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RESPECTING BEASTS

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this spectrum of factors may also explain the presence of recognition respect among inmates confined in modern prisons.

Though deprivation may promote recognition respect by inmates as a response to disrespectful treatment by staff, it is also as likely that inmates of the modern prison imported the concept. Thus, the reason inmates show one another the respect that all human beings deserve is as debatable as the source of the inmate culture generally. However, while significant, it is less important that we identify the basis for recognition respect among inmates than it is that we acknowledge that this desirable feature of the inmate culture exists and is replicable.

V. CONCLUSION

[T]hose who respect themselves believe that they are worth the effort it takes to consider their disappointments and failures as closely as their triumphs and successes. They believe that they are worth the effort needed to try again tomorrow and will set new goals, rather than remain satisfied with their present ability or level of maturity.¹⁷⁷

Is that not what we want from those we send to prison and then release into the community? Over forty years ago, the Commission on Law Enforcement and Administration of Justice recognized this principle, but today we have strayed far from that ideal. Instead, modern prisons withhold recognition respect from human beings at an expense of mounting recidivism rates.

The perception of others certainly influences one's self-respect and this idea is crucial to any model of prison management purportedly designed to meet the reintegration needs of those it houses. For inmates to maintain and foster a healthy sense of self-respect, prison management schemes must afford inmates the recognition respect due all people, by virtue of their being living, breathing human beings capable of rational thought. Withholding this type of respect can damage inmates and have devastating consequences for those seeking to readjust post-release.

¹⁷⁷ Roland & Foxx, *supra* note 11, at 271.

Defining one's self, managing one's day and creating one's life plan around the objective behaviors inherent in self-respect provide the knowledge and actions necessary to recognize the truth, associate with constructive rather than destructive individuals and social groups, and cope effectively with the loss of personal relationships. These behaviors also provide the skills to cope with unmet expectations in regards to personal successes.¹⁷⁸

Although the inmate culture has a number of negative attributes, it possesses at least one positive normative feature in that it demands respect among those it governs. On the inside, while failure to adhere unquestionably to this standard elicits a violent response exposing an unhealthy feature of the convict code,¹⁷⁹ the core of the concept "respect all others as human beings first" is instructive.

To promote successful reintegration, the modern prison should help an inmate foster a healthy sense of self, and it should look to the inmate culture for guidance. Respect is a vital principle for the incarcerated, for those who run prisons to ignore this principle reminds all of us that many still forget that "the doors of prisons swing both ways"¹⁸⁰ and that successful reintegration is not an ideal, it is a necessity.

¹⁷⁸ *Id.* at 274.

¹⁷⁹ Haney, *supra* note 139, at 10 (noting that hypervigilance to the demand for respect "can also lead to what appears to be impulsive overreaction, striking out at people in response to minimal provocation that occurs particularly with persons who have not been socialized into the norms of the inmate culture").

¹⁸⁰ JOAN PETERSILIA, WHEN PRISONERS COME HOME: PAROLE AND PRISONER REENTRY 20 (2005) (citing MARY BELLE HARRIS, I KNEW THEM IN PRISON xiii (1936) (Taken from a speech given upon retirement, Harris was the first female federal prison warden in the United States.)).

THE HOPE VI PARADOX: WHY DO HUD'S MOST SUCCESSFUL HOUSING DEVELOPMENTS FAIL TO BENEFIT THE POOREST OF THE POOR?

*Matthew H. Greene**

INTRODUCTION

In February of 2008, the United Nations (“UN”) Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, along with the UN Independent Expert on minority issues, issued a press release condemning the redevelopment of public housing in New Orleans after Hurricane Katrina.¹ The statement focused on the decision to replace demolished housing, despite the fact that “only a portion of the new housing units will be for residents in need of subsidized housing and the remainder will be offered at the market rate.”² For approximately 5,000 families who were displaced by the natural disaster, this redevelopment plan amounts to a denial of the right to return to

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¹ Press Release, Office of the United Nations High Comm’r for Human Rights, UN Experts Call On United States To Protect African-Americans Affected by Hurricane Katrina, U.N. Doc. HR08023E (Feb. 28, 2008) [hereinafter UN Report], available at <http://www.unog.ch> (follow “News and Media” hyperlink, then “Press Releases & Meeting Summaries” hyperlink, then “Human Rights Mechanisms (Special Rapporteurs and Experts)” hyperlink, then “Activities and Statements” hyperlink).

² *Id.*

their homes.³

The report stressed the severity of the deprivation to which low-income tenants⁴ would be subjected:

The right to an adequate standard of living enshrined in the Universal Declaration of Human Rights includes the right to adequate housing The inability of former residents of public housing to return to the homes they occupied prior to Hurricane Katrina would in practice amount to an eviction for those who returned or wish to return. International human rights law prohibits evictions from taking place without due process, including the right of those evicted to be given due notice and opportunity to appeal eviction decisions. It also requires the authorities to ensure that large-scale evictions do not result in massive homelessness and to consult those affected on relocation or alternative housing solutions.⁵

This UN Report draws attention to the serious problems associated with replacing New Orleans public housing with mixed-income developments. Although limited to the post-Katrina context, the UN Report identifies flaws that are common to public housing redevelopment efforts across the country. Indeed, the report inadvertently illustrates problems that are endemic in one of the largest housing development projects that the Department of Housing and Urban Development (“HUD”) currently runs.

Federally financed housing projects are a major part of HUD’s effort to increase access to affordable housing free from

³ *Id.*

⁴ The term “low-income” is a term of art used by the Department of Housing and Urban Development to determine eligibility for subsidized housing. Low-income limits are generally set at 80% of the area median family income level, however these are often adjusted to account for other metropolitan economic factors. *See* Fiscal Year 2008 HUD Income Limits Briefing Material, available at <http://www.huduser.org/datasets/il/il08/IncomeLimitsBriefingMaterial.pdf> (“The Department of Housing and Urban Development (HUD) is required by law to set income limits that determine the eligibility of applicants for HUD’s assisted housing programs.”). For the purposes of this article, the term “poor” is interchangeable with the HUD definition of low-income.

⁵ UN Report, *supra* note 1.

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discrimination,⁶ constituting over 60% of HUD's total budget request for 2008.⁷ HOPE VI⁸ is one of the programs that HUD employs for funding public housing projects and, according to a wide variety of commentators, it is one of the most successful.⁹ The program is designed to replace substandard public housing developments, which currently accommodate a uniformly poor population, with refurbished units to provide housing to a heterogeneous community with varied incomes.¹⁰ This type of housing development is commonly referred to as mixed-income housing.

⁶ See U.S. DEP'T OF HOUS. & URBAN DEV., HUD STRATEGIC PLAN: FY 2006-2011 39 (2006) [hereinafter HUD STRATEGIC PLAN], available at http://www.hud.gov/offices/cfo/reports/hud_strat_plan_2006-2011.pdf.

⁷ For FY 2008, HUD's total budget request was \$35.2 billion, \$21.3 billion of which was earmarked for public and Indian housing. U.S. DEP'T OF HOUS. & URBAN DEV., FISCAL YEAR 2008 BUDGET SUMMARY 3, 6 (2007), available at <http://www.hud.gov/about/budget/fy08/fy08budget.pdf>.

⁸ HOPE VI was created by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. No. 102-389, 106 Stat. 1571 (1993) (creating Homeownership and Opportunity for People Everywhere Grants), approved on October 6, 1992 by the 1993 Appropriations Act. See Harry J. Wexler, *HOPE VI: Market Means/Public Ends: The Goals, Strategies and Midterm Lessons of HUD's Urban Revitalization Demonstration Program*, 10 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 195 (2001) for a more detailed legislative history.

⁹ See generally Gordon Cavanaugh, *Public Housing: From Archaic to Dynamic to Endangered*, 14 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 228 (2005); Patrick E. Clancy & Leo Quigley, *HOPE VI: A Vital Tool for Comprehensive Neighborhood Revitalization*, 8 GEO. J. ON POVERTY L. & POL'Y 527 (2001); Eugene T. Lowe, *Mayors Push for Housing*, 13 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 319 (2004); Special Report, *The Experience at HUD*, 13 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 280 (2004); Wexler, *supra* note 8; Sean Zielenbach, *Catalyzing Community Development: HOPE VI and Neighborhood Revitalization*, 13 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 40 (2003).

¹⁰ See U.S. Dep't of Housing and Urban Dev., About HOPE VI, <http://www.hud.gov/offices/pih/programs/ph/hope6/about/> (last visited Oct. 29, 2008).

Through HOPE VI, HUD disburses federal funding upon completion of a specific plan by a local housing authority.¹¹ To receive a grant, the plan must stress the unique characteristics of a particular metropolitan area and demonstrate how the funds will be used in a way consistent with that particular housing market.¹² While the specific goals of each development vary based on the particular characteristics of the area, HOPE VI strives to eliminate the concentration of poverty by promoting mixed-income communities and creating more habitable and safe living spaces for residents.¹³ The hope is that, by meeting these two general goals, the development will create an environment that encourages behavioral changes in the poor and leads to steady employment and upward mobility for low-income tenants.¹⁴ In reality, however, projects funded by HOPE VI only accomplish these goals under very specific circumstances that are difficult to replicate. Moreover, in the majority of these developments, the burden for providing low-income housing options is shifted from HUD to the surrounding municipality.¹⁵

¹¹ See U.S. DEP'T OF HOUS. & URBAN DEV., HOPE VI PROGRAM AUTHORITY AND FUNDING HISTORY (2007), available at <http://www.hud.gov/offices/pih/programs/ph/hope6/about/fundinghistory.pdf>.

