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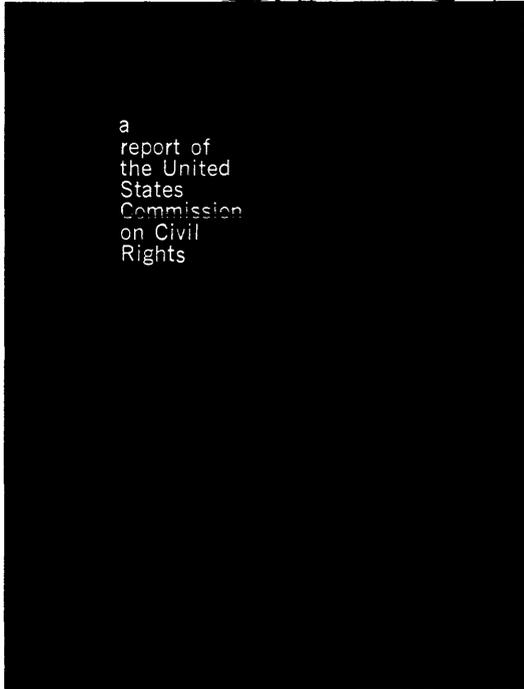
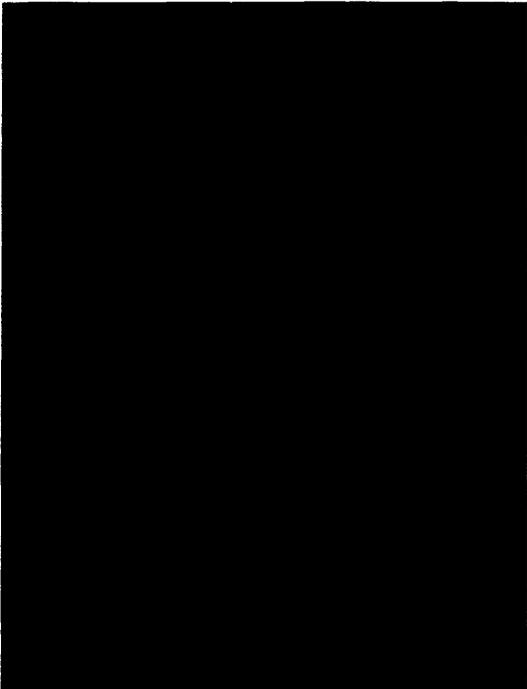
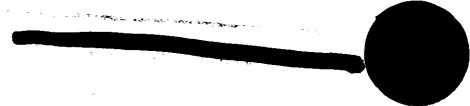


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HOME OWNERSHIP FOR LOWER INCOME FAMILIES

A Report on the Racial and Ethnic Impact
of the Section 235 Program
June 1971



a
report of
the United
States
Commission
on Civil
Rights



U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

Investigate complaints alleging that citizens are being deprived of their right to vote by reason of race, color, religion, or national origin or by reason of fraudulent practices;

Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;

Appraise Federal laws and policies with respect to equal protection of the laws;

Serve as a national clearinghouse for information in respect to denials of equal protection of the laws; and

Submit reports, findings, and recommendations to the President and the Congress.

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LETTER OF TRANSMITTAL

THE U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., June 1971.

THE PRESIDENT
The President of the Senate
The Speaker of the House of Representatives

SIRS:

The Commission on Civil Rights presents to you this report pursuant to Public Law 85-315, as amended.

This report is based on Commission staff investigations of the substantive form and social impact of Title I of the Housing and Urban Development Act of 1968, commonly known as section 235. We are encouraged by the enactment of this legislation which establishes the Federal Government's first large-scale program for assisting lower-income families to become homeowners.

Investigations in four metropolitan areas of the country, Denver, Little Rock, Philadelphia, and St. Louis, show that, by volume of minority participation, the program is proving successful. But the housing has not been provided equitably in all sections of the country and close scrutiny reveals that where the program does function, its full potential is being stifled by traditional patterns of racial and ethnic discrimination.

Majority group families are being located, for the most part, in suburban areas while minority group families are generally being located in ghetto areas or "changing" neighborhoods in the central city. The Commission's research has shown that implementation of Section 235 has been responsible for perpetuating segregation.

The typical 235 buyer has little knowledge of the complexities of buying a house. He must rely on the experience and assistance of such Government agencies as the Department of Housing and Urban Development and its Federal Housing Administration, which directly influence the efforts of real estate brokers, builders, mortgage lenders, and communities-at-large. Cooperation from all of these sources has been found to be negligible and inadequate.

As a result, separate and unequal housing markets under Section 235 continue the dual way of life that has proved so costly and harmful to our citizens in the past. We trust that the Commission's findings will prove helpful to the public and private agencies and individuals directly concerned with this program so that the dignity and freedom of homeownership explicit in the 1968 legislation will become a reality for all Americans.

Respectfully yours,

REV. THEODORE M. HESBURGH, C.S.C., *Chairman.*
STEPHEN HORN, *Vice Chairman.*
FRANKIE M. FREEMAN.
MAURICE B. MITCHELL.
ROBERT S. RANKIN.
MANUEL RUIZ, JR.
HOWARD A. GLICKSTEIN, *Staff Director.*

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The report was prepared under the overall supervision of Martin E. Sloane, Assistant Staff Director, Office of Civil Rights Program and Policy.

SUMMARY

HOMEOWNERSHIP FOR LOWER-INCOME FAMILIES

A Report on the Impact of the Section 235 Program

More than 20 years ago, the Congress of the United States established the national housing goal of "a decent home and a suitable living environment for every American family." For most Americans, that goal has been achieved in the form of good housing in neighborhoods of their choice. It has been realized primarily by using a variety of conscious Federal policies. These have been aimed at harnessing the energies and resources of private enterprise for the purpose of bringing homeownership within the means of the great mass of Americans. The policies have included such devices as establishing a nationwide network of low-interest credit for mortgage lending institutions, tax incentives to encourage homeownership, and Federal insurance and guarantees of home mortgages. Largely through Federal involvement in housing and home finance, we have become a Nation of homeowners.

