

October 2, 1992

## THE MISPLACED ASSAULT ON RESIDENT OWNERSHIP OF PUBLIC HOUSING

### INTRODUCTION

Resident management and ownership of public housing has been one of the great urban success stories of the last twenty years. Strongly pushed by Department of Housing and Urban Development (HUD) Secretary Jack Kemp, resident control of public housing projects is a key element of an empowerment urban agenda to turn around America's depressed inner cities, an agenda which includes reform of the welfare and health care systems, and job creation through urban enterprise zones.

Yet although it produces tangible results, the process of giving public housing tenants a stake in their homes has encountered fierce resistance, especially in recent months, from the public housing establishment and its allies in Congress. If the opponents of empowerment should prevail, the ultimate loser will be many of the 1.3 million low-income households who live in public housing projects across America, many of which are in physical disrepair, and racked with crime.

**Serving as a Model.** Management and eventual ownership offer low-income tenants direct control over their lives and a way out of substandard housing conditions. Where given a chance, residents have demonstrated that they can run projects better than public housing authorities (PHAs). Example: Tenants of the Bromley-Heath project in Boston contracted with the local housing authority in 1973 to assume management of their complex. The residents did more than make good on their promise to conduct major repairs to severely deteriorating buildings. They also drove out criminals, and started successful businesses, a day care center, and a job placement service. This tenant group still is in operation, and serves as a model as to how tenants can turn around what seems to be even a hopeless situation.

Such improvements are desperately needed in many projects today. This August the National Commission on Severely Distressed Public Housing (NCSDPH), established by Congress in December 1989, released its final report. The Commission, co-chaired by

Representative William Green, the New York Republican, and Vincent Lane, chairman of the Chicago Housing Authority, termed conditions in these worst projects "unfit, unsafe, unlivable... a national disgrace."<sup>1</sup>

Opponents of resident control resist introducing resident management into projects, even though existing law is meant to encourage it. But they reserve their greatest hostility for Jack Kemp's efforts to allow residents actually to own their homes. PHAs and other opponents of tenant ownership are becoming increasingly bolder in their direct attacks on resident ownership. Examples:

- X Secretary Kemp has asked the Justice Department to investigate charges that some housing authorities are harassing, and even physically threatening, public housing tenants who express dissatisfaction with PHA management, and advocate fellow residents to exercise their right to buy projects.**
- X The Council of Large Public Housing Authorities (CLPHA), an association of those housing authorities operating at least 2,000 dwellings as public housing, has launched a battle to declare the transfer of public housing to tenants unconstitutional.**

Critics of public housing homeownership have been particularly vigorous in blocking the Homeownership and Opportunity for People Everywhere (HOPE) program, which Congress passed as Title IV of the National Affordable Housing Act of 1990. HUD Secretary Jack Kemp has been promoting HOPE's three major elements as a centerpiece of the Administration's urban empowerment agenda.<sup>2</sup> The "HOPE I" element of the program enables resident and other nonprofit groups to receive HUD grants to manage, renovate, and assume ownership of public housing projects. Under program rules, a group must secure \$1 in local funds to match every \$4 it requests from HUD. Yet although this legislation is on the statute books, Congress so far has refused to vote the funding necessary to make it into the kind of program that Secretary Kemp envisions. Lawmakers have poured far more money into building new projects, and operating and modernizing existing projects.

Under pressure from public housing authorities who feel threatened by resident empowerment, Congress also has shown little interest in HUD's proposed Perestroika for Troubled Public Housing program. Under Perestroika, a term aptly taken from Mikhail Gorbachev's efforts to restructure the inefficient, bureaucratized economy of the former Soviet Union, public housing residents and other nonprofit groups would have a chance

---

1 *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*, Washington, D.C.: U.S. Government Printing Office, August 1992, p. 2.

2 HOPE I provides opportunities for low-income groups to buy public housing; HOPE II and HOPE III do the same thing, respectively, with privately owned, subsidized multifamily and privately owned, subsidized single-family housing. The HOPE legislation builds upon tenant homeownership provisions in the 1987 Housing and Community Development Act.

to take over management or ownership of the worst-run projects, and buy units in completely or substantially vacant projects.