¹² Lynn E. Cunningham, *Islands of Affordability in a Sea of Gentrification: Lessons Learned From the D.C. Housing Authority's HOPE VI Projects*, 10 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 353, 357 (2001).

¹³ *Id.*

¹⁴ See HUD STRATEGIC PLAN, *supra* note 6, at 15–26. *But see* Andrea D. Haddad, *Subsidized Housing and HUD Projects: Economic Confinement on Low Income Families*, 31 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 243 (2005) (challenging HOPE VI's reliance on the causal influence of environment, given that when poorer residents are placed in wealthier neighborhoods, they still do not have the finances to take advantage of their new surroundings).

¹⁵ See Barbara L. Bezdek, *To Attain "The Just Rewards of So Much Struggle": Local-Resident Equity Participation in Urban Revitalization*, 35 HOFSTRA L. REV. 37 (2006). While recognizing the accuracy of the conclusions drawn in Bezdek's article, this article focuses more particularly on public housing tenants who rely on HUD for subsidized housing. In the case of these tenants, the cure of HOPE VI ends up being as bad, or worse, than the disease. *Id.* Furthermore, when HUD is no longer building units for subsidized tenants, the displaced then have to rely on the surrounding municipality to provide housing in an already stressed affordable housing market. *Id.* The further HUD

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Practice has shown that mixed-income housing, as a philosophy for providing public housing, does not benefit the targeted neighborhood or the municipality as a whole. The benefit of HOPE VI funding is reaped, for the most part, by the private investors who are recruited to leverage financing as a part of the HOPE VI application and by residents in surrounding neighborhoods who see their property values raised by a systematic dispersal of their low-income neighbors. This systematic dispersal leads to a physical revitalization of the public housing units and a repopulation of the area by a mixture of market-rate renters along with a small percentage of the original subsidized tenants. HUD claims to use HOPE VI to “demolish the most severely distressed public housing and . . . replace [it] with mixed income neighborhoods and developments.”¹⁶ What is omitted from this description is that very few subsidized former tenants have to be invited back to qualify as a mixed-income development that will still be eligible for federal public housing funding.

By contrast, the negative impact produced by the difference between HUD’s stated goals and actual results is felt by ever larger groups of people. Just as mixed-income housing is supposed to benefit both public housing tenants and the larger metropolitan area, as these goals become corrupted the effects are borne by the greater population of the city, not only the displaced residents.

In Part I of this article, I identify the two prevailing schools of thought to which HOPE VI critiques generally adhere. In the first school are financial and organizational critiques, which discuss the economic feasibility and sustainability of the program from a developmental perspective. In the second are cultural and individual critiques, which focus on how individual tenants are affected. Each of these points of view has generated both positive and negative reviews of HOPE VI, but few concentrate on the financial benefits that should be reaped by individual tenants under HOPE VI or the social impact that ensues with the dispersal of

strays from its responsibility to increase access to affordable housing for those most in need, the more stress is placed on the city or the state to pick up the slack. *Id.*

¹⁶ See HUD STRATEGIC PLAN, *supra* note 6, at 22.

public housing tenants and the correlating obligation on state and municipal authorities to build structures for tenants that are not included in the new development.

In Part II, I compare HUD's stated goals to the practical effects of its programs, specifically in three developments that HUD has hailed as great successes for HOPE VI. These examples show that HUD's conception of post-revitalization success does not match the goals upon which HOPE VI funding is premised. This inherent incongruity can be traced back to two factors: flaws in the criteria that are used to award grants, and the use of inappropriate criteria to evaluate the development once it is repopulated.

In Part III, I analyze one development that has experienced some of the successes that HOPE VI ostensibly strives for, and identify factors that led to sustainable benefits for tenants as well as the development as a whole. The catalyst in that development was grassroots organization and support from the city rather than HUD funding. Notably, neither of these characteristics factor meaningfully into the HOPE VI application or subsequent evaluation.

PART I—HOPE VI THROUGH TWO DIFFERENT LENSES

The mixed-income model has generated a number of positive reviews because, unlike traditional public housing, it theoretically decreases the concentration of poverty in metropolitan areas. More particularly, HOPE VI is well received because, rather than creating new housing units along the same substandard models that existed before, the funding is used to demolish uninhabitable public housing and rebuild structures that provide shelter while fitting aesthetically into their respective cities.¹⁷ These new public housing developments are designed along the principles of New Urbanist architecture and are meant to avoid isolating populations of poor people, often minorities, in bleak projects with substandard living conditions.¹⁸ By using funds to revitalize distressed, high-

¹⁷ See Cavanaugh, *supra* note 9, at 232.

¹⁸ Robert C. Ellickson, *Unpacking the Household: Informal Property Rights Around the Hearth*, 116 YALE L.J. 226, 275 (2006) ("New Urbanists, a highly influential school of urban planners, feature conventional dwelling units

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density public housing stock and create attractive developments that blend into existing neighborhoods, HOPE VI appeals to advocates for public housing tenants as well as to the residents of adjoining neighborhoods.¹⁹

However, this picture is neither as accurate nor as promising as it may seem. The push to revitalize frequently comes into direct conflict with the interests of tenants who inhabit the housing that must be demolished.²⁰ While HOPE VI is premised on an ability to determine how many market-rate units have to be created in order to change the culture of the development,²¹ tenant advocates are concerned with the number of units that are being reserved for subsidized renters.²² Oftentimes, a HOPE VI grant is approved according to a proposal that attempts to minimize this conflict.²³ During the implementation of the plan, however, this conflict inevitably resurfaces and the public housing authority must make a

in their communities, but seek to enhance contact among neighbors by, for example, including front porches and placing housing units close together.”).

¹⁹ Wexler, *supra* note 8, at 203–08. This article draws from the experiences of fellows from the Community Renaissance Fellows Program, a collaboration between HUD and Yale University between 1997 and 1999. The fellows were mid-career professionals chosen to focus on the transformation of public housing through HOPE VI, as well as neighborhood change in general. *Id.*

²⁰ Arthur M. Wolfson, *Lost in the Rubble: How the Destruction of Public Housing Fails to Account for the Loss of Community*, 9 CHAP. L. REV. 51 (2005); see UN Report, *supra* note 1.

²¹ Elvin K. Wyly & Daniel J. Hammel, *Islands of Decay in Seas of Renewal: Housing Policy and the Resurgence of Gentrification*, 10 HOUS. POL’Y DEBATE 711, 732 (1999), available at http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1004_wyly.pdf.

²² See Wolfson, *supra* note 20, at 64–65 (“[N]ew developments frequently contain significantly fewer public units than old developments.”).

²³ Cunningham, *supra* note 12, at 356 (noting that HUD scores grant applications according to five factors, one of which requires “an optimal income mix of one-third each for public housing, tax credit or other subsidized housing, and market rate rental or home-ownership”); see, e.g., Ehan Barlieb, *HOPE VI Revitalization Grants: Weighing the Costs and Benefits, and Considering a Solution in the Context of Liberty City, Miami*, 15 U. MIAMI BUS. L. REV. 201, 205–06 (2007) (describing the mix of development in the Scott Homes Project).

decision in favor of either the tenants or the residents of the surrounding municipality.²⁴

This conflict of interest is at the heart of any examination of HOPE VI.²⁵ The different analyses are generally based on the perspective of the author and can be broken down into two main categories: those that judge the merits of the program from a financial standpoint, and those that focus on the cultural impact on individual tenants, families and communities that rely on public housing. Furthermore, the critiques that examine the financial viability of HOPE VI projects generally focus on the benefits and drawbacks for HUD or private investors who contribute capital. On the other hand, the critiques that adopt a cultural perspective focus on the individuals and communities who are affected rather than the principals who fund the developments.

A. Financial/Organizational Critiques

The underlying presumption in most of the financial and organizational critiques is that it is impossible to construct an ideal program that fulfills every housing need.²⁶ Assuming this is true, it

²⁴ See, e.g., Barlieb, *supra* note 23, at 205–06; see also U.S. DEP'T OF HOUS. & URBAN DEV., HOPE VI DEMOLITION GRANT MANAGEMENT AND MONITORING FOR FIELD OFFICES 7 (2007), available at <http://www.hud.gov/offices/pih/programs/ph/hope6/grants/demolition/gmmonitoring.pdf> (noting the contrast between procedures for reducing the amount of units to be demolished, which requires a reduction of the HOPE VI grant, and for demolishing other units than those that were proposed, which only requires that the substitute units to be demolished meet the same requirements as those in the proposal).

²⁵ See Wexler, *supra* note 8, at 225 (“[O]ne of the central challenges of HOPE VI is whether the PHA, subject to HUD guidance and oversight, can fashion a local HOPE VI plan that balances the demands of a successful mixed income development . . . against the needs of low income households that have come to depend on public housing.”); see also Bezdek, *supra* note 15, at 61–73 (discussing the effects of urban redevelopment on resident and discussing how the costs of redevelopment are borne by residents while the benefits are reaped by a small class of “propertied citizens”).

²⁶ See, e.g., Kristen D.A. Carpenter, *Promise Enforcement in Public Housing: Lessons From Rousseau and Hundertwasser*, 76 TUL. L. REV. 1073 (2002); Wexler, *supra* note 8, at 205 (“An economist of the Chicago school

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follows that the wisest course of action is to fund programs that will provide housing to as many low-income renters as possible while simultaneously remaining reasonable in economic terms for the organizations and investors who fund the development.²⁷ This is likely to make the program sustainable over a long term basis, which is better than a more idealistic program that is less likely to succeed in its goals.