But the national housing goal has not been achieved for all Americans nor have the benefits of homeownership been made equally available to all. For the Nation's poor, decent housing often has been beyond their means. For many of the Nation's minority families, the factors of race and ethnic origin have operated as devastatingly as economics to deny them the benefits of decent housing or opportunities to exercise housing choice. As of 1970, nearly two out of every three white families owned their own homes, but only two out of every five black families were homeowners. For this group of Americans the national housing goal remains largely a shadowy slogan without substance.

Over recent years, the Federal Government has increasingly directed its attention toward meeting the problems of housing discrimination and inadequate housing for lower-income families. During the decade of the 1960's, all three branches of the Federal Government acted to remove the legal basis for

racial discrimination in housing. In 1962 President Kennedy issued Executive Order 11063 which prohibited discrimination with respect to federally assisted housing.¹ In April 1968, Congress enacted a Federal fair housing law prohibiting discrimination in approximately 80 percent of the Nation's housing. And 2 months later, the Supreme Court of the United States held that an 1866 civil rights law, enacted under the authority of the 13th amendment, prohibited racial discrimination in all housing, private as well as public. While these laws afford full legal protection against housing discrimination, lack of vigorous enforcement has substantially reduced their effectiveness. Race and ethnic origin still determine where people may live.

During the decade of the 1960's, the Federal Government also established programs aimed at enabling lower-income families to obtain decent housing at prices and rents they could afford. Before the decade opened, there had been only one program—low-rent public housing—available to serve the needs of lower-income families. By its close, five had been established.

While these programs vary in the form of their financing mechanisms and in the income range of families they seek to serve, most share one element in common. They are concerned mainly with the provision of rental housing. One, however, is unique. As part of the landmark Housing and Urban Development Act of 1968, Congress established a program of homeownership for lower-income families. This program, called Section 235, represents the first large-scale effort to bring the benefits—both material

¹ The Executive order applied to such federally assisted housing as public housing and FHA and VA housing but did not include housing which was purchased with mortgage loans made by lending institutions insured and supervised by Federal financial regulatory agencies such as the Federal Home Loan Bank Board or the Federal Deposit Insurance Corporation.

and psychological—of homeownership within the reach of lower-income, as well as more affluent, families. It has the potential value of enabling lower-income families, particularly minority families, to live in dignity and to broaden their range of housing choice.

Because it represents a landmark in provision of equal housing opportunity, the Commission investigated the operation of the program in four metropolitan areas, Philadelphia, Little Rock, St. Louis, and Denver. It sought to determine the extent of participation by lower-income minority families and the program's impact in opening up housing opportunities for minority families outside areas of existing minority concentrations.

General Impact of the Program

In the relatively brief time since its establishment, the 235 program has provided an impressive volume of housing. During 1970, fully 30 percent of all new houses that sold for less than \$25,000 were purchased by 235 buyers. The benefits of the program, however, have not been equally available in all areas of the country. Southern and border States have accounted for nearly half of all 235 housing. By contrast, only 6 percent of the 235 units have been provided in the heavily populated Northeastern region. One major reason for the comparative lack of 235 activity in the Northeast has been the high cost of producing housing in that area of the country, in relation to the maximum mortgage limits permitted under the 235 program.

Local laws and policies on land use have limited the choice of sites for 235 housing. Because of restrictive zoning laws, such as minimum lot size requirements, builders who seek to construct new 235 houses in suburban sections of metropolitan areas often have been prevented from doing so.

Extent of Minority Participation

Measured only by the extent of minority participation in the program in the four metropolitan areas visited by Commission staff, the program is proving a success. In each of these four areas, minority families are participating in larger proportions than they are represented in the population. A closer examination, however, shows that the full potential of the program is not being realized and that the traditional pattern of separate and unequal housing markets for majority and minority families is being repeated in the operation of Section 235.

Separate Markets for 235 Housing

In Little Rock and Denver, the two metropolitan areas in which a substantial amount of *new* housing was being produced at the time of Commission staff investigations, it was found that nearly all was being located in suburban parts of metropolitan areas. Much of this new, suburban housing was being purchased by white² families. By contrast, most of the *existing* housing purchased under the program was located in ghetto areas or "changing" neighborhood in the central city. Nearly all was being purchased by minority families. In other metropolitan areas, to the extent minority 235 buyers were purchasing new housing, it was located largely in subdivisions reserved exclusively for minority families. Further, because minority 235 buyers have tended to purchase housing that is older and less expensive than the housing purchased by whites, they have tended to receive less in the way of assistance payments under the program. In some cases, minority families have been rejected for 235 assistance because the price of the houses they were shown was too low to permit a subsidy.

Quality of 235 Housing

While most of the housing purchased under the 235 program, existing as well as new, was of good quality—superior to the housing in which the buyers had previously lived—some was of poor quality. Speculators had been permitted to profit under the program at the expense of lower-income buyers many of whom are unsophisticated in the complexities and technicalities of housing and home finance. Most of the poor quality housing was existing housing located in the central city and nearly all had been purchased by minority families. Thus, minority families have suffered disproportionately from the abuses that have occurred under the program—the same abuses that have occurred in connection with other nonsubsidized Federal housing programs that are operating in the central city.

In January 1971, Secretary of Housing and Urban Development, George Romney, temporarily suspended operation of the existing housing aspect of the 235 program because of these abuses. Other programs in which the same abuses have been discovered, however, were permitted to remain in operation. In addition, the new housing aspect of the 23

² The term "white" is used in the report to refer to Caucasians who are not of Puerto Rican, Mexican, or Spanish descent.

program, which has mainly served white families, was also permitted to continue. The burden of the Secretary's action fell with disproportionate severity on minority families.

The Anatomy of Segregation in 235 Housing

Why has the traditional pattern found in the housing market in general been repeated in the 235 program? A strong arsenal of civil rights laws exists to protect minority home seekers from discrimination in the 235 program as well as in all other housing. Further, the economic rationale for the dual housing market that exists generally has no application here. All eligible families, minority or majority, are required, by statute, to be in the same income range, and all housing, whether suburban or inner-city, whether new or existing, is required, again by statute, to be within the same cost limitations. Nevertheless, the dual housing market persists in the 235 program—a market which is separate and unequal.