**Promoting a Smokescreen.** Liberal critics of public housing resident ownership offer a variety of arguments to bluster their opposition. Some say a handover involves unnecessary expense, and means a diversion of federal efforts from more conventional anti-poverty programs. Some, such as Lawrence J. Vale, a Massachusetts Institute of Technology urban affairs professor, maintains that tenant ownership will not work, and that Bush Administration officials are promoting it as a smokescreen for ignoring larger poverty issues.<sup>3</sup> Others charge that public housing residents are too poor to become homeowners, and that the costs of renovating apartments for sale are prohibitive. Better, these critics claim, to spend money on improving public housing as rental property.

Yet such objections rest on myths about resident ownership of public housing. The cost of transferring management and ultimately ownership responsibilities to residents, even allowing for renovation of buildings, is in the long run substantially less than the cost of continuing to operate projects as rental property at a large public subsidy. Moreover, resident ownership, far from being a "smokescreen" for avoiding poverty issues, deals with the main reason for persistent poverty: the lack of motivation on the part of the poor to create wealth for themselves. As for the notion that tenants lack financial or other resources to take over projects, this has been plainly contradicted by experience, in Bromley-Heath and elsewhere.

The public housing program, launched over fifty years ago, is in disarray. Physical and social decay is evident, indeed often rampant, in many of the projects in larger cities. Resident management, and better still, ownership, can do more than cut a project's operating costs; it can eliminate the sense of isolation and despair that tenants too often feel. At a time when urban policy rightly occupies much domestic policy debate, lawmakers in Congress should support resident ownership.

## SIX MYTHS ABOUT RESIDENT OWNERSHIP

Opponents of tenant ownership usually concede that the public housing program is in deep trouble. They admit that in many projects, especially those in large cities, buildings are in disrepair, while crime, drug abuse, and other social pathologies abound. They also understand that physical and social decay reinforce each other.

But critics of public housing homeownership believe, falsely, that it is an unattainable hoax or illusion, and that supporters are encouraging tenants to take on a commitment for which they are ill-prepared. For instance, Representative William Clay, the Missouri Democrat, refers to resident ownership as a "sham."<sup>4</sup>

---

3 Lawrence J. Vale, "Jack Kemp's Pet Delusion," *Washington Post*, August 3, 1992.

4 Quoted in Robert Guskind and Carol F. Steinbach, "Sales Resistance," *National Journal*, April 6, 1991, p. 799.

To be sure, not all of the nation's 3,400 housing authorities are poor managers. But many are.<sup>5</sup> Because the worst housing authorities tend to be larger ones, this is especially problematic. Resident ownership would allow residents in these projects to have the chance to take control away from incompetent or otherwise unaccountable management.

Opponents of resident ownership make similar arguments. All these serve to buttress the failing system of public housing and to preserve the interests of those who have failed in their duty to assume safe and decent housing for poor families.

**MYTH #1:** "Public housing tenants are too poor to become homeowners."

This is the most common criticism of tenant ownership. Ownership may be in principle a fine idea, opponents say, but public housing tenants simply are not in any position to buy. These critics often refer to a study completed for HUD in 1990 by William Rohe and Michael Stegman, both of the University of North Carolina City and Regional Planning Department. Rohe and Stegman assessed the performance of HUD's Public Housing Homeownership Demonstration (PHHD) program, a three-year experiment to enable PHAs in 17 cities to sell over 1,300 of their units to their tenants.<sup>6</sup> The program was in operation during the latter half of the 1980s. The authors found that public housing tenants who became homebuyers had incomes of two-and-one-half times those of nonbuying tenants (\$16,673 compared with \$6,539).<sup>7</sup> Their conclusion: Tenants are not in a good position to buy, even at a discounted price, without substantial subsidies.

The Rohe and Stegman conclusion, however, overlooks two crucial points. First, income data routinely understates the actual income of residents. In 1990 federal, state, and local governments collectively spent some \$226 billion on welfare programs for the poor, roughly three times what is necessary to raise the incomes of poor American households above the poverty line. Yet the Census Bureau counted only \$32.5 billion of this assistance as income. The uncounted remaining sum represents over \$13,000 for every "poor" household.<sup>8</sup>

Second, the study suggests that with steps to change the welfare system to encourage two-parent working families, far more public housing residents could afford to own. The study found, significantly, that 91 percent of households participating in the program had at least one full-time wage earner, as compared with only 24 percent of nonparticipating tenants. And 47 percent of the buyers were two-parent households, as opposed to 24 per-

---

5 The 23 PHAs on last year's HUD's "troubled" list, for example, account for 18 percent of all public housing tenants. See Carl F. Horowitz, "Jack Kemp's 'Perestroika': A Choice Plan for Public Housing Tenants," *Heritage Foundation Backgrounder* No. 888, March 26, 1992, p. 2. Moreover, the largest PHAs (those controlling over 2,500 units), though constituting only some 2 percent of all housing authorities, own almost 50 percent of all units in the public housing system. See *The Many Faces of Public Housing*, Washington, D.C.: National Association of Housing and Redevelopment Officials, 1990, p. 28.