Many mixed-income advocates praise HOPE VI because it offers flexibility in financing options that other social services programs do not.²⁸ This flexibility enables the infusion of private sector resources into distressed neighborhoods on terms that are attractive to private investors.²⁹ Not only is this seen as beneficial for the tenants receiving public housing, but the program is also politically attractive because it courts private investment while providing a social service.³⁰

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.”); Zielenbach, *supra* note 9 (describing how HOPE VI is unequipped to meet goals that would require an economic development program and so should focus on the goals that can be accomplished through physical redevelopment of real estate and the provision of educational and social services).

²⁷ See, e.g., Carpenter, *supra* note 26, at 1080; Wexler, *supra* note 8, at 205. See generally Wayne Hykan & Eric Zinn, *Leases in Affordable Housing Transaction*, 13 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 185, 189 (2004) (discussing the occasionally independent interests of the various parties to a HOPE VI transaction and, in a wider affordable housing context, the necessity for compromise).

²⁸ See Special Report, *supra* note 9, at 302–03 (HOPE VI was originally implemented as a temporary program, so regulations and restrictions were not developed to constrain the funding possibilities); Clancy & Quigley, *supra* note 9, at 535–37; Hykan & Zinn, *supra* note 27, at 195.

²⁹ *Id.*

³⁰ Clancy & Quigley, *supra* note 9, at 538–39 (“Entrepreneurial mayors view HOPE IV as an important tool with which to leverage private investment in support of a larger neighborhood development agenda.”); see also Special Report, *supra* note 9, at 302 (“[Financial] flexibility is certainly a factor in the outstanding involvement of the private sector in the HOPE IV mixed-finance program.”).

Along with financing flexibility, there are claims that HOPE VI is a success because it was developed as an experimental program, and therefore rules and regulations were not developed to artificially constrain financing arrangements and the method of pursuing the goals of the programs.³¹ In theory, this allows community leaders and the local Public Housing Authority (“PHA”) to design a financing plan that is uniquely suited for their metropolitan area.³² Such plans can include federal funds as well as private investment, with the hope that private investors will continue to remain involved in the project to protect their financial interest.³³ This self-interested oversight is seen as a check against bureaucratic incompetence.³⁴

However, there are also a number of negative critiques from this organizational perspective. Many claim that the administrative problems that often plague HOPE VI developments—from the application phase, through the funding and rebuilding process, and during the actual administration of the rebuilt development—are inevitable products of the manner in which HOPE VI funds are distributed.³⁵ Specifically, these problems can be linked to leadership voids and corruption at the local level.³⁶ Since local leadership is vital to putting together the individualized financing plans that HOPE VI applications seek, weakness in such leadership has the potential to undermine the entire program.³⁷ A large part of the debate over HOPE VI is dedicated to the degree of authority which should be vested in local housing authorities and whether or

³¹ Special Report, *supra* note 9, at 302–03.

³² *See id.*

³³ *See generally id.* at 302 (discussing the involvement of the private sector as a reason for the success of HOPE VI).

³⁴ Clancy & Quigley, *supra* note 9, at 535–36.

³⁵ *See, e.g.,* Cunningham, *supra* note 12; Michael S. Fitzpatrick, Note, *A Disaster in Every Generation: An Analysis of HOPE VI: HUD’s Newest Big Budget Development Plan*, 7 *GEO. J. ON POVERTY L. & POL’Y* 421 (2000); Paulette J. Williams, *The Continuing Crisis in Affordable Housing: Systemic Issues Requiring Systematic Solutions*, 31 *FORDHAM URB. L.J.* 413 (2004).

³⁶ *See* Clancy & Quigley, *supra* note 9.

³⁷ *Id.*

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not local groups are best suited for implementing the social service programs that HOPE VI often promises to provide.³⁸

The literature that adopts this perspective generally seeks to make the administration of public housing funds a more efficient process. Presumably, a more financially stable program will have a higher chance of succeeding over a longer period of time. Unfortunately, these critiques often assume that as long as money is moving efficiently from funding to implementation, the best interests of the recipients of public housing are being served. These articles tend to lack a conception of the individuals who inhabit the public housing developments.³⁹ Furthermore, each development is often evaluated over the life of the housing project.⁴⁰ The fact that the residents who inhabit the development are constantly in flux is either overlooked or ignored. A separate group of articles focuses much more exclusively on the perspective of the individual tenants and examines whether or not the funding is creating any identifiable benefit in the lives of tenants who rely on federally subsidized housing.

B. Cultural/Individual Critiques

A common theme in the literature that focuses on the perspective of the individual is that federal housing projects value financial feasibility to the detriment of individual tenants.⁴¹ There is an even more pervasive argument that public housing in general, and HOPE VI in particular, focuses on the politics and economics of providing housing for the predominately minority tenants while ignoring the organic cultural value of public housing communities that have inherent worth.⁴² Some advocates claim that a legitimate

³⁸ See Williams, *supra* note 35.

³⁹ See sources cited *supra* note 26.

⁴⁰ See *infra* text accompanying notes 115–28.

⁴¹ See Scott L. Cummings, *Recentralization: Community Economic Development and the Case for Regionalism*, 8 J. SMALL & EMERGING BUS. L. 131 (2004); Ngai Pindell, *Is There Hope for HOPE VI?: Community Economic Development and Localism*, 35 CONN. L. REV. 385 (2003); Wolfson, *supra* note 20.

⁴² Pindell, *supra* note 41.

culture of public housing exists that should be valued and developed rather than destroyed to start again from scratch.⁴³ However, any organic community that exists in a development that is deemed distressed is automatically judged as valueless by HOPE VI standards.⁴⁴ From this perspective, HOPE VI is characterized as an inherently destructive program which presumes that many existing public housing developments are worthless, so funds would be better spent destroying, rebuilding, and repopulating the development rather than attempting to improve flawed but existing communities from the ground up.⁴⁵

From this foundation springs the criticism that funding is allocated and evaluated on a development-wide basis rather than looking at what is best for individuals and families who are dependent on subsidized housing.⁴⁶ There is an argument that, while HOPE VI might create physical structures that remedy the problem of poverty concentration and urban blight, the losses that public housing tenants are forced to incur are hardly outweighed by any benefits they eventually attain. Even HOPE VI advocates will concede that some residents will have to be displaced via Section 8 vouchers in order to create the desired mixture of tenants,⁴⁷ but they rely on the assertion that this program creates the highest benefit for the largest group of people possible.⁴⁸ It is questionable whether empirical data supports this assertion.⁴⁹

⁴³ See, e.g., Wolfson, *supra* note 20, at 54–62.

⁴⁴ See generally Pindell, *supra* note 41, at 390, 415.

⁴⁵ *Id.* at 437 (concluding that HOPE VI could have been used to overcome past failures in public housing efforts, but that the primary motivation continues to be “revitalizing cities instead of the poor people within those cities”).

⁴⁶ See generally Pindell, *supra* note 41.

⁴⁷ Section 8 Vouchers (officially renamed Housing Choice Vouchers in 1998) come with their own particular set of problems. See generally Cara Hendrickson, *Racial Desegregation and Income Deconcentration in Public Housing*, 9 GEO J. ON POVERTY L. & POL’Y 35 (2002).

⁴⁸ See Clancy & Quigley, *supra* note 9, at 531–32 (noting criticism concerning shrinking stock of public housing ignores the fact that existing public housing is inadequate).

⁴⁹ See Paul C. Brophy & Rhonda N. Smith, *Mixed-Income Housing: Factors for Success*, 3 CITYSCAPE 2, 3 (1997), available at <http://www.huduser.org/Periodicals/CITYSCPE/VOL3NUM2/success.pdf> (describing how

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Although this replacement of public housing with mixed-income developments results in a decrease in the total amount of public housing units, some argue that this is justified because the existing units were uninhabitable to begin with.⁵⁰ If developments are razed and rebuilt with a percentage of the new units dedicated for market-rate rentals, then fewer people are afforded subsidized housing. HUD claims that the amount of units available to subsidized tenants is not being decreased because any habitable units that are demolished are replaced with revitalized structures, and any units that are remade as market-rate rentals were uninhabitable to begin with.⁵¹ Again, there is still an active debate whether or not the empirical evidence favors this explanation.⁵²

HOPE VI attempts to counter these problems by ostensibly requiring tenant input for the new development.⁵³ In reality, though, this is usually a meaningless gesture meant to minimize negative attention on the project.⁵⁴ In some cases, the “tenant input” is simply a rubber stamp that is supposed to validate the

anticipated results, even if present, are difficult to quantify). This is particularly clear when the authors explain their lessons and hypotheses for further research that emphasizes the difficulties in achieving the goals of HOPE VI and the particularized circumstances that contribute to success. *Id.* at 23–28.

⁵⁰ Clancy & Quigley, *supra* note 9, at 531; Williams, *supra* note 35, at 460–61.

⁵¹ Clancy & Quigley, *supra* note 9, at 531.

⁵² See e.g., Cavanaugh, *supra* note 9, at 236 (“[O]ne-to-one replacement of demolished or disposed-of units . . . paved the way to the later rebuilding successes of HOPE VI”); Wexler, *supra* note 8, at 205 (refuting the argument that public housing resources are being misallocated through mixed income housing by advising that we “tolerate some level of inequity . . . to produce a greater benefit to the larger community”); Williams, *supra* note 35, at 439 (noting the controversy surrounding whether HOPE VI replaced deteriorated housing with “a sufficient number of new units to house everyone who was displaced).