The answer lies in the way in which the program has been administered. Each of the elements involved in the 235 process—real estate brokers, builders, mortgage lenders, interested community groups, Government, and the buyer himself—has played a role in producing the segregated, unequal product.

The Role of the Buyer

The buyer has played, perhaps, the least important role in determining the patterns of 235 housing that have developed. The typical 235 buyer is inexperienced in the ways of homeownership and often lacks even basic information concerning the requirements for eligibility or the location of housing available for purchase under the 235 program. He must rely on others involved in the 235 process if he is to participate.

The Role of the Private Housing and Home Finance Industry

Frequently, the buyer's principal contact is with a real estate broker. Real estate brokers have access to listings of houses available for purchase under the 235 program and represent a key source of information for the prospective 235 buyer.

Some real estate brokers have been reluctant to participate in the program because under it, unlike other programs, sellers, whom the broker usually represents, must pay closing costs. Sometimes brokers will sell under 235 only when they have exhausted other possible buyers. Many brokers who do participate in the program lack sufficient infor-

mation concerning its operation to advise prospective 235 buyers adequately. Others provide only such information as is necessary to complete the sale. Often the broker follows traditional practices and perceptions concerning the nature of the housing market and he steers the 235 buyer to the house and location which he believes is most suitable to the buyer's racial or ethnic background. Usually, the buyer is offered little choice. He is frequently shown one house on a take-it-or-leave-it basis.

Buyers who rely on advertising to learn of opportunities to obtain 235 housing also tend to be guided toward areas where their racial or ethnic origin predominates. For example, in one city visited by Commission staff, ads frequently use terms such as "Anyone" or "Anyone can buy" as a signal to encourage minority families and to warn whites that the housing is intended for minority purchase. Some builders of new suburban 235 housing who are accustomed to a white market decline to advertise at all, recognizing that minority families will have little access to word that the housing exists and is available to them. Other builders who do advertise have used devices which depict only white people, a signal that the subdivision is intended for all-white occupancy.

Mortgage lenders are the key source of information for builders and brokers about the program and are in a position to exert influence over the way the program works. They are also best able to understand the patterns of the 235 housing that are developing. Although they play a more passive role in the 235 process than builders and brokers, they continue to make funds available for 235 mortgages and provide information about the program to brokers and builders, well aware of the segregated pattern of housing that results.

The Role of Community Groups

A number of community groups are involved in the 235 program through the provision of voluntary counseling services for 235 home seekers. These groups have played a significant role in assisting potential 235 buyers but they sometimes lack sufficient information concerning the program to advise prospective buyers adequately. Sometimes they are denied access to information about the location of new, suburban 235 housing and are unable to inform minority applicants that it is available. Faced with the reality of the dual housing market and the prevalent hostility of the housing business to residential integration, many counselors come to view interracial living as an unrealistic luxury. In the

face of the urgent need of the families seeking their guidance, they reluctantly conclude that residential integration is a luxury they must do without.

Neighborhood Groups

Some of the best housing to which minority buyers are steered is located in "changing" neighborhoods. These are neighborhoods which currently are racially integrated and, in many, the families who live there are making efforts to keep them so. While often firm believers in open occupancy housing, they also believe that additional influxes of lower-income minority families would place such insupportable burdens on municipal services and facilities as to turn their neighborhoods quickly into ghetto slums. Therefore, some of these groups have found themselves in the position of protesting against the provision of 235 housing in their neighborhoods. These neighborhoods, however, represent little more than temporary islands of racial integration surrounded by the harsh reality of a dual housing market. Unless this dual market is eliminated, the efforts of such groups to maintain racially stable neighborhoods can represent only holding actions which are ultimately unlikely to succeed.

The Role of Welfare Departments

Many 235 buyers are recipients of some form of public assistance and receive counseling from local welfare departments. In the face of the urgent housing needs of many of their clients, welfare officials also tend to view residential integration as an unrealistic luxury and accept the inevitability of segregated housing under the 235 program.

The Role of FHA

The 235 program offers substantial Federal benefits in the form of mortgage insurance by the Federal Housing Administration (FHA), an arm of the Department of Housing and Urban Development (HUD), and mortgage assistance payments by that agency on behalf of homeowners. In the final analysis, therefore, responsibility for the way in which the program has operated is that of the Federal Government, specifically FHA. This agency, traditionally attuned to serving the housing needs of white, middle class families, has been poorly prepared to serve a different racial and ethnic group of home seekers and has done little to develop af-

firmative procedures and mechanisms to assure that lower income 235 buyers are treated fairly.

For example, FHA continues to play only a passive role in the operation of the program, disclaiming any responsibility for the quality of housing produced or the impact of the location of 235 housing on racial residential patterns. Although builders and brokers frequently use FHA's name illegally in their advertising, leading unsuspecting buyers to conclude that the agency is prepared to protect their interests no such protection is afforded. As FHA officials have pointed out, the agency's relationship is with the mortgagee, not with the buyer and although FHA appraises houses under the 235 program, the purpose of the appraisals, as one FHA official explained, is "to assure the moneylender, not the property buyer." Although HUD contends that 47 FHA offices offer counseling services to prospective 235 buyers, Commission staff did not find any FHA employees working full-time as counselors in any of the four metropolitan areas that were surveyed. In some FHA offices, the full extent of counseling offered by FHA officials was to advise prospective 235 buyers to see a real estate broker.

FHA officials, moreover, even though aware of the segregated housing pattern that has developed under the 235 program, have failed to take even minimal steps to change it, despite their legal obligation to do so. FHA and HUD's Office of Equal Opportunity rely mainly on the processing of complaints as the mechanism for discovering and eliminating discriminatory practices. The central office in Washington has failed to provide local FHA offices with instructions for affirmative action aimed at broadening the range of housing choice for minority families. Local FHA officials are reluctant to take such action, in some cases, for fear that the central office would not back them up.