6 See William M. Rohe and Michael A. Stegman, *Public Housing Homeownership Demonstration Assessment*, Washington, D.C.: U.S. Department of Housing and Urban Development, June 1990.

7 *Ibid.*, p. xi. The authors obtained the figure for nonbuying tenants from National Association of Housing and Redevelopment Officials data.

8 See Robert Rector, "How the New Census Report Dramatically Overstates Poverty in America," *Heritage Executive Memorandum* No. 339, August 31, 1992.

cent of nonbuyers.<sup>9</sup> Such findings suggest that full-time work and family stability enable even the poorest of tenants to become homebuyers.

The main obstacle to the poorest public housing tenants becoming homeowners is not their lack of income, as such, but the current welfare system. This is why public housing ownership must go hand-in-hand with comprehensive welfare reform and enterprise zones in any empowerment strategy.

**Myth #2:** "Even if they became owners, public housing tenants are not capable of running their buildings."

The track record of tenant managers, in contrast to public housing authorities, has been for the most part exemplary. While resident management requires substantial effort to be successful, it is an effective way of combatting the welfare dependency that is so frequently pervasive in public housing. Results can be quite striking. As a result of tenant management during 1982-1986 in Washington, D.C.'s Kenilworth-Parkside project, for example, rent collections increased by 77 percent, operating costs went down by 45 percent, and the vacancy rate fell from 18 percent to 5.4 percent. Moreover, crime, which had previously plagued residents, fell by 75 percent.<sup>10</sup> The residents in 1981 formed the corporation, and the following year in 1982 began to manage the complex under a contract with the Washington, D.C. housing authority, formally known as the Department of Public and Assisted Housing (DPAH). In 1987 the Kenilworth-Parkside Resident Management Corporation (KPRMC) and DPAH began a two-step process that would lead to resident ownership. The first step would be sale of the property to the KPRMC, and the second would be the sale of individual units to residents and other eligible purchasers.<sup>11</sup>

One of the best features of HOPE I is that it expands HUD's efforts to assist tenants in finding jobs and starting businesses, whether or not they buy their dwellings. Under HOPE, resident groups are eligible to use grant money to start their own businesses. Income from these activities increases the financial capacity of residents to buy their homes.

Because HOPE received initial funding only in 1992, the best examples of resident economic empowerment come from programs established prior to HOPE. Examples:

**Tampa.** Project REAP (Resident Enterprise Assistance Program) is a HUD-funded program of the Tampa Housing Authority (THA), which enables project residents to own and operate businesses. Created in May 1988, REAP gives technical and financial assistance to residents. This spring, the program had established almost forty businesses, accounting for over \$1 million in receipts. These businesses have created some 100 jobs for THA residents who otherwise might have been unemployed.<sup>12</sup>

---

9 Rohe and Stegman, *op. cit.*, p. xi.

10 See John Scanlon, "People Power in the Projects: How Tenant Management Can Save Public Housing," Heritage Foundation *Backgrounder*, March 8, 1990, p. 6-7.

11 See U.S. Department of Housing and Urban Development, Office of Policy Development and Research, *Homeownership and Affordable Housing: The Opportunities*, Washington, D.C.: U.S. Government Printing Office, April 1991, pp. 50-56.

12 See "Activities of Local Groups Seen As Models for Urban Programs," *Housing and Development Reporter*, May 11,

**St. Louis.** In the Cochran Gardens project, residents of the Cochran Gardens Tenant Management Corporation performed a minor miracle, turning a crime-ridden, drug-infested project into a clean, livable community. In addition, the Corporation now employs over 300 residents in a catering business, a janitorial service, a cable television installation company, and a health clinic. They also became 50-percent owner of a small shopping mall adjacent to the project.<sup>13</sup>

**MYTH #3:** "Selling public housing to tenants requires prohibitive renovation costs."

Critics of empowerment through homeownership maintain that the costs of transferring ownership are enormous, and that the money should instead be used for improving rental units. They often cite the case of the 464-unit Kenilworth-Parkside as an example of why turning projects over to tenants is not worth the time or money. But to the contrary, the travails of this project show why many public housing authorities should be forced out of the rental housing business altogether.