⁵³ Susan Bennett, *The Possibility of a Beloved Place: Residents and Placemaking in Public Housing Communities*, 19 ST. LOUIS U. PUB. L. REV. 259, 304 (2000); Cummings, *supra* note 41, at 142; Williams, *supra* note 35.

⁵⁴ See sources cited *supra* note 53; see also Williams, *supra* note 35, at 463 (“There is apparently an assumption that the people’s interests will be voiced and protected by the institutional players.”).

project from the perspective of the nominal beneficiaries.⁵⁵

In fact, when HOPE VI builds a new community, it is usually doing so by selectively choosing who will repopulate the units and excluding many of the lowest-income tenants.⁵⁶ Many of the articles in favor of HOPE VI quote statistics that show higher incomes relative to the mean for tenants after redevelopment, as well as other group economic indicators.⁵⁷ However, these statistics fail to account for the tenant turnover, and often fail to isolate the subsidized tenants when examining any increase in wealth or decrease in poverty.⁵⁸ There is no doubt that redeveloped communities will boast better economic statistics, precisely because they have been recreated as mixed-income communities. That said, it remains to be seen whether any behavioral characteristics are transferred between members of different economic classes through proximity. Statistics that are offered for such developments fail to address whether any benefit is being reaped by low-income tenants.

Finally, HOPE VI is often accused of mirroring and accelerating the process of gentrification because the developments that fare the best in the application process also happen to be the

⁵⁵ Bezdek, *supra* note 15, at 58; Audrey G. McFarlane, *When Inclusion Leads to Exclusion: The Uncharted Terrain of Community Participation in Economic Development*, 66 BROOK. L. REV. 861, 868 (2001).

⁵⁶ Bennett, *supra* note 53, at 298–301; Florence Wagman Roisman, *Keeping the Promise: Ending Racial Discrimination and Segregation in Federally Financed Housing*, 48 HOW. L.J. 913, 918–19 (2005); *see* Cummings, *supra* note 41, at 143 (noting the importance of gentrification in the approval of Hope VI applications).

⁵⁷ *See, e.g.*, Zielenbach, *supra* note 9 (comparing eight HOPE VI neighborhoods versus citywide statistics in 1990 along with the same data from 2000). This data is used to support the conclusion that neighborhood per capita income increased over time in the HOPE VI developments relative to the city. However, there is no indication that the author factored in the extensive tenant turnover that takes place in a HOPE VI mixed income development. The change from a predominantly poor development to a mixed-income development would account for the higher per capita income without any evidence of low-income tenants benefiting from the changed demographics.

⁵⁸ *Id.*

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ones that are most likely to attract private investment.⁵⁹ Moreover, in order to attract this private investment, the development plan needs to push out subsidized renters and attract market-rate tenants who will infuse cash into the neighborhood's local businesses.⁶⁰ Thus, HOPE VI's focus on attracting private investment renders sustainable low-income communities less desirable grant recipients than poor developments that are already being encroached upon by expanding neighborhoods of wealthier residents.

The problem with critiques on these bases is that, while they recognize the human element to these problems, they generally ignore the very legitimate organizational problems that are most likely to shape HUD and individual housing authorities' policies. These articles generally set a baseline for how HUD should value individual people's housing needs, but they fail to consider the impact to the surrounding community or the feasibility of implementing changes from the perspective of a federal program. For the most part, these cultural and individual critiques find favor with like-minded commentators, but fail to persuade the government to make any meaningful changes to how public housing funds are administered.

PART II—STATED GOALS VERSUS PRACTICAL EFFECTS

According to a HUD-published study,⁶¹ a HOPE VI development will ideally meet the following goals:

- The behavior patterns of some lower income residents will be altered by emulating those of their higher income neighbors. The quality of the living environment, not housing quality alone, leads to

⁵⁹ Cunningham, *supra* note 12, at 354–56 (“Because of the severe funding limitations for major renovations, HUD developed the public/private partnership approach to leverage the scarce public dollars needed to replace the worst projects with significant private funding sources.”); John A. Powell & Marguerite L. Spencer, *Give Them the Old ‘One-Two’: Gentrification and the K.O. of Impoverished Urban Dwellers of Color*, 46 *HOW. L.J.* 433, 451–53 (2003).

⁶⁰ See sources cited *supra* note 59.

⁶¹ See Brophy & Smith, *supra* note 49, at 6.

upward mobility.

- Nonworking low-income tenants will find their way into the workplace in greater numbers because of the social norms of their new environment (for example, going to work/school every day) and the informal networking with employed neighbors.
- The crime rate will fall because the higher income households will demand a stricter and better enforced set of ground rules for the community.
- Low-income households will have the benefit of better schools, access to jobs, and enhanced safety, enabling them to move themselves and their children beyond their economic condition.⁶²

I will refer to these four goals as follows: 1) behavioral transference in the home; 2) behavioral transference in work habits; 3) community enforced rules; and 4) proximity to better schools and jobs. Unfortunately, few developments actually accomplish these goals, and when they do it is generally because of circumstances that arose outside of HUD's control.⁶³ Nevertheless, HUD lavishes praise on HOPE VI developments as a successful example of public housing.⁶⁴ In this section I examine three HOPE VI developments to identify how HUD defines success. I then demonstrate how HUD's self-proclaimed success stories fail to meet the aforementioned four goals.

⁶² *Id.* at 6.

⁶³ See Fitzpatrick, *supra* note 35 (focusing on the Cuyahoga development in Cleveland, Ohio and how it was able to succeed despite HOPE VI funding).

⁶⁴ See U.S. Dept. of Hous. & Urban Dev., Hope VI: Community Building Makes a Difference, Executive Summary (2000), available at <http://www.huduser.org/publications/pubasst/hope2.html> [hereinafter Executive Summary].

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*A. Three Developments: The Disconnect Between HUD's
Conception of Success and the Goals of HOPE VI**1. Centennial Place – Atlanta*

One development that HUD considers a success is the Centennial Place development in Atlanta, Georgia.⁶⁵ This development received a Blue Ribbon Best-Practices Award in 1998.⁶⁶ In particular, HUD publicizes access to better schools, a new police substation that has reduced crime in the area, and a new YMCA community center as evidence of its success.⁶⁷ According to HUD, this development is evidence that “[p]ublic housing communities can be effective training grounds for marginalized citizens who want to become self-sufficient—and a catalyst for revitalization of the larger neighborhood.”⁶⁸

However, the project has sparked criticism because the development was only completed by pushing out the majority of low-income tenants that had been living there.⁶⁹ The development

⁶⁵ The Atlanta Housing Authority received a \$42 million award in 1993 to rebuild Techwood/Clark Howell into Centennial Place. The development was completed just in time for the 1996 Olympics, which were hosted in Atlanta. See News Release, U.S. Department of Housing and Urban Development, HUD Awards \$35 Million Grant to Atlanta to Transform Public Housing, Help Residents (Sept. 28, 2001), *available at* <http://www.hud.gov/news/release.cfm?content=pr01-086.cfm>.

⁶⁶ See Fitzpatrick, *supra* note 35; see also Henry Cisneros & Bruce Katz, *Keep Hope (VI) Alive*, BROOKINGS (May 17, 2004), *available at* http://www.brookings.edu/metro/20040517_metroview.htm; Julia Vitullo-Martin, *Follow Atlanta Housing Model*, ATLANTA JOURNAL-CONSTITUTION, (Aug. 24, 2006), *available at* http://atlantahousingauth.org/pressroom/index.cfm?Fuseaction=printpubs_full&ID=151; Field Works, Best Practices: Model Program and Databases, November/December 1999, <http://www.huduser.org/periodicals/fieldworks/1299/fworks3.html> (description of John J. Gunther Blue Ribbon Best Practices Award).

⁶⁷ See Executive Summary, *supra* note 64 (describing “[h]ow the groundbreaking HOPE VI public housing revitalization program builds human and social capital and restores urban neighborhoods”).

⁶⁸ *Id.*

⁶⁹ See SUSAN J. POPKIN, ET AL., A DECADE OF HOPE VI: RESEARCH FINDINGS AND POLICY CHALLENGES, THE URBAN INSTITUTE, THE BROOKINGS

originally contained 1,081 subsidized units. After reconstruction, the development was designed to have 900 units: 360 market-rate rentals, 180 affordable rent units for moderate income tenants, and 360 public housing units.⁷⁰ Only 12% of the residents living at the site when the grant was awarded returned after reconstruction.⁷¹ Five hundred families were given alternative public housing, Section 8 vouchers or administrative assistance in finding housing, while an additional 500 families were given no assistance.⁷² The Atlanta Housing Authority offers no data on their whereabouts.⁷³

Despite the fact that HOPE VI was ostensibly funded in order to help low-income residents, only one-third of the Centennial Place units were reserved for public housing.⁷⁴ Moreover, those reserved units were not required to be granted to the families who had tolerated the distressed living conditions that justified HOPE VI funding.⁷⁵ Thus, while the new development was praised for its ability to attract market-rate renters and leverage private investment while providing a more desirable living space for public housing recipients,⁷⁶ the goals of HOPE VI are not achieved

INSTITUTION (2004), available at <http://www.urban.org/publications/411002.html>.