Thus FHA, the agency charged by Congress with responsibility for administering the 235 program has abdicated its responsibility and, in effect, has delegated it to members of the private housing and home finance industry. In view of the traditional policies and attitudes that have predominated in this industry, the pattern of separate and unequal housing under the 235 program has been inevitable. Until FHA abandons its current passive role and becomes a vigorous champion of the rights of minorities and of lower-income families generally, this pattern is unlikely to change.

PART I

INTRODUCTION

A Nation of Homeowners

Most American families own their own homes. About 63 percent of the Nation's housing units are owned by the families who occupy them.¹ The Housing and Urban Development Act of 1968 provided, for the first time, a large-scale means by which lower-income families could participate in the benefits of homeownership. They, too, are now eligible to participate in the gains that come to the owner, as opposed to those withheld from the renter.

He gains a tax deduction. In 1968, for example, 16.5 million individual taxpayers itemized deductions for mortgage interest payments amounting to nearly \$10 billion. In addition, 23.6 million individual taxpayers itemized deductions for real estate taxes amounting to more than \$8 billion.² As the National Association of Manufacturers has observed, "Federal tax deductions, in effect, subsidize homeownership."³

These subsidies in the form of tax deductions for homeowners are somewhat different from Federal subsidies typically made available to the disadvantaged. First of all, they do not appear to be subsidies in that they are not direct Federal payments to or on behalf of the beneficiary, as are subsidies for lower-income families. The beneficiaries are permitted to pay the Government less in the way of income taxes than they ordinarily would without the deduction. This, however, is a difference only in form, not in substance.

The subsidies tend to be much greater than those provided for the poor. According to one estimate, three and a half times as much in housing subsidies in the form of income tax deductions go to families with middle- or higher-incomes than go to the poor in the form of direct subsidies.⁴

There is one other significant difference that distinguishes housing subsidies through tax deductions from the subsidies afforded disadvantaged people—a difference that is measurable in terms of human dignity. As one commentator has observed:

This is not one that must be applied for by standing in a line; it is not a subsidy that one must obtain through special institutions, that is available only as long as the authorized and appropriated funds last. It is a cash benefit that carries no stigma or other identification. Such families are not even required to be grateful.⁵

In addition, the homeowner gains a greater financial stake in society through a built-in hedge against inflation. That is, while the debt represented by a home mortgage tends to be reduced through the force of inflation, as well as the monthly payments, the value of the house and the land on which it is located tends to rise.⁶

Another benefit the homeowner gains is space. The median number of rooms in owner-occupied units is 5.5; in renter-occupied units 3.9.⁷ The homeowner, moreover, is less likely to live in overcrowded conditions than the renter. Even for families within the same income groups, the number of rooms in owned

¹ "U.S. Census of Housing: 1970, U.S. Summary," HC(V-1), at 5, table 2.

² Bureau of Internal Revenue Services: Individual Returns, "Deductions and Exemptions," table 2.6, 2.10 (1968).

³ "Hearings on Housing and Urban Development Legislation of 1970 Before the Subcommittee on Housing and Urban Affairs of the Senate Committee on Banking and Currency," 91st Cong., second sess., pt. 2 at 1781 (1970).

⁴ National Commission on Urban Problems, "Building the American City," 27 (1968).

⁵ *Supra* note 3, pt. 1 at 863.

⁶ "Hearings on National Housing Goals Before the Subcommittee on Housing of the House Committee on Banking and Currency," 91st Cong., first sess., at 559 (1969).

⁷ President's Committee on Urban Housing, Technical Studies, vol. 1 (1968), at 136.

units is consistently at least 40 percent greater than in rented units. Accordingly to 1960 census data, 14.5 percent of renters in metropolitan areas were overcrowded, while fewer than 8 percent of homeowners were.⁸ Renters also are more likely than owners to live in dilapidated housing.⁹

A less tangible benefit provided through homeownership, but one that is at least as important as the economic benefits, is the psychological one. As former President Johnson pointed out:

Homeownership is a cherished dream and achievement of most Americans. . . . Owning a home can increase responsibility and stake out a man's place in his community. The man who owns a home has something to be proud of and good reason to protect and preserve it.¹⁰

President Nixon underscored the special psychological benefits that homeownership provides for the poor when he quoted Senator Edward W. Brooke:

Homeownership can be of far greater benefit to the poor than a mere roof and four walls. Homeownership can be a source of pride and stability, influences that will extend to the homeowner's job and family life.¹¹

Homeownership for Americans has not always been as common as it now is. In 1920, for example, only 40 percent of the nonfarm housing units were owned by families who lived in them. The dramatic shift in the percentage of Americans who own their own homes can be attributed to radical changes in home-financing mechanisms—changes in which Federal involvement in housing and home finance has been the key.¹² As this Commission pointed out in 1961: "Largely through governmental facilitation of housing credit we have become, for better or worse, a

⁸ U.S. Census of Housing: 1960, Metropolitan Housing, HC(2)-1, tables B-3 and B-13.

⁹ U.S. Census of Housing: 1960, U.S. Summary, HC(1), table 9.

¹⁰ Message by President Johnson to Congress, "The Crisis of the Cities," 114, pt. 4, CONG. REC. 3959 (1968).

¹¹ Statement of Richard M. Nixon, "For High Rise Homes," Oct. 30, 1968.

¹² For example, before Federal intervention in the early 1930's, the prevalent financing vehicle was the short-term, unamortized, low-loan-to-value mortgage. Thus, loans rarely were made for more than 50 percent of the value of the house. They frequently were for periods as short as 5, or even 3, years. Moreover, they were typically "straight" loans, repayable not in equal monthly installments, but in a large lump sum at maturity.

Largely through the intervention of the Federal Government, by such means as Federal Housing Administration mortgage insurance and Veterans Administration loan guaranty programs, as well as through legislation authorizing increased liberalization of conventional mortgage terms for federally insured mortgage lenders, home finance and homeownership now are within the reach of most American families. The typical mortgage now is long term, high loan to value, and fully amortized. The impact of these changes on the nature of home finance can be seen by the fact that while the Nation's population over the last 50 years has doubled, the number of owner-occupied homes being purchased through mortgage finance has increased more than tenfold and the outstanding residential mortgage debt has increased more than thirtyfold.

