negro removal” — reflecting the fact that some two-thirds of displaced were minority, overwhelmingly African Americans.⁶

The Fair Housing Act, Title VIII of the Civil Rights Act of 1968,⁷ was passed with Urban Renewal experiences and other examples of inattention to civil rights in federal housing policy fresh in mind.⁸ Section 808 of the Act imposed a special requirement upon HUD to “administer the programs and activities relating to housing and urban development in a manner affirmatively to further” fair housing.⁹ This duty has been interpreted by the courts to mean that HUD must shed its “bureaucratic myopia” to the effect of its programs on civil rights¹⁰ and “must utilize some institutionalized method whereby ... it has before it the relevant racial and socio-economic information necessary” to further the purposes of the Fair Housing Act.¹¹

Despite the over thirty years since the passage of the Fair Housing Act, HUD routinely violates its affirmative fair housing duties in the administration of its programs. HUD essentially never takes any account of the racial and socioeconomic effects of its program administration decisions. Decisions to permit the demolition of public housing units and the affordable housing they provide, both inside and outside of the HOPE VI program, are no exception.¹²

HUD has no mechanism for assessing the racial impact of its HOPE VI funding and grant administration decisions. HUD’s HOPE VI application attachment forms do not request even the most basic racial demographic data — much request data on more complex issues, such as the existence of any special housing needs that may disproportionately affect families of color in applicants’ jurisdictions.¹³

Indications are that the HOPE VI program has a dramatic effect on families of color, who rely on the public housing program to a disproportionate extent.¹⁴ Based on available HUD data, the fiscal year 2001 HOPE VI redevelopment awards alone will result in the

⁶ URBAN VILLAGERS, *supra* n. 3, at 377, 380.

⁷ 42 U.S.C.A. § 3601 *et seq.* (West 1994), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

⁸ See, e.g., *Anderson v. City of Alpharetta*, 737 F.2d 1530, 1535 (11th Cir.1984).

⁹ 42 U.S.C.A. § 3608(e)(5) (West 1994), available on-line at www.hudclips.org/sub_nonhud/cgi/hudclips.cgi.

¹⁰ *Anderson*, *supra* n. 8, at 1535 (citing *Otero v. New York City Housing Authority*, 484 F.2d 1122, 1133-34 (2nd Cir.1973)).

¹¹ *Shannon v. U.S. Department of Housing and Urban Development*, 436 F.2d 809, 821 (3rd Cir. 1970).

¹² See National Housing Law Project, *HUD’s Fair Housing Duties and the Loss of Public and Assisted Housing*, 29 HOUSING LAW BULLETIN 1, 1-8 (Jan. 1999), available on-line at www.nhlp.org/html/hlb/199/199fairhsg.htm.

¹³ See, e.g., Miami-Dade Housing County, *1999 HOPE VI Grant Application*, Att. 20, 22 (May 17, 1999).

¹⁴ See National Housing Law Project, *HUD’s Fair Housing Duties*, *supra* n. 12.

displacement of an estimated 6,046 families.¹⁵ Ninety-five percent of these estimated displacees are families of color; 79 percent are African American families.¹⁶ In some cities — San Francisco and Washington, D.C. being notable examples — there has been an absolute and relative loss of African American populations, to which the HOPE VI program has likely contributed.¹⁷

HUD has remained stubbornly myopic in its administration of HOPE VI even in the face of egregious fair housing violations. In 1996, HUD awarded a HOPE VI grant to the Housing Authority of Baltimore City to redevelop its Hollander Ridge public housing site. The site, which is predominantly occupied by African American families, “abuts the predominately white residential neighborhood of Rosedale.”¹⁸ For many years, the Hollander Ridge was separated from Rosedale by “a chain link fence.”¹⁹ Rather than remove this fence during the revitalization, in 1998 the city began to “replac[e the] chain link fence with a wrought iron fence to completely surround Hollander Ridge, save for the lone entrance at the end of Hollander Ridge farthest away from Rosedale.”²⁰ HUD was aware of and approved this decision.²¹

¹⁵ See U.S. Department of Housing and Urban Development, *National Fact Sheet: FY 2001 HOPE VI Revitalization Grant Awards* (2002), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/natl_factsheet.pdf.