⁷⁰ Jerry Portwood, *Techwood Turnaround: Centennial Place Takes the Sting Out of the Low-Income Stigma*, CREATIVE LOAFING, Feb. 6, 2002, available at

http://atlantahousingauth.org/pressroom/index.cfm?Fuseaction=printpubs_full&ID=30 ("Some housing was lost in the process. As Techwood, the community had close to 1,100 units, all for public housing tenants. Today, there are 900 units, with a third set aside for public housing tenants, who devote 30 percent of their income to rent. But the ones who do live in Centennial Place seem to have no complaints."); see also Hon. William Campbell, *Urban Holism: The Empowerment Zone and Economic Development in Atlanta*, 26 FORDHAM URB. L.J. 1411 (1999) (essay written by former mayor of Atlanta); Sabrina L. Williams, *From Hope VI to Hope Sick?*, DOLLARS & SENSE, July-Aug. 2003, available at <http://www.dollarsandsense.org/archives/2003/0703williams.html>.

⁷¹ Pindell, *supra* note 41, at 437 n.121.

⁷² Fitzpatrick, *supra* note 35, at 443.

⁷³ *Id.* at 442.

⁷⁴ Portwood, *supra* note 70.

⁷⁵ *Id.*

⁷⁶ See, e.g., Campbell, *supra* note 70, at 1412.

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when the majority of subsidized tenants are not invited back to the development. Behavioral patterns cannot be transferred in the home or the work place when most of the subsidized tenants never come into contact with the market-rate renters.

Furthermore, any community-enforced rules are likely to be created by the new middle-income renters. The subsidized tenants that are invited back become a minority in the new community, and it is doubtful that they are given much of a role in creating or enforcing any sort of community rules. Finally, while better schools, a new police station and community center are signs of progress, the low-income residents who were given alternative public housing do not reap the benefits of these improvements. The needs of most low-income renters were ignored in order to maximize private investment and attract market-rate residents.

2. Townhomes on Capitol Hill – Washington D.C.

Townhomes on Capitol Hill illustrates yet another example where low-income tenants have been disadvantaged by the inherent tension between the interests of low-income residents in a development and the desire to build a development that also benefits the surrounding municipality.⁷⁷ This development is a few blocks from the U.S. Capitol, in an area that has undergone substantial gentrification over the last twenty years.⁷⁸ Due to the area's desirable location, housing prices became inflated to the point that no low-income renter could hope to buy or rent in the area,⁷⁹ heightening the need for an affordable alternative for people on housing assistance.

⁷⁷ See Cunningham, *supra* note 12, at 357–58 (discussing three other DCHA projects having similar gentrifying effects); see also District of Columbia Housing Authority, HOPE VI Newsletter, <http://www.dchousing.org/hope6/index.html> (last visited Oct. 29, 2008) (offering DCHA's explanation for its goals through implementation of HOPE VI funds and its self-appointment as a "leader nationwide in the design and execution of innovative and successful HOPE VI projects").

⁷⁸ Cunningham, *supra* note 12, at 357.

⁷⁹ *Id.*

The HOPE VI funding in this project replaced 134 existing public housing units with a mix of market-rate and subsidized units as well as thirteen fee-simple, market-rate townhomes.⁸⁰ Instead of relying on public housing operating subsidies, the units were designed to be internally subsidized.⁸¹ For this purpose, the 134 public housing units were replaced with 67 units reserved for families at 50% to 115% of median income, 34 for families at 25% to 50% of median income, and just 33 for families at 0% to 25% of median income.⁸²

The District of Columbia Housing Authority (“DCHA”) promotes this development as a remarkable success.⁸³ The project is praised for successfully integrating the higher income community at its northern border with the lower income community at its southern border,⁸⁴ “while receiving no subsidy and maintaining a budget surplus.”⁸⁵ The success of the mixed-income structure is further publicized by evidence that the market-rate units sold very quickly and that the DCHA continues to receive calls from interested purchasers.⁸⁶

Unfortunately, this development served as the last push out for the few remaining low-income tenants in the area. The project ultimately succeeded in building only a few units for the most heavily subsidized renters. Lynn Cunningham, a professor of clinical law at George Washington University Law School and one of nine commissioners on the governing board of the DCHA, summed up the disparate results:

From the perspective of the few former residents who get the opportunity to own a lovely new co-op home, the project is a great success. From the perspective of the

⁸⁰ District of Columbia Housing Authority, Ellen Wilson/Townhomes on Capitol Hill, http://www.dchousing.org/hope6/ellen_wilson_hope6.html (last visited Oct. 29, 2008).

⁸¹ *See id.* (providing a breakdown of the number and type of housing in this development’s cooperative structure).

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ District of Columbia Housing Authority, *supra* note 80.

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approximately 20,000 low-income households on the waiting list for DCHA housing or Section 8 vouchers, it looks like another tool in the hands of the area's gentrifiers to reduce the number of affordable units.⁸⁷

Much like the Centennial Place development, it is difficult to see how subsidized tenants will attain the goals of HOPE VI when they are not invited to return to Capitol Hill. Behavioral transference, community enforced rules and proximity to better resources all require that a tenant actually be invited to reside in the new development. What made the Capitol Hill development even more deleterious to low-income renters is that it actively hastened the gentrification that was reducing their housing options initially.⁸⁸ The goals of HOPE VI are, at best, only achieved by the small minority of subsidized renters who were allowed to return. These goals, though, were nearly impossible to meet given the active effort to transform the area so that low-income residents were not able to live there at all.

⁸⁷ Cunningham, *supra* note 12, at 357.

⁸⁸ See Powell and Spencer, *supra* note 59, at 453 (“[E]ven if it admits the negative effects of its strategies, the government believes that higher property taxes resulting from gentrification will eventually be redistributed, for a net gain for everyone. But with the current budget deficit, drastic cuts in services, and tax cuts for corporate capital, this does not seem plausible. In fact, rather than describing gentrification as creating ‘islands of renewal in seas of decay,’ Wyly and Hammel believe it is best described as leaving behind ‘islands of decay in seas of renewal.’”). *But see* J. Peter Byrne, *Two Cheers for Gentrification*, 46 *How. L.J.* 405 (2003). Byrne claims that gentrification, though it reduces the stock of affordable housing options, is actually beneficial for poor and ethnic minorities because this reduction in housing is due to the failure of government to secure affordable housing more generally rather than the fault of gentrification. Moreover, since gentrification attracts more affluent residents, there is a greater opportunity to aggressively finance affordable housing. This contention is debatable at best because, among other things, the ability to finance affordable housing through a greater tax base is rarely met with the desire to do so.

3. Plan for Transformation – Chicago

In 1995, due to the Chicago Housing Authority's ("CHA") disastrous record, HUD took over day-to-day control of Chicago's public housing.⁸⁹ In the ensuing four years, HUD and the city collaborated to use HOPE VI grants, along with other funding resources, to drastically overhaul public housing in Chicago in accordance with a mixed income strategy.⁹⁰ In 1999, after HUD withdrew from controlling the CHA, the new administration unveiled the Plan for Transformation, a system-wide blueprint that continued to depend on HOPE VI grants and proposed massive redevelopment along mixed income principles.⁹¹ The plan, in most cases, called for developments to consist of one-third public housing, one-third affordable housing and one-third market-rate homes.⁹²

As part of the Plan for Transformation, the CHA agreed that all displaced residents would have a right to return; however, the plan provides no guarantee that all residents would be able to take advantage of this right.⁹³ Once HUD funding was secured, the CHA wrote into the Leaseholder Housing Choice and Relocation Rights Contract that reoccupancy rights would only be granted to residents who were lease-compliant as of October 1999.⁹⁴ In

⁸⁹ Larry Bennett, *Restructuring the Neighborhood: Public Housing Redevelopment and Neighborhood Dynamics in Chicago*, 10 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 54, 57 (2000).

⁹⁰ *Id.*

⁹¹ *Id.* at 58; Chicago Housing Authority, The CHA's Plan for Transformation, http://www.thecha.org/transformplan/plan_summary.html (last visited Oct. 29, 2008). See generally William P. Wilen, *The Horner Model: Successfully Redeveloping Public Housing*, 1 NW. J.L. & SOC. POL'Y 62 (2006).

⁹² The CHA's Plan for Transformation, *supra* note 91.

⁹³ See Chicago Housing Authority, *The Relocation Rights Contract for Residents Who Lived in CHA on 10/1/99*, [hereinafter Relocation Rights Contract], available at www.thecha.org/relocation/files/rights_for_moving_out_10-1-99.pdf; Sudhir Venkatesh & Isil Celimli, *Tearing Down the Community*, SHELTERFORCE ONLINE, Nov.-Dec. 2004, Issue 138, available at <http://www.nhi.org/online/issues/138/chicago.html>.

⁹⁴ See Relocation Rights Contract, *supra* note 93; Venkatesh & Celimli, *supra* note 93 ("According to contract, in order to be lease-compliant, a public

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Stateway Gardens, a development on the South Side, 955 families—58% of the development's population—had already moved out on their own before that date because of what the CHA has acknowledged as “deplorable conditions.”⁹⁵ Rather than acknowledging that tenants who left because they could no longer bear the miserable conditions were probably most entitled to the benefits of the new development, the CHA took their voluntary move as an opportunity to guarantee housing to fewer subsidized renters. This way, CHA could lower the number of mandated public housing units while maximizing market-rate and affordable rate units.

Moreover, after October 1999, the CHA found cause to evict 906 families citywide who will no longer be eligible for replacement public housing.⁹⁶ For example, Gwendolyn Hull, a resident of Stateway Gardens for thirteen years, purposely stopped paying her rent in February of 2000.⁹⁷ She documented her deplorable conditions, including water damage, leaks, rats and no hot water, among other problems.⁹⁸ However, the CHA evicted Gwendolyn and her three young children despite its obvious failure to maintain the apartment complex.⁹⁹ Evicting residents on bases such as these further decreased the amount of public housing units the CHA had to provide after redevelopment without violating the formal terms of its agreement.