Nation of homeowners—or, more accurately, home mortgagors."¹³

BARRIERS TO HOMEOWNERSHIP

Economic Barriers

The benefits of homeownership have not been equally available to all groups of Americans. One identifiable group not equitably represented among the Nation's homeowners is lower-income families. As of 1960, for example, while nearly nine out of every 10 families with incomes in excess of \$10,000 a year were homeowners, only one of every two American families with annual incomes of \$6,000 or less owned their houses. Since 1960, opportunities for families other than the relatively affluent to purchase houses through the ordinary channels of the housing market have worsened. In 1960, the median price of new housing was \$16,000, as compared to the median annual income of \$6,500. During the decade that followed, median annual income rose appreciably to \$8,500 a year, but the median price of new housing, because of such factors as the rising cost of land, site development, construction, and money, skyrocketed to nearly \$25,000.

As President Nixon noted in April 1970:

Nearly half of all American families probably cannot afford to pay much more than \$15,000 for a home, yet today the only significant amounts of new housing available in that price range are mobile homes.¹⁴

Racial Barriers

Another identifiable group that has been denied the benefits of homeownership is nonwhite families. Whereas 65 percent of white families in the United States are homeowners, only some 42 percent of nonwhite families own their own homes.¹⁵ There are several reasons why nonwhites are underrepresented in the ranks of homeowners. One reason is income. Nonwhites are disproportionately represented among lower-income families. As of 1968, for example, fewer than a third of all nonwhite families earned as much as \$8,000 a year. By contrast, nearly three of every five white families were at or above that income level.¹⁶ Forty-five percent of all nonwhite families had annual incomes of less than \$5,000.¹⁷

¹³ U.S. Commission on Civil Rights, "Housing," 28 (1961).

¹⁴ Message of the President of the United States: Second Annual Report on National Housing Goals, H.R. Doc. No. 91-292, 91st Cong., second sess., 50 (1970).

¹⁵ *Supra* note 1.

¹⁶ U.S. Department of Labor, BLS Report No. 375, Current Population Reports, Series P-23, No. 29, "The Social and Economic Status of Negroes in the U.S.," 17 (1969).

¹⁷ *Id.*

But poverty is by no means the sole reason why nonwhites are so grossly underrepresented among the Nation's homeowners. For example, a greater percentage of American families with incomes of less than \$3,000 a year were homeowners in 1960 than were nonwhites generally. As the following table shows, at every income level nonwhites represent a smaller percentage of homeowners than the overall population.

Homeownership Within Income Groups (1960)

Income groups	All homeowners (percentage)	Nonwhite homeowners (percentage)
Under \$3,000 per year.....	43	33
\$3,000 to \$6,000 per year...	50	36
Over \$6,000 per year.....	67	55
Over \$8,000 per year.....	80	67

One reason why many minority group members are not homeowners is the unavailability of mortgage money to them. Even those who do own their own homes often have purchased them without benefit of a mortgage. Whereas in 1960, 42 percent of white homeowners had no mortgage on their property, the comparable figure for minority homeowners was 58 percent. Minority buyers who have obtained mortgage financing are more likely to have two or more mortgages, small mortgage amounts, short terms, and high interest rates, as compared with their majority counterparts.¹⁸

A second reason is that, through the persistence of discriminatory housing practices, minorities have been largely excluded from areas where most houses are being built. Eighty percent of all new housing is built in suburban parts of metropolitan areas, but minorities are confined to the central cities. As the Associate Director of the Bureau of the Census testified in October 1969:

Nearly three-fourths of the total national growth in the Negro population since 1960 has occurred in the central cities of the metropolitan areas. As a result, 55 percent of the total Negro population now resides in central cities compared with 26 percent of the white population.¹⁹

The confinement of minorities to central cities has meant that their homeownership has come about chiefly through the "filtering process," by which

central city housing, abandoned by families who move to the suburbs, is made available for purchase by those who remain. While some "filtered-down housing" is undoubtedly of good quality and sometimes available at appealing prices, the process has severe limitations. As one study has pointed out:

One of the limitations of the filtering concept is the fact that the very bottom of the barrel, the broken-down housing which is beneath any reasonable standard of appropriateness, continues to stay on the market.²⁰

That confinement of minorities to central cities necessarily restricts their opportunities to obtain decent housing and to become homeowners was documented at a Commission hearing in St. Louis, Mo., in January 1970 which considered housing problems of the black community. There it was found that more than 95 percent of the increase in the housing inventory of the St. Louis metropolitan area since 1960 had taken place in the suburbs, which are nearly all-white. At the same time, the housing inventory in the city of St. Louis, where the great majority of black families live, had decreased by more than 5,000 units. Seventy-six percent of the city's housing had been constructed before 1930. By contrast, less than 30 percent of the housing in suburban St. Louis County was pre-1930. Four of every five homes owned by nonwhite families in the St. Louis metropolitan area had been built before 1940, while fewer than half the homes owned by white families were that old. Only 34 percent of the nonwhite families in the St. Louis area were homeowners in 1960, while more than three of every five families generally, enjoyed the benefits of homeownership.²¹

Thus, the exclusion of nonwhites from suburban areas where the great majority of new housing is being built has meant that they have had little alternative but to live in overcrowded, substandard housing in segregated older neighborhoods. This has been true regardless of income. In 1960, as the National Commission on Urban Problems reported: "Within the poverty category, the proportion of Negroes and other nonwhites in substandard housing was more than twice the proportion among whites."²² A more recent study found that housing and neighborhood environment conditions are consistently inferior for nonwhites as compared to

¹⁸ U.S. Department of Labor, BLS Report No. 332, "The Social and Economic Status of Negroes in the U.S.," 58 (1967).

¹⁹ "Hearings on the Quality of Urban Life Before the Ad Hoc Subcommittee of the House Committee on Banking and Currency," 91st Cong., first Sess., at 219 (1969).

²⁰ George Sternlieb, "The Tenement Landlord," 11 (1966).