The cost of the project's renovation and transfer has been high. In 1989, a General Accounting Office audit of the ongoing sale to Kenilworth-Parkside tenants estimated the per-unit modernization cost at \$54,241.<sup>14</sup> Reporters Robert Guskind and Carol Steinbach, writing in the April 6, 1991, *National Journal*, suggested that the eventual figure, taking into account all types of subsidies, would be \$130,000.<sup>15</sup> The University of North Carolina's Stegman recently revised that figure down to a still-high \$93,000.<sup>16</sup>

The enormous cost of the conversion to homeownership is taken by some as evidence of the inherent costliness of public housing ownership. What it in fact shows is the monumental inefficiency of the public housing authority involved. The cost calculations ignore the price tag of resistance to the sale by DPAH.<sup>17</sup> The agency has proven inept, even when it has been cooperative. In fact, DPAH's neglect of the housing project necessitated the costly renovations in the first place. As the sorry history of the sale indicates, the exorbitant cost of conversion is the best argument for ending PHA control, not continuing it.

---

1992, pp. 1023-1024.

- 13 See David Caprara and Bill Alexander, *Empowering Residents of Public Housing: A Resource Guide for Resident Management*, Washington, D.C.: National Center for Neighborhood Enterprise, 1989; Scanlon, "People Power in the Projects," *op. cit.*, pp. 5-6.
- 14 U.S. General Accounting Office, *Public Housing: Planned Kenilworth-Parkside Sale Raises Issues for Future Transactions*, RCED-90-26, December 1989, p. 34. Virtually all this figure represented HUD's subsidy.
- 15 Guskind and Steinbach, "Sales Resistance," *op. cit.*, pp. 798-803. One of the factors driving up the final figure was the estimated cost of property tax abatements. Yet such "costs" represent foregone tax revenues, not outlays. Unless one believes that government has a proprietary claim on the value of property, this factor should not be included as part of the true cost to the taxpayer.
- 16 See Ann Mariano, "Kemp's Vision of Public Housing Ownership Hasn't Caught On," *Washington Post*, August 2, 1992.
- 17 These obstacles are discussed in *The Silent Scandal: Management Abuses in Public Housing*, Washington, D.C.: National Center for Neighborhood Enterprise, September 1991.

In 1983 HUD approved funding for major renovations at Kenilworth-Parkside under its Comprehensive Improvement Assistance Program (CIAP).<sup>18</sup> Tenants the previous year had obtained a contract from a reluctant DPAH to manage the project. But bureaucratic strings were attached to the entire enterprise. All modernization had to proceed under the control of DPAH.<sup>19</sup> Residents finally convinced the agency in October 1988 to sign a construction contract in conjunction with their agreement with DPAH the previous year to buy the complex. The five years of delays had driven up the eventual total renovation cost by more than 250 percent.

**Example:** The architectural firm DPAH hired developed plans that proved to be useless, plans upon which DPAH issued bid requests.

**Example:** After work had begun, much of the contractors' work proved to be substandard in large measure because of the nature of the contract procurement process. For instance, the contractor installed drywall and bathtubs not meeting contract specifications. Both had to be ripped out and replaced at great cost.

Residents complained many times of problems, but to little avail. Often, they sent letters to the housing authority, only to find out they were "lost." As a result, exasperated tenants resorted to hand delivering all correspondence to DPAH officials.

Under HOPE much of this nonsense will end, since resident and other nonprofit organizations are eligible to receive HUD grants directly without having to go through the PHAs.

The high expenditure of Kenilworth-Parkside thus was a self-fulfilling prophecy. After years of mismanaging the project, the same DPAH bureaucrats were entrusted with organizing the conversion to homeownership. Needless to say, the process was drawn out and involved staggering costs, due to incompetence and—many argue—corruption. But this enables these same bureaucrats to claim that homeownership makes no sense because it is "expensive" and "time-consuming."

It is a minor miracle that residents at Kenilworth-Parkside managed to get anything accomplished at all. Yet progress has been occurring, with some three-fourths of the project's units having been rehabilitated and transferred to the Kenilworth-Parkside Resident Management Corporation during the 1990s.