Not only were tenants given the unenviable choice of staying in uninhabitable apartments or relinquishing any right to return to their community after redevelopment, but many families were evicted by the CHA after October 1999, thus forfeiting any right to

housing tenant should: 1) be current with rent or be in a payment agreement, 2) have no utility balance with the CHA or be in a payment agreement, 3) be in compliance with the CHA lease, and 4) have a good housekeeping record.”). *See generally*, Chicago Housing Authority, Understanding Relocation, <http://www.thecha.org/relocation/overview.html> (last visited Oct. 29, 2008).

⁹⁵ Alex Kotlowitz, *Where is Everyone Going?*, CHI. TRIB., Mar. 10, 2002, available at http://www.alexkotlowitz.com/03_03.html.

⁹⁶ *Id.*; *see generally* Venkatesh and Celimli, *supra* note 93.

⁹⁷ Kotlowitz, *supra* note 95.

⁹⁸ *Id.*

⁹⁹ *Id.*

reoccupy anyway.¹⁰⁰ While the new CHA developments have been commended for their aesthetics, they house an entirely different population than the one that endured the conditions that justified HUD intervention. Three of HUD's four goals, behavioral transference at home and at work, and proximity to better schools and jobs, cannot possibly be met when the redevelopment efforts include minimizing the rights of tenants to return. Furthermore, the fourth goal, community enforced ground rules, seemed to be entirely overlooked when the CHA unilaterally imposed a contract that framed tenants' rights in its own favor.

B. Lessons Learned

HUD offers these three HOPE VI projects as successful models from which to build. In reality, however, low-income tenants have no opportunity to attain the stated goals of the program when they are not invited back after redevelopment. This discontinuity between goals and effects is endemic of a much larger problem in the administration of public housing, a problem touched upon by the UN Report condemning redevelopment efforts in post-Katrina New Orleans.¹⁰¹ While HUD is tasked with providing housing options for those that cannot afford them, HUD funding does not always benefit those most in need.

HOPE VI is one program in particular where many subsidized tenants are worse off after redevelopment, while other groups, such as neighboring property owners, reap the benefits. Ultimately,

¹⁰⁰ See Wilen, *supra* note 91 (comparing the redevelopment of the Horner public housing development on Chicago's Near West Side, planned as a result of a class action lawsuit by the tenants, versus the CHA's Plan for Transformation, which applies to other public housing under the CHA and is funded in large part by HOPE VI, which minimizes the protection of residents' interests).

¹⁰¹ See UN Report, *supra* note 1 (suggesting that international human rights law prohibits evictions without due process and requires authorities to ensure that large-scale homelessness does not result). HUD publicizes the benefits of HOPE VI without acknowledging that these benefits are not realized by the majority of those displaced. Depending on the fate of those not invited back to any particular development, this could match the severity of the human rights issues in post-Katrina New Orleans.

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HOPE VI fails to benefit the people that HUD is supposed to be assisting. This failure is inherently tied to biases in the application for HOPE VI grants and the mechanisms that HUD uses to evaluate performance at individual developments.

1. Flawed Application Process

The first inherent flaw in HOPE VI is the process by which the grants are awarded. Each application for HOPE VI funding is examined on a scale of five weighted factors:

- (a) the “capacity of the PHA to carry out the project (20 pts)”;
- (b) the “need for revitalization of a property,” including whether the property is severely distressed (20 pts);
- (c) the “soundness of approach,” in other words, how appropriate it is in the context of the local housing market (40 pts);
- (d) the amount of private investment that will be leveraged into the new project (10 pts);
- (e) the “quality of coordination and community planning for the development,” (including cooperation with city agencies and supporting community groups) (10 pts).¹⁰²

The third factor (and, as a correlative, the fourth because the amount of private investment is often an indicator of the financial soundness of the project) is given the most weight and can accordingly make or break a project’s application. “Soundness of approach,” for the purposes of the evaluation, generally refers to criteria including the appropriateness of the project in relation to other private non-subsidized housing projects that were created in the area.¹⁰³ Thus, applications are weighted towards their likelihood of success on financial grounds rather than whether they are the most appropriate use of resources for those most in need.¹⁰⁴

¹⁰² Cunningham, *supra* note 12, at 355–56.

¹⁰³ *Id.*

¹⁰⁴ Robert Solomon, *Notes From the Inside: Thoughts About the Future of Public Housing*, 10 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 34, 38 (2000) (“Simply stated, I believe that HUD, in seeking to score applications as

The de facto result is that areas that are already experiencing gentrification are the ones that receive HOPE VI funding because those are the areas most likely to attract private investment and market-rate residents.¹⁰⁵

A study commissioned by the Fannie Mae Foundation used field observation, Home Mortgage Disclosure Act data and HOPE VI plans to analyze gentrification trends in eight cities for the fiscal years 1993 through 1998 that had received HOPE VI grants.¹⁰⁶ The authors concluded that success in HOPE VI projects hinged on an ability to attract market-rate residents, and that areas that have gone through the natural effects of gentrification are most likely to attract sufficient numbers of market-rate residents.¹⁰⁷ These residents are more likely to be drawn in when they “do not feel threatened by the proximity of poor families” in neighborhoods that have already gone through an initial class transformation.¹⁰⁸ This trend can be seen particularly clearly in the Townhomes development in Washington D.C.¹⁰⁹ Success in that project has been framed as its ability to attract market-rate residents who are willing to live alongside public housing tenants.¹¹⁰ The DCHA has glossed over the fact that fewer public housing options are offered to tenants who depend on public

objectively as possible, has created a system that places form over function and rewards grantsmanship more than need. As a result, HOPE VI has spawned a small industry of consultants to prepare HOPE VI applications, with total fees exceeding \$100,000, and, I am told, reaching \$250,000.”). Solomon was the Interim Executive Director of the New Haven, Connecticut Public Housing Authority at the time his article was published. *Id.*

¹⁰⁵ See Cunningham, *supra* note 12, at 358–59 (“Based on the scoring system for the award of HOPE VI grants, it is apparent that traditional public housing properties with a few hundred units that are located in or near a gentrified neighborhood are more likely to be targets for near extinction than candidates for sustainable low-income communities.”). See generally Bennett, *supra* note 53; Wexler, *supra* note 8.

¹⁰⁶ Wyly & Hammel, *supra* note 21 at 741.

¹⁰⁷ *Id.* at 741.

¹⁰⁸ *Id.*

¹⁰⁹ See Cunningham, *supra* note 12, at 357.

¹¹⁰ Peter W. Salsich, Jr., *Thinking Regionally About Affordable Housing and Neighborhood Development*, 28 STETSON L. REV. 577, 591 (1999).

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housing, instead highlighting what it views as a successful class transformation.

The federal government, through mixed-income housing, has taken the private investors model for dispersing low-income renters and put it to use with the backing of federal funds.¹¹¹ With this federal backing, a HOPE VI application can override the prevention mechanisms that state and local governments have put in place to prevent gentrification.¹¹² HOPE VI projects make a point of leveraging private investment, but in doing so they necessarily cater to the goals of private investors.¹¹³ This shifts the focus from providing housing to those in need to creating housing developments that are financially sustainable.¹¹⁴ In doing so, HUD disregards its responsibility to provide for individual renters who depend on housing subsidies when those needs come into conflict with economic feasibility.

¹¹¹ Cunningham, *supra* note 12, at 356; Powell & Spencer, *supra* note 59, at 451 (“The Department of Housing and Urban Development, (“HUD”), once a barrier to gentrification, now emphasizes privatization, integration of assisted and market-rate housing, and reliance on the ‘virtues of the market process . . . [to further] socially desirable goals.’”) (quoting Elvin K. Wyly & Daniel J. Hammel, *Housing Policy, and the New Context of Urban Redevelopment*, 6 RES. IN. URB. SOC. 217, 218 (2001)).

¹¹² State and local authorities take steps to limit the adverse effects of gentrification through zoning regulation, subdivision control, and rent control, to name a few. These efforts are designed to stop private investors from taking advantage of low-income residents in order to turn the property into more profitable market-rate housing. *See* Bezdek, *supra* note 15, at 64–65 (arguing that local governments often will pursue revitalization strategies that hasten gentrification, believing that the increased property values will lead to increased property tax revenues). *But see* Byrne, *supra* note 88 (arguing that empirical evidence that gentrification harms poorer populations is inconclusive, and in some circumstances gentrification can bring about positive effects for the poor while reinvigorating a municipality).

¹¹³ *See* Solomon, *supra* note 104, at 38–39; Salsich, *supra* note 110, at 588–94.

¹¹⁴ *See* Pindell, *supra* note 41, at 397–98 (contending that HOPE VI is calibrated to operate to the benefit of the “working poor” while largely casting out those in most desperate need of subsidized housing).