²¹ "Hearing in St. Louis, Mo., Before the U.S. Commission on Civil Rights," exhibit No. 21, 535 (1970).

²² *Supra* note 4 at 9-10.

whites, holding income constant.²³ "In fact," the study found, "nonwhite households with incomes of \$8,000 to \$9,999 seemed to fare worse than white households with incomes of \$2,000 to \$3,999."²⁴

Federal Efforts To Overcome Racial and Economic Barriers

During the decade of the 1960's the Federal Government took increasingly forceful legal steps to end housing discrimination and eliminate race as a factor that determines where people will live. In 1962, President Kennedy issued an Executive order prohibiting discrimination in housing provided under federally assisted programs.²⁵ Two years later Congress enacted Title VI of the Civil Rights Act of 1964, prohibiting discrimination in the operation of all federally assisted loan and grant programs, including those related to housing.²⁶ In 1968, Congress acted again by passing a Federal fair housing law, which provides: "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States."²⁷ And later that year the Supreme Court of the United States held that a provision of an 1866 civil rights law "bars all racial discrimination, private as well as public, in the sale or rental of property."²⁸

While these measures have gone far to remove the legal basis for housing discrimination, their effectiveness has been severely undermined by inadequate enforcement.²⁹

The Federal effort to deal with the problem of income as a bar to decent housing antedates the advent of fair housing laws by about 25 years. In 1937, Congress enacted the low-rent public housing program providing Federal subsidies in the form of annual contributions to meet the housing needs of those who cannot obtain housing through the ordinary channels of the housing market.³⁰ For more than two decades, public housing was the only Federal lower income housing program in the country. It remains the principal legislative tool by which the Federal Government seeks to provide housing for the poor. In 1961, a second program was enacted, providing subsidies in the form of below market interest rates. This program, called FHA 221(d) (3), is planned

to serve families whose incomes are above those of public housing tenants, but below those necessary to obtain decent housing in the market.³¹ In 1965 Congress passed the Rent Supplement Program, providing for assistance payments to landlords on behalf of low-income families.³² This program serves the same income group as the low-rent public housing program, but utilizes the ordinary channels of the housing market—private sponsors, private builders and private mortgage lenders—to achieve its purpose. In 1968, Congress enacted a fourth program called FHA 236, which provides subsidies in the form of interest reduction payments to mortgage lenders on behalf of the landlord to reduce the rents to a level within the means of lower-income families.³³

These four lower-income housing programs have one important element in common. They all deal mainly with rental housing. Thus, while they afford disadvantaged families the opportunity to live in decent housing, they do not offer the benefits—and particularly the psychological benefits—of home ownership.

In the 1968 legislation, however, Congress turned in a different direction by enacting the first large scale program of homeownership for lower-income families. This program, called FHA 235, provides subsidies in the form of interest reduction payments to mortgage lenders on behalf of lower-income purchasers to enable them to purchase and own their own homes. It is this program which is the subject of the Commission's report.

The Section 235 Program

Section 235 does not represent the first Federal program aimed at stimulating homeownership for lower-income families.³⁴ In fact, the program was patterned after two earlier homeownership efforts, the 221(h) program, enacted in 1966,³⁵ and a 1967 leg-

²³ Housing Act of 1961, Public Law No. 87-70, 79 Stat. 149, sec. 221(d) (3).

²⁴ Housing and Urban Development Act of 1965, Public Law No. 89-117, 79 Stat. 451, sec. 101.

²⁵ Housing and Urban Development Act of 1968, Public Law No. 90-448, 82 Stat. 476, sec. 201.

²⁶ For example, a Federal homeownership program, administered by the Farmers Home Administration, has been in existence for many years to serve rural residents. Further, in 1965 a program was established to enable public housing tenants to purchase units they occupy. In 1966, another effort was made to stimulate homeownership for lower income families.

²⁷ As part of the Demonstration Cities and Metropolitan Development Act of 1966, the 221(h) program was established to provide for the purchase and rehabilitation by nonprofit sponsors of substandard housing, through mortgages insured by the Federal Housing Administration, and subsequent resale to low income families financed by FHA insured mortgages bearing interest rates of from 1 to 3 percent.

²⁸ Anthony Pascal, *The Economics of Housing Segregation*, (1965).

²⁹ *Id.*

³⁰ Executive Order 11063, 27 Fed. Reg. 11527 (1962).

³¹ Civil Rights Act of 1964, Public Law No. 88-352, H.R. 7152, sec. 601.

³² Civil Rights Act of 1968, Public Law No. 90-284, H.R. 2516, sec. 801.

³³ *Jones v. Mayer and Co.*, 392 U.S. 409, 413 (1968).

³⁴ For a detailed discussion of the inadequacies in enforcement of various equal housing opportunity laws, see U.S. Commission on Civil Rights, "The Federal Civil Rights Enforcement Effort," Ch. 3 (1970).

³⁵ United States Housing Act of 1966, Public Law No. 412, 75th Cong., 50 Stat. 888.

islative proposal by Senator Charles H. Percy and Congressman William B. Widnall, calling for a National Home Ownership Foundation. The unique aspect of the 235 program does not lie in the fact that it seeks to make the benefits of homeownership available to lower-income families, but in the scale on which this effort is attempted.³⁶

For example, the earlier 221(h) program authorized a total of \$50 million as the aggregate balance of all mortgages that could be insured under its provisions.³⁷ By contrast, the 235 program authorizes contracts for assistance payments in the amount of \$550 million over a 4-year period.³⁸

Under the 235 program, a family whose income does not exceed certain statutory limits may purchase housing that does not cost more than \$18,000 (or \$21,000 in high-cost areas such as many of the Nation's large urban centers). For families with five or more persons, however, the cost may be \$21,000 (or \$24,000 in high cost areas).³⁹

The purchaser must pay at least 20 percent of his income toward the monthly payments of principal, interest, taxes, insurance, and FHA insurance premium, while the Government pays the rest. In no case, however, is the Government permitted to pay more than the difference between the monthly payments under the mortgage and what the monthly payments would be if the mortgage were at a 1 percent interest rate. In short, the subsidy under the 235 program consists of payments by the Government to mortgage lenders on behalf of lower-income home purchasers which, in effect, reduces the interest rate to as little as 1 percent.