**Lacking the Basic Capacity to Administer.** Kenilworth-Parkside is not alone in suffering under DPAH mismanagement. HUD's Office of Inspector General concluded a few years ago that DPAH lacked the basic capacity to administer properly renovation activities at any of its projects.<sup>20</sup> In the case of the Arthur Capper Dwellings, the total per-unit cost of upgrading was \$95,000. Even more pointed is the case of the 134-unit Ellen

---

18 The CIAP program in fiscal 1992 applies only to PHAs with less than 500 units, and beginning in fiscal 1993 will apply only to PHAs with less than 250 units. Larger housing authorities previously funded through CIAP now receive funds under HUD's new Comprehensive Grant Program (CGP), established by the National Affordable Housing Act of 1990.

19 Discussion here comes from *The Silent Scandal*, pp. 15-17.

20 See U.S. Department of Housing and Urban Development, Office of Inspector General, "Department of Public and Assisted Housing," Audit Report No. 90-PH-209-1004, December 20, 1989.

Wilson Dwellings. In 1988, DPAH emptied the project of its residents in preparation for renovation. Thus far, however, no work has been done, and the heavily vandalized project remains vacant and boarded up.<sup>21</sup>

Besides complaining about high costs of resident ownership that in reality are a reflection of their own mismanagement, housing authority bureaucrats around the country have taken steps to thwart resident ownership. Recent evidence has emerged to the effect that housing authorities, in violation of the law, have harassed residents who exercise their right to buy through HOPE. Authorities also are alleged to harass residents who complain of PHA responsiveness to maintenance requests. In a July 15 letter to Attorney General William Barr, HUD Secretary Kemp pointed to documented cases assembled by the National Center for Neighborhood Enterprise, a research organization concerned with inner-city development, the National Association of Resident Management Corporations, and the Institute for Justice, a civil rights legal group.<sup>22</sup> Wrote Kemp:

It has come to my attention that the legal and civil rights of low-income residents of public housing in a number of cities may be violated by some local housing authorities opposed to resident management, job creation, and homeownership opportunities for the poor....

I would like to request a Department of Justice investigation of individual cases of tenant leadership harassment and obstruction of the law which have been documented....

The dreams, livelihood, and basic rights of low-income Americans seeking to improve and control their own destiny, and to pass a new legacy of assets and secure neighborhoods on to their children, is at stake.

The U.S. Department of Justice now is investigating these alleged abuses in various cities.

**MYTH #4:** "The real problem facing public housing projects is the lack of federal subsidies to operate and renovate them as sound rental housing."

Another tactic of homeownership opponents is to contend that the sorry condition of many projects has nothing to do with the fact that they are owned and operated by PHAs, but that the projects suffer from inadequate HUD funding. The National Commission on Severely Distressed Public Housing endorses this position in its report. The Commission calls for \$7.5 billion (in 1992 dollars) in new federal spending over the next ten years to modernize and replace "severely distressed" projects, and recommends that a new agency within HUD oversee management of the 86,000 units in these projects, equivalent to about 6 percent of the 1.4 million dwellings in the system.

---

21 William F. Powers, "A Housing Complex D.C. Forgot," *Washington Post*, August 22, 1992.

22 See "Kemp Seeks Justice Probe of PHA Opposition to Tenant Empowerment," *Housing and Development Reporter*, August 3, 1992, pp. 216-17.



The interesting thing about the shortage-of-money argument is that about 500 smaller housing authorities receive no federal operating subsidies whatsoever. Their project expenses are financed solely through tenant rent payments and miscellaneous non-federal sources.<sup>23</sup> Moreover, there is little evidence of a lack of funds. The federal budget for operating and modernization costs already is high and rising rapidly. In fiscal 1992, HUD's cumulative appropriation for PHA operating and modernization expenses of existing projects was \$5.25 billion, with \$2.45 billion going for operating costs and \$2.8 billion going for modernization. Congress has just appropriated for fiscal 1993 a cumulative figure of almost \$5.4 billion (H.R. 5679). HUD subsidies for operating and modernization expenses thus have risen by roughly 70 percent from the 1989 total of some \$3.2 billion.

**Functioning as Slush Funds.** Further puncturing the argument that public housing authorities desperately need more money is the fact that many PHAs have large reserve accounts consisting of unspent funds. Much of this money functions as slush funds for PHA employees and their friends.