¹⁶ See U.S. Department of Housing and Urban Development, *FY 2001 HOPE VI Revitalization Grants* (Nov. 21, 2001) (providing fact sheets for individual award sites), available on-line at www.hud.gov/offices/pih/programs/ph/hope6/grants/fy01/rev_grantlist.cfm; U.S. Department of Housing and Urban Development, *A Picture of Subsidized Households – 1998* (the most recent development-level demographic data currently available to the public) available on-line at www.huduser.org/datasets/assthsg/statedata98/index.html. Similarly, families of color make up 85 percent of the over 73,000 families on public housing waiting lists in jurisdictions that received fiscal year 2001 redevelopment awards. These figures are based on data reported in redevelopment grantees’ approved annual public housing agency plans, which are available on the HUD website, www.hud.gov/offices/pih/pha/approved/index.cfm.

¹⁷ See, e.g. Evelyn Nieves, *Blacks Hit by Housing Costs Leave San Francisco Behind*, THE NEW YORK TIMES, Aug. 2, 2002, at A-12.

¹⁸ *Thompson v. U.S. Dept. of Housing and Urban Development*, 220 F.3d 241, 244 (4th Cir. 2000).

¹⁹ *Id.*

²⁰ *Id.* The relationship of Rosedale residents to families at Hollander Ridge was described by the court as “strained.” *Id.*

²¹ See Deposition of Milan M. Ozdinec, Acting HUD Deputy Assistant Secretary for Public Housing Investments, *Thompson v. U.S. Department of Housing and Urban Development*, Case No. MJG-95-309 (D.Md. Mar. 20, 2002). Ozdinec stated that he assumed that the fence was part of a “gated community” concept for Hollander Ridge, which was appropriate because

automobiles are a fact of life now. . . . You got to get in your car and go somewhere to get a loaf of bread. In some cities that’s a fact of life. In some cities that’s desirable. . . . So from my perspective the fence to me is a symbol and not a physical barrier as availing one’s self to services, you get in your car and you go. That’s what I have to do.

Id. Later, Ozdinec admitted that he did not “know what percentage of public housing residents in Baltimore have automobiles.” *Id.*

Relocation and Displacement Under HOPE VI and Urban Renewal

The relocation results under both Urban Renewal and HOPE VI have been highly dismaying. Neither program involves a number of replacement units comparable to the number demolished, thereby reducing the available stock of affordable housing and adding to the housing woes of lower-income families in cities throughout the country. Studies of actual relocation results under Urban Renewal consistently showed, in addition to social and psychological harms, large numbers of displacees moving to substandard and overcrowded units, paying higher rents, and feeding into existing patterns of residential racial segregation.²²

There has been far less research on relocation under HOPE VI relocatees — in itself, an unfavorable comment on the program. What is needed, and quickly, is more follow-up research, in order to assess true relocation results and attempt program improvements.

Unfortunately, a structural defect common to both programs may be a serious barrier to such improvements. Like the old local Urban Renewal agencies, public housing authorities seem to regard land re-use under HOPE VI as their primary, and more interesting, task — the new convention center, market-rate housing development, office complex are to Urban Renewal projects what the new mixed-income housing development with retail space is to HOPE VI. Thus, relocation activities, being a secondary task at best, take a back seat to the physical redevelopment work — getting far less attention, fewer resources, and, when pressed, getting done wholly inadequately if relocation issues threaten to stall or block the redevelopment effort.

Learning Lessons from Urban Renewal

If we are to derive any lessons from the Urban Renewal experience and apply them to HOPE VI, these are at the forefront:

- Meeting the housing needs of low income families — in a variety of ways — should be a primary aim of national and local housing policy.
- The racial and socioeconomic impact of housing policies and programs should be carefully assessed, especially those that involve the displacement and reductions in affordable housing opportunities.
- Rehabilitation, retention of existing neighborhoods, communities, social ties, school ties, etc. is the preferable route to large-scale displacement and demolition, wherever feasible.

²² See, e.g., Chester Hartman, *The Housing of Relocated Families*, JOURNAL OF THE AMERICAN INSTITUTE OF PLANNERS, Nov. 1964, 266-286; Chester Hartman, *Relocation: Illusory Promises and No Relief*, VIRGINIA LAW REVIEW, 745-817 (1971).

- Where family relocation is necessary, carrying the process out successfully should take primacy over the land re-use and new construction process. No displacement should take place unless and until adequate, affordable, acceptable relocation housing is available, with full attention to needed social services.