The family must make a minimum down payment of \$200 or, in the case of families with incomes under the exceptional limits, 3 percent of the appraised value of the property. The down payment may be applied toward closing costs and items of prepaid expense.⁴⁰

³⁶ A primary reason for the vastly greater production under the 235 program is the method of subsidy. Whereas sec. 221(h) was a below-interest subsidy program, sec. 235 is an interest subsidy program. Sec. 221(h) had an immediate budgetary impact, while the mortgage loan funds for the 235 program are furnished by the private sector.

³⁷ Demonstration Cities and Metropolitan Development Act of 1966, Public Law No. 89-754, 80 Stat. 1255, sec. 221(h) (4).

³⁸ *Supra* note 33, sec. 101, sec. 235(h) (1). Sec. 101 adds to the National Housing Act (Public Law No. 479, 73d Cong., 48 Stat. 1246) a new section 235.

³⁹ *Id.*, Sec. 235(h) (2).

⁴⁰ *Id.*, sec. 235(j) (3) (c). In addition, if the buyer contributes labor in the construction or rehabilitation of his house, or if he owns a lot, the value of the labor and/or the value of the lot may be included in the downpayment. The buyer is not allowed to invest more than his required downpayment if this will put the total mortgage amount over the maximum permissible limit.

Upper income limits for eligibility are set at 135 percent of the public housing limit in the particular area in which the housing is located.⁴¹ The statute, however, permits as much as 20 percent of the total amount of assistance payments to be made on behalf of families whose incomes are as high as 90 percent of the income limits provided under the FHA 221 (d) (3) program of housing for moderate-income families.⁴²

In determining income for purposes of eligibility, \$300 is deducted for each minor child who resides with the family.⁴³ Income of minors is not included.⁴⁴ Five percent is deducted for social security withholding and payroll deductions. In addition, unusual or temporary income, such as overtime pay, may be deducted.⁴⁵ Thus, maximum income limits for eligibility provide sufficient flexibility to offer the opportunity for those other than low-income families to receive benefits under the program. This presents the possibility of an economic cross section in projects or developments built under the program and potentially avoids the creation of additional isolated pockets of the poor.

If the statute provides for a flexible ceiling for income eligibility, the harsh facts of housing economics place an inflexible floor on it. That is, the maximum subsidy available under the program is limited to an amount which permits a family to purchase a house under a 1 percent interest rate. For the hardcore poor, unless the house is of extremely

⁴¹ *Id.*, sec. 235(h) (2).

⁴² *Id.* The following table provides examples of upper income limits for eligibility for a five-person family under section 235 in representative cities and metropolitan areas:

	135 percent of public housing limit	90 percent of 221(d)(3) limit
Atlanta, Ga.	\$6,480	\$7,250
Austin, Tex.	5,400	7,550
Boston, Mass.	7,965	9,950
Bridgeport, Conn.	7,630	9,550
Chicago, Ill.	8,910	10,200
Cleveland, Ohio.	8,100	9,900
Denver, Colo.	7,155	8,350
Little Rock, Ark.	6,615	6,950
Memphis, Tenn.	6,480	7,500
Milwaukee, Wis.	8,100	9,000
Philadelphia, Pa.	5,400	8,800
St. Louis, Mo.	6,750	9,300
San Diego, Calif.	6,750	10,450
San Francisco, Calif.	7,155	9,550
Seattle, Wash.	7,695	9,200

⁴³ *Supra* note 38, sec. 235(L).

⁴⁴ *Id.*

⁴⁵ Also, the family may not have assets exceeding \$2,000 (or \$5,000 if the applicant is 62 years or older). The family may hold, over the \$2,000, \$500 for each dependent and an amount equal to their share of the mortgage payment for 1 year.

low cost, the subsidy often is not deep enough to be of help. Thus, families who are truly of low-income tend to be effectively excluded from the program.

The unit may be a new or rehabilitated house, a unit in a condominium or cooperative, or a rehabilitated two-family dwelling.⁴⁶ Existing housing is eligible under the program for the following categories of families:

1. Families displaced by urban renewal or other government action or by a major disaster;
2. Families moving from low-rent public housing;
3. Families that include five or more minor children.

Further, Congress provided that part of the total amount of assistance payments under 235 could be used for existing housing generally, even if the purchaser does not fall within one of the categories noted above.⁴⁷

In the original legislation, 25 percent of the funds for assistance payments would be used for existing housing in fiscal year 1969, 15 percent in fiscal year 1970, and 10 percent in fiscal year 1971.⁴⁸

According to Secretary Romney, the existing housing portion of the program was then to be eliminated except for the special exception categories:

As originally enacted in 1968, the 235 homeownership program authorized the temporary eligibility of existing housing for assistance on a declining scale—25 percent . . . ; 15 percent . . . ; 10 percent . . . ; and nothing thereafter.⁴⁹

However, in 1969, numerous groups testified before congressional committees advocating an increase in the amount of funds to be used for existing 235 housing.⁵⁰

⁴⁶ *Supra* note 38, sec. 235(i) (3) (a).

⁴⁷ *Id.*, sec. 235(h) (3).

⁴⁸ *Id.*

⁴⁹ "Hearings on Housing and Urban Development Legislation—1970 Before the Housing Subcommittee of the House Banking and Currency Committee," 91st Cong., second session, 177 (1970).

⁵⁰ For example, a member of the Board of Governors of the Federal Reserve System testified:

"By far the cheapest and most efficient housing available to us is likely to come from the existing stock. I am not clear as to why under section 235 loans are primarily restricted to new housing . . . This appears to me part of the neglect of the existing stock."

Supra note 6, at 244.

A representative of the National Association of Real Estate Boards stated: "Hearings on Housing and Urban Development Legislation—1969 Before the Housing Subcommittee of the House Banking and Currency Commission," 91st. Cong., first session, at 325 (1969).