2. Inappropriate Evaluation Criteria

HUD additionally demonstrates its shifted priorities in the way in which it evaluates public housing management. The Public Housing Management Assistance Program (“PHMAP”) grew out of the problems that HUD was having in evaluating the individual PHAs across the country that are responsible for the day-to-day management of public housing developments.¹¹⁵ Since 1992, the PHMAP is composed of twelve indicators that are used to determine how successfully PHAs were managing their developments, and by implication, how efficiently HUD funding is being used. The twelve factors include:

- 1) Maintaining a high occupancy rate
- 2) Modernizing the stock
- 3) Collecting rents
- 4) Using energy efficiently
- 5) Preparing and leasing vacant units
- 6) Responding to requests for maintenance
- 7) Inspecting units and systems annually
- 8) Keeping tenant accounts receivable low
- 9) Maintaining appropriate levels of operating reserves
- 10) Keeping operating expenses within resources
- 11) Carrying out a program of Resident Initiatives
- 12) Maintaining a capacity to develop additional units¹¹⁶

The problem with these indicators is that they are all unit- or development-based, rather than tenant-based.¹¹⁷ No attention is

¹¹⁵ U.S. DEP’T OF HOUS. & URBAN DEV., MANAGEMENT CASE STUDY: PUBLIC HOUSING MANAGEMENT ASSESSMENT PROGRAM (1996), *available at* <http://govinfo.library.unt.edu/npr/library/studies/casehuda.pdf>.

¹¹⁶ *Id.* at 8.

¹¹⁷ Bennett, *supra* note 53, at 298 (“The HOPE VI program, and the QHWRRA that formalized many of its features into law achieve a contradiction: the enhancement of resident participation in planning for new communities ‘. . . when virtually no residents remain to participate.’”) (quoting Jerry J. Salama, *The Redevelopment of Distressed Public Housing: Early Results from HOPE VI Projects in Atlanta, Chicago, and San Antonio*, 10 HOUS. POL’Y DEBATE 95, 131 (1999)); Lynn E. Cunningham, *Managing Assets/Managing Families:*

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paid to who is living in the units or if there is any continuity in tenancy.¹¹⁸ Tenant-based evaluation would include factors that are better aligned with the goals of HOPE VI. For instance, it would be useful to know if a greater percentage of tenants have secured gainful employment after development, or what percentage of tenants are taking advantage of the better schools and community services that were a part of the redevelopment, or whether tenant governance groups have developed, and if so, whether there is equal representation from market-rate renters and subsidized tenants.¹¹⁹

The four goals of HOPE VI all involve individual effects that should be identifiable in the tenants after redevelopment.¹²⁰ To determine the success of a development, HUD should evaluate whether behavioral patterns are altered by comparing the same low-income tenants before and after redevelopment. To determine if community rules are being enforced, HUD should evaluate whether low-income tenants are taking part in creating and observing community norms. Finally, to determine whether low-income tenants are taking advantage of better schools and jobs, HUD should look at the status of the same tenants before and after the redevelopment.¹²¹

Reconceptualizing Affordable Housing Solutions for Extended Families, 11 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 390 (2002).

¹¹⁸ See Bennett, *supra* note 53, at 265–75. However, HUD is not alone in making this error. See Zielenbach, *supra* note 9, at 48–56 (using data from eight HOPE VI developments to compare and contrast the effects on the neighborhoods). However, the author fails to take into consideration the different populations that live in each development before and after reconstruction.

¹¹⁹ See Salsich, *supra* note 110, at 591–93 (arguing that although proof can be offered that middle income persons can be attracted to HOPE VI developments, this still does not address whether or not resources are being misallocated to draw these new people into developments).

¹²⁰ See Brophy & Smith, *supra* note 49, at 6.

¹²¹ See generally Brenda Bratton Blom, *Can the Working Poor Afford Decent Housing?*, 14 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 131 (citing the connection between housing and employment, which makes these problems interdependent at a federal aid level).

HOPE VI funding is premised on the existence of transferable behavioral characteristics through mixed-income housing, but when HUD evaluates how effective the funding has been there is no analysis of whether or not tenants from different income groups are interacting, or if any behavioral changes are taking place.¹²² In fact, the PHA will receive a better evaluation from HUD by dispersing low-income tenants, who are less likely to pay their rents, and increasing market-rate units, which will keep its incoming resources high in relation to its operating expenses.¹²³ As it happens, that is exactly what occurred in the three examples described above.¹²⁴

This dispersal of lower income tenants shifts the responsibility of building public housing structures from the federal government to the surrounding municipality.¹²⁵ In doing so, the federal government provides physical housing for a small percentage of the people that once lived in a given development, while providing subsidies to the remainder that qualify for subsidized housing to compete in the private housing market. This places a greater

¹²² See Bennett, *supra* note 53, at 298 (arguing that HOPE VI achieves the contradictory goal of increasing resident participation in planning when virtually no residents remain to participate).

¹²³ See District of Columbia Housing Authority, *supra* note 80, (“The Townhomes on Capitol Hill receives no subsidy and has maintained a budget surplus each of the three years of its operation. The units sold very quickly, supporting the mixed-income concept shared by all DCHA HOPE VI sites, and the co-op continues to receive daily calls from people interested in purchasing a unit despite the absence of any advertising campaign.”).

¹²⁴ See *id.*; Vitullo-Martin, *supra* note 66 (noting that the Atlantic Housing Authority demolished old units, changed mixture of tenants, and now scores a perfect 100 on HUD’s assessment).

¹²⁵ See Peter W. Salsich, Jr., *Saving Our Cities: What Role Should the Federal Government Play?*, 36 URB. LAW. 475, 513 (2004) (“In many metropolitan areas, the supply of housing, both for sale and rental that is affordable to moderate and middle income families, as well as low income ones, and is located in reasonable proximity to those families’ jobs has decreased substantially. The private sector has not been picking up the slack, in part because demand coupled with exclusionary zoning policies is driving the private sector to focus more on housing for upper-middle and upper income households. A new federal production program is warranted because of this growing gap in supply.”).

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burden on the surrounding housing market because there are more tenants competing for the same amount of affordable housing opportunities.¹²⁶ While the federal government pays rent subsidies for the displaced tenants through Section 8 vouchers, it is no longer responsible for the capital investment required to create the physical housing structures.¹²⁷ Thus, in areas where affordable housing is already scarce, the federal government uses funds that are supposed to provide housing for the neediest people and instead relies on the chosen municipalities to have sufficient structural resources in place to house the displaced.¹²⁸ The underlying problem is that HOPE VI is funded in the belief that public housing structures will be created and revitalized, but in practice only a small percentage is reserved for public housing while the majority is dedicated to market-rate units.

PART III—FACTORS THAT LEAD TO SUSTAINABLE SUCCESS

HUD has acknowledged that income-mixing alone will not consistently produce increased employment options and opportunities toward upward mobility for low-income tenants.¹²⁹ That being the case, HUD must either be more realistic with its goals and expectations when funding public housing developments, or it must factor investment in employment training and placement into the costs and application process for federal housing funding.

¹²⁶ See John J. Ammann, *Housing Out the Poor*, 19 ST. LOUIS U. PUB. L. REV. 309, 320 (2000) (arguing that HOPE VI has diminished the overall stock of public housing while there has been an overall increase in the number of people in need of subsidized housing).

¹²⁷ See Bezdek, *supra* note 15, at 67–71.

¹²⁸ *Id.* at 64 (discussing the differences between displacement via public and private means, particularly the remedies that are available to government when it displaces residents). Bezdek's discussion includes various remedies including site selection, notice, public participation, and compensation offers. However, none of these remedies are utilized nearly enough with public housing residents because they do not hold any property rights to their dwellings.

¹²⁹ See Brophy & Smith, *supra* note 49, at 3.

Encouraging public housing residents to attain a more stable foothold in society remains a worthy goal for HUD.¹³⁰ The administration of public housing should be of a forward-looking nature, and, where possible, residents should live in an environment that is conducive to upward mobility. Placing subsidized residents alongside market-rate tenants has not consistently borne the results that proponents of mixed-income housing have hoped, but there are other examples of public housing that have shown more positive results for the individual tenants.¹³¹ HUD should identify and examine these models so it can use funding to emulate conditions that have proven to lead to tenant empowerment.¹³² It is important to note, however, that these developments often grew organically without the benefit of HUD oversight, or even in spite of HUD regulations.¹³³ To some extent, HUD may have to trust the individual developments when administering funds and accept the failures that come with less oversight in return for greater potential success for the developments that flourish.

A. Orchard Gardens – A Successful Model

One development that has been regarded as a successful use of HUD funds to create benefits for individual tenants while also

¹³⁰ See generally Salsich, Jr., *supra* note 125, at 508–10.

¹³¹ See, e.g., Fitzpatrick, *supra* note 35, 439–41 (citing Cleveland's Cuyahoga development as a rare success for HOPE VI, not because of the efficacy of typical HOPE VI goals but because part of the development was turned into a frozen food packaging plant to create job opportunities, and a social services "mall" was developed to service residents as well as the surrounding community); Henry W. McGee, Jr., *Equity and Efficacy in Washington State's GMA Affordable Housing Goal*, 3 WASH. U. J.L. & POL'Y 539 (2000) (St. Louis's Murphy Park development is cited as a success with high levels of resident involvement, including setting screening criteria for residents and working with the local community to help plan a new school and community facilities.).

¹³² See Bezdek, *supra* note 15, at 97–113 (providing a detailed description of ways to increase tenant participation, empowerment and stakeholding in public housing developments).

¹³³ See Fitzpatrick, *supra* note 35, at 439–41.