Even more dramatic is the long-run trend of operating subsidies. According to a survey conducted by the National Association of Housing and Redevelopment Officials, the monthly per-unit HUD operating subsidy in nominal dollars in 1966 was only \$2.19; in 1977 it was \$41.67; and in 1988 it was \$80.38. This almost forty-fold increase in a little over two decades occurred despite a more than doubling of monthly per-unit operating income from \$45.45 to \$118.22.<sup>24</sup>

In fact, the problem lies in the manner in which housing authorities run their projects, not in any lack of federal support. The National Center for Neighborhood Enterprise issued a report last year, *The Silent Scandal: Management Abuses in Public Housing*,<sup>25</sup> which documents widespread PHA ineptitude and corruption. According to the report, PHA officials and their employees routinely have rigged bids, stolen supplies, and embezzled funds. Often, renovation work is shoddy, and records are lost. Conditions became so bad in Philadelphia that HUD this May seized control of the Philadelphia Housing Authority, the nation's fourth largest, to manage its projects for a year.<sup>26</sup> The Philadelphia PHA management was so corrupt that at one point it was reserving HUD subsidies to support apartments that had been demolished.

No amount of taxpayers' money will clean up the current public housing mess unless the structure of ownership is changed. Even if HUD took over all badly run authorities this year,<sup>27</sup> many projects still would be years away from being habitable. The lack of ac-

---

23 *The Silent Scandal*, p. 1.

24 *The Many Faces of Public Housing*, *op. cit.*, p. 33. In large measure, this is because Congress instituted in 1969 a law placing a 25 percent cap on rent (later raised to 30 percent) as a proportion of tenant income. This law is often referred to as "the Brooke Amendment," named after its sponsor, then-Senator Edward Brooke, the Massachusetts Republican.

25 *The Silent Scandal*, *op. cit.*

26 See Dale Russakoff, "U.S. Seizes Philadelphia Public Housing Authority," *Washington Post*, May 21, 1992. A HUD-appointed "special master" now is running the project for six months, with HUD having the option to renew the contract for another six months. The PHA's role has been reduced to that of an advisory body.

27 In addition to the Philadelphia PHA, with some 80,000 residents and a \$150 million annual budget, HUD has seized housing authorities in Bridgeport (CT), Chester (PA), East St. Louis (IL), and Passaic (NJ).

countability inherent in public ownership, far more than the size of taxpayer subsidies, is at the core of PHA difficulties.

**MYTH #5:** "Public housing residents have little or no interest in ownership."

Some critics of homeownership claim that notwithstanding other objections to the sale of public housing, there is little desire among tenants to become owners. To support this argument, they point to surveys of residents showing satisfaction with PHA management, and to anecdotal quotes from tenants who claim no interest in buying.<sup>28</sup> But these surveys and anecdotes do not tell the whole story. For one thing, the elderly and the disabled constitute some 30 percent of all project households, and such tenants in any kind of rental housing generally are reluctant to buy.<sup>29</sup> Many younger tenants, in fact, would like to buy, but cannot. The lack of projects where tenants have bought their dwellings is due more to PHA resistance than the tenants' lack of interest.

For another thing, tenants often lack basic information on their options and are unaware of even their right to buy—and thus express little enthusiasm about homeownership. Public housing authorities by law must inform tenants of their right to purchase their dwellings. But many are not doing this, recognizing that such information would be damaging to the interests of PHA managers.

**MYTH #6:** "Transferring public housing to tenants without permission of PHAs is unconstitutional."

When all else fails, opponents of public housing resident ownership invoke the Constitution. Earlier this year, Christopher Hornig and Megan Glasheen, of the Washington, D.C.-based law firm, Reno, Cavanaugh & Hornig, authored a legal brief entitled "Public Housing Authorities and HOPE 1: May HUD Give Away What It Doesn't Own?"<sup>30</sup> Their answer: "No." The firm serves as legal counsel for the Council of Large Public Housing Authorities.

**Violating Due Process Rights.** The authors argue that HOPE, along with Kemp's Perestroika, are illegal takings of PHA property, and thus unconstitutional. The reasoning is as follows. Since PHAs are the owners of public housing, they must grant consent to HUD or any other agency seeking to transfer ownership of projects on behalf of residents. Since neither HOPE nor Perestroika require PHA consent, these measures violate due process rights of the public housing authorities. Hornig and Glasheen go on to argue that even with just compensation, these programs would deny housing authorities basic rights that other property owners enjoy. There is no assurance that HUD must offer a

- 
- 28 See P.J. O'Rourke, *A Parliament of Whores: A Lone Humorist Attempts to Explain the Entire United States Government*, New York: Atlantic Monthly Press, 1991, p. 135. The author, it should be noted, makes as damning a case against public housing as can be imagined.
- 29 See NAHRO, *The Many Faces of Public Housing*, p. 60. This ratio is not an accident. Some PHAs actively seek elderly tenants. The New York City PHA has a long-standing policy of ensuring that one-third of its public housing residents are elderly. See Jane Fritsch, "New York Agency Cuts Apartments for the Homeless," *New York Times*, August 19, 1992.
- 30 For a summary of the brief, see "HOPE 1 Guidelines Violate PHAs' Rights, CLPHA Counsel Says," *Housing and Development Reporter*, June 22, 1992, pp. 103-04.

PHA a fair price for the property. Even if HUD did, the authors argue, it would be overstepping its legal bounds: a HOPE purchase is not equivalent to eminent domain takings because such a property transfer cannot be justified as serving a "public purpose."

This is a strange argument, based on a misreading of the nature of the public housing program. Public housing is not private property. Public housing was established under the United States Housing Act of 1937, and under state and local enabling laws. Public housing authorities, as creatures of higher levels of government, have no inherent "right" to own property. Thus, when a public housing authority builds and runs a project, it is not doing so as a private owner. A PHA receives the right to do what it does only from its legal commitment to operate projects in accordance with the public purpose established by Congress. That purpose is to provide decent, safe, and sanitary housing for people whose incomes make it difficult for them to afford such housing elsewhere.

It is thus not only a right, but a duty, of a higher level of government to remove privileges of ownership from PHAs who, over a sustained period, fail to honor their mission. The problem is that HUD officials, long reluctant to engage in protracted conflict with the local housing authorities, repeatedly have let inept and corrupt PHAs operate without restraint. Only under Secretary Jack Kemp has HUD made a concerted effort to crack down on corruption and mismanagement.

The opposition to public housing resident ownership is not motivated by high-principled regard for the Constitution. It comes from raw self-interest. The simple fact is that housing authorities, as individual bodies and as affiliates of organizations such as the Council of Large Public Housing Authorities, the National Association of Housing and Redevelopment Officials, and the Public Housing Authorities Directors Association, have a financial interest in maintaining their management and ownership of public housing. They do not want to relinquish their power and income, regardless of how much residents might benefit from owning their projects. Because Secretary Kemp's initiatives directly challenge these interests, it is not surprising that their leadership is trying to discredit the program.

## CONCLUSION

Resident management and ultimate ownership of public housing is a concept that will work, if given a chance to do so. Congress can make this chance a reality. It should ignore opposition from public housing interest groups, making sure that sufficient funding is earmarked each year for HOPE I, and that Kemp's Perestroika proposal is enacted in full form. Money to fund these programs should be diverted from expensive construction programs. Congress also should focus ownership efforts on distressed public housing projects.

In addition, lawmakers should loosen existing rules on HOPE I concerning sale and resale of dwellings. HOPE is an excellent program, but also a product of compromises needed to win enactment. Many of the regulations make sale procedures cumbersome and time consuming. This gives PHAs plenty of opportunity to thwart would-be buyers.

It is time for Congress to let more public housing residents own their apartments. Initiatives such as HOPE I and Perestroika do just that. But for these bold approaches to make a difference, lawmakers must resist the intense disinformation campaign designed to dis-

credit resident ownership in favor of continuing political dominance by public housing interests. It is the tenants who stand to gain the most from such change. If Congress truly is concerned with the interest of residents, it will boost public housing homeownership.

Carl F. Horowitz, Ph.D.

Policy Analyst

*All Heritage Foundation papers are now available electronically to subscribers of "Town Hall," the conservative meeting place, and "NEXIS," the on-line data retrieval service. For information about Town Hall services, please call 1-(800) 441-4142. On Nexis, The Heritage Foundation's Reports (HFRPTS) can be found in the OMNI, CURRNT, NWLTRS, and GVT group files of the NEXIS library and in the GOVT and OMNI group files of the GOVNS library.*