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benefiting the surrounding municipality is the Orchard Gardens development in Boston.¹³⁴ Orchard Commons and Orchard Gardens are located in the Dudley Square area of Roxbury in southwest Boston.¹³⁵

By the Boston Housing Authority's ("BHA") own account, Dudley Square was considered one of the worst areas in Boston through the 1980's and into the early 1990's.¹³⁶ Crime was rampant, businesses had relocated, and there was almost no commercial investment in the area.¹³⁷ What remained was a completely isolated pocket of property where subsidized tenants lived in dilapidated housing units.¹³⁸ Moreover, the disinvestment

¹³⁴ PETER MEDOFF & HOLLY SKLAR, *STREETS OF HOPE: THE FALL AND RISE OF AN URBAN NEIGHBORHOOD* (South End Press 1994) (recounting the challenges and successes of the Dudley Street Neighborhood Initiative); Michelle Estrin Gilman, *Poverty and Communitarianism: Toward a Community-Based Welfare System*, 66 U. PITT. L. REV. 721, 790–93 (2005) (noted as the Dudley Street Neighborhood Initiative); Zielenbach, *supra* note 9, at 56–66 (positive review of HOPE VI and, specifically, an analysis of Orchard Park and the DSNI); Dudley Street Neighborhood Initiative, DSNI Historic Timeline, <http://www.dsni.org/timeline.shtml> (last visited Oct. 29, 2008) [hereinafter DSNI Timeline].

¹³⁵ See generally Boston Housing Authority, Planning and Real Estate Development: Orchard Gardens, <http://www.bostonhousing.org/detpages/deptinfo155.html> (last visited Oct. 29, 2008); Boston Housing Authority, Development Information: Orchard Gardens, <http://www.bostonhousing.org/detpages/devinfo43.html> (last visited Oct. 29, 2008).

¹³⁶ Boston Housing Authority, Planning and Real Estate Development: Orchard Gardens, <http://www.bostonhousing.org/detpages/deptinfo155.html> (last visited Oct. 29, 2008) ("When the HOPE VI application for Orchard Park was submitted to HUD, Orchard Park was considered one of the most severely distressed developments in the BHA's portfolio. Its buildings were dilapidated, its name synonymous with crime, and its residents were isolated from everything around them. In fact, the distress at Orchard Park had spread into the surrounding neighborhoods and they, too, had fallen into a state of disrepair and abandonment."). See generally MEDOFF & SKLAR, *supra* note 134, at 32 (describing an examination by the Boston Redevelopment Authority which reported the "devastation of housing in the area").

¹³⁷ MEDOFF & SKLAR, *supra* note 134, at 23–35.

¹³⁸ *Id.*

meant that there were no jobs in the area.¹³⁹ Thus, once tenants began living in Orchard Gardens, there were very few opportunities to improve their circumstances by obtaining employment and self-sufficiency.

These conditions are typical of developments that have been categorized as blighted, the same conditions that HOPE VI was created to remedy.¹⁴⁰ However, what were once abandoned parcels are now over 400 new affordable homes, community centers, and a new school, among other developments.¹⁴¹ In addition, more than 500 housing units have been rehabilitated.¹⁴² Most importantly, this development has taken place without displacing a majority of the tenants.¹⁴³ This success, on terms that are acceptable to developers as well as low-income tenants, was the result of using HOPE VI funding to supplement the efforts of a well-organized tenants association rather than to disperse the residents of a development and artificially create a mixed-income neighborhood.

An important factor in this success is that, despite the long period of decline, Dudley Square has had a consistent history of grassroots activism. The Orchard Park Tenants Association (“OPTA”) was formed to advocate for additional resources and attention from the Boston Housing Authority.¹⁴⁴ In the mid-1980’s, members of the OPTA combined with other local advocates to create the Dudley Street Neighborhood Initiative (“DSNI”), an organization designed to improve living conditions in Dudley Square and the greater Roxbury area.¹⁴⁵

DSNI’s first campaign was to mobilize area residents and bring attention to illegal trash dumping that was occurring in their neighborhood.¹⁴⁶ This organization was so effective at channeling

¹³⁹ *Id.* at 23–24.

¹⁴⁰ *See supra* note 8 and accompanying text.

¹⁴¹ Maureen Mastroieni, *Collaborative and Market-driven Approaches to Economic Development and Revitalization*, 32 REAL ESTATE ISSUES 1, 47 (2007).

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *See* MEDOFF & SKLAR, *supra* note 134, at 162.

¹⁴⁵ *Id.* at 37–65.

¹⁴⁶ *Id.* at 67–87.

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resident anger into protests and positive publicity that Boston's mayor eventually stepped in to meet their demands.¹⁴⁷ Significantly, this was an initial step with which DSNI began to demonstrate that the neighborhood was willing to take responsibility for its own affairs and work with the local government to ensure that resources were directed towards the community.

These relatively modest results created a foundation on which to rebuild the community. In 1987, DSNI created a revitalization plan that focused on redeveloping its community without displacing residents.¹⁴⁸ It worked to form strategic partnerships with organizations in both the government and the private sector, winning support by showing that its plan could be beneficial for the greater municipality as well as the residents of its community.¹⁴⁹ In 1988, it became the only community group in the nation to be granted eminent domain power.¹⁵⁰ Credibility was earned through grassroots organization and outreach to political and local business leaders, and this led to identifiable tenant empowerment.¹⁵¹

The efforts of DSNI did not miraculously turn Dudley Square around overnight, but it did attract positive publicity for the neighborhood.¹⁵² Over time, businesses began to reinvest in the area.¹⁵³ Once the Boston Housing Authority received HOPE VI funding in 1995, DSNI was enough of a presence that one of its founding organizations—the Orchard Park Tenants Association—

¹⁴⁷ *Id.* at 84–85.

¹⁴⁸ *See* Mastroieni, *supra* note 141, at 49.

¹⁴⁹ *Id.*

¹⁵⁰ *See* MEDOFF & SKLAR, *supra* note 134, at 126–27 (“To acquire this power, DSNI reorganized as an urban development corporation to acquire the properties and a community land trust to ensure that the properties would be held in perpetuity for the benefit of the residents of their community.”); Gilman, *supra* note 129, at 793; DSNI Timeline, *supra* note 137; *see generally* MASS. GEN. LAWS ch. 121A, § 2 (2008).

¹⁵¹ *See* MEDOFF & SKLAR, *supra* note 134, at 187–89.

¹⁵² *Id.* at 86–87; *See generally* Mastroieni, *supra* note 135.

¹⁵³ Zielenbach, *supra* note 9, at 57–59, 64, 65.

was invited to take an active role in the redevelopment effort.¹⁵⁴ At this point, DSNI efforts had improved the community enough to convince private investors that a financing plan, along with a HOPE VI grant, could turn the community around as well as providing a return for investors.¹⁵⁵ Crime and drugs were still a problem, and the community was still considered blighted. However, the activities of the DSNI showed a spark of potential, and with HOPE VI funding, the positive local involvement encouraged former residents who had been involved in the change to stay in the community after the buildings were razed and rebuilt.

The success of Orchard Gardens is different from other success stories that HUD publicizes in that the efforts of the low-income residents were encouraging businesses to reinvest in the area before any federal funding was granted. This meant that the HOPE VI grant could be used to parlay that interest into private financing. In the examples that were mentioned earlier, private investors were interested because gentrification was in the process of pushing low-income tenants out of the area. In those cases, the HOPE VI grant hastened the process of gentrification and attracted businesses because efforts were being made to change the demographics of the neighborhood. On the other hand, in Orchard Park, the HOPE VI grant capitalized on a foundation that had already been established by a well-organized and active tenants organization. Businesses had begun to come back to the area because of the current residents, rather than in spite of them. The businesses were then willing to continue developing what had been started.

HUD's methods for evaluating improvement in developments generally do not take into account this type of tenant input,¹⁵⁶ but it is that very factor that makes Orchard Park a sustainable development which incorporates the needs of the subsidized tenants, as well as addressing the financial health and appearance of the development as a whole. Rather than dispersing low-income

¹⁵⁴ See Roberta L. Rubin, *Take and Give*, SHELTERFORCE, Feb. 29, 2008, available at <http://www.shelterforce.org/article/print/215/>; see generally Boston Housing Authority, Orchard Gardens, *supra* note 136.

¹⁵⁵ See Zielenbach, *supra* note 9, at 62–63.

¹⁵⁶ See *supra* text accompanying notes 115–28.

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tenants, effectively making them the problem of surrounding neighborhoods to either house or exclude, tenants must be incorporated into the process so that private investment is attracted by the community, rather than by the promise of gentrification and an incoming middle class set of consumers.

*B. Important Ingredients for Success: Organic Foundations
and Long Term Sustainability*

Orchard Gardens demonstrates that the administration of HOPE VI funds can be successfully based on an organic foundation that protects the needs of subsidized tenants while the development is integrated into the surrounding metropolitan area. If HUD were to attempt to use Orchard Gardens as a model for public housing, the first step would involve changing the way that HUD evaluates developments. It must place a premium on effective tenant leadership and the strength of the community in any given housing project.¹⁵⁷ Moreover, once developments are recognized for this vital self-determination, HUD would have to be willing to administer funds with a loose regulatory framework so that the project could become, at least to some degree, tenant driven. This is the only proven way that tenant interests will be meaningfully factored in along with the local business and government interests that currently dominate the HOPE VI funding process.¹⁵⁸

While HOPE VI claims to include tenant participation, critics routinely dismiss these efforts as token gestures with no real

¹⁵⁷ See Bezdek, *supra* note 15, at 86–91 (explaining the importance of community); *id.* at 97–113 (describing how resident inclusion can be practically accomplished).

¹⁵⁸ See generally Kristen David Adams, *Promise Enforcement in Public Housing: Lessons From Rousseau and Hundertwasser*, 76 TUL. L. REV. 1073 (2002); Kristen David Adams, *Can Promise Enforcement Save Affordable Housing in the United States?*, 41 SAN DIEGO L. REV. 643 (2004) (setting forth the idea of “promise enforcement,” a creation by the author, as an alternative, and possibly a development of HOPE VI principles to better serve affordable housing tenants).