"We believe that it was unfortunate to limit the eligibility of existing units for mortgage insurance under this program. . . . The primary objective of section 235 is to assist low-income families to become homeowners, an objective which would be better served if existing structures were eligible for interest subsidies. Without this change in the section 235 program, low-income families after July 1, 1972, would be denied the benefits of this

In 1969, Congress authorized 30 percent of 235 assistance funds to be used for existing housing for fiscal years 1970 and 1971.⁵¹ In 1970, Congress extended the 30 percent figure to fiscal year 1972 and added that at least 10 percent of the total amount of contracts for 235 assistance payments be used only for substantially rehabilitated houses.⁵²

Section 235 supersedes the 221(h) program and provides for insurance on mortgages executed by nonprofit groups or public bodies or agencies to finance deteriorating or substandard housing for subsequent resale to lower income home purchasers (Section 235 (j).)⁵³

Congress also authorized the Secretary of HUD to provide counseling services to 235 buyers or to contract with public or private organizations to provide such services, to assist the many families eligible under the program who lack experience in home ownership to meet their new responsibilities successfully.⁵⁴ And Congress directed that a preference be accorded to families whose incomes are within the lowest practicable limits for achieving homeownership.⁵⁵

Differences Between Section 235 and Other Lower-Income Housing Programs

In several respects, the 235 program represents a sharp departure from other programs directed toward the housing needs of lower-income families. The most obvious difference, as noted earlier, is that

homeownership assistance program in the acquisition of an existing dwellings."

And the National Housing Conference passed a resolution in March 1969 recommending that 25 percent of assistance funds should be made available for existing housing in 1970 and 1971, stating:

"Besides enabling the homeownership program to have a greater immediate impact, this amendment would afford a greater opportunity for freedom of choice among lower income families in selecting the areas in which they desire to live."

Supra note 6 at 221.

⁵¹ Housing and Urban Development Act of 1969, Public Law 91-152, 91st Cong., first session, sec. 109(2) (B).

A Committee Report of the House Committee on Banking and Currency explained:

"While the section 235 program is primarily intended to stimulate the production of new or rehabilitated units, its limited application to existing housing has given the 235 program flexibility and should be continued at approximately the same level for the full 3 years until more experience has developed with respect to the program."

⁵² In fact, HUD set an administrative limit of 10 percent on the amount of 235 funds to be used for existing housing in the spring of 1970.

⁵³ The 235 program provides for the Secretary of the Department of Housing and Urban Development to allocate and transfer to the Secretary of Agriculture a reasonable portion of the total authority to contract to make assistance payments. The Secretary of Agriculture administers the 235 program in rural areas and communities of 5,500 population or less.

⁵⁴ *Supra* note 33, sec. 101(e).

⁵⁵ *Supra* note 38, sec. 235(h)(1). The Internal Revenue Service has ruled that a 235 home buyer need not report the amount of his mortgage subsidy as income and that he may deduct the total amount of interest paid on his mortgage loan from his income tax.

while other lower-income housing programs—low-rent public housing, FHA 221(d)(3), rent supplements, and section 236—all are mainly concerned with the provision of rental housing, 235 is exclusively designed to provide opportunities for homeownership.

A second major difference involves income limits for eligibility. Three of the four rental housing programs—low-rent public housing, FHA 221(d)(3), and rent supplements—all carry narrow income limits.⁵⁶ Section 235, in which income limits for eligibility overlap those for public housing and 221(d)(3), carries sufficiently flexible income limits for eligibility to offer the potential for encouraging economic integration and for avoiding the many problems that result from concentrating the poor in enclaves apart from the social and economic mainstream of the community.⁵⁷

A third difference is that section 235, unlike most of the rental housing programs, makes extensive use of existing housing.⁵⁸ This, too, provides the section 235 program with a flexibility not possible in these housing programs. That is, if existing housing is eligible under the program, then, theoretically, eligible families may choose the housing they wish to purchase in the area in which they wish to live, rather than be forced to purchase newly constructed housing in areas where builders have chosen to build. Thus, extensive use of existing housing under the program has the potential effect of broadening the range of housing choice for lower-income families and affording them something resembling the freedom of residence that has been the prerogative of more affluent families.

One final difference is that the 235 program, unlike most of the rental housing programs, is free to operate anywhere, without regard to the desires of particular communities. Until 1969, low-rent public housing, FHA 221(d)(3), and rent supplements all operated under statutory provisions which gave suburban communities an effective veto power

⁵⁶ *Supra* note 30, sec. 2(2). Public housing and rent supplements both are aimed at families "who are in the lowest income group." Thus the income ceiling for these two programs is such as to render ineligible all but those families who are poor, FHA 221(d)(3) is aimed at serving low- and moderate-income families or displaced families, but because the program operates at a 3 percent interest rate, it can serve only a relatively narrow range of moderate-income families. Sec. 236, by contrast, can serve the same relatively broad range of families as sec. 235.

⁵⁷ The leased housing provision of the public housing program also has potential for encouraging economic integration.

⁵⁸ Low-rent public housing, while it emphasizes new construction, also provides for extensive use of existing housing under the sec. 23 leased housing program (added to the Housing Act of 1937, *supra* note 30, by sec. 302(b), Housing Act of 1961, *supra* note 31).

through the requirement that communities must adopt a "workable program for community improvement" before these programs could operate within their borders.⁵⁹ Hence, communities could effectively exclude lower-income housing by the simple expedient of failing to adopt a "workable program". Section 235, by contrast, operates free of such local government veto power, restricted only by zoning and other land use requirements imposed by local law.⁶⁰

Expectations for the 235 Program

The great potential of the 235 program was recognized from the outset and the legislation authorizing the new program received support from a variety of groups, representing business as well as social welfare concerns. Some saw the program as a key to upgrading property.⁶¹ Others saw it as a means of enabling the poor to go where the jobs are.⁶² The 235 program also was viewed as providing poor families with a legitimate stake in society through home ownership⁶³ and as offering American families choices in selecting the type of housing in which they desire to live.⁶⁴ And the program was endorsed as a vital element in facilitating the flow of private investment funds into FHA mortgage programs.⁶⁵

Supporters of the new 235 program saw another potential benefit in it: the expectation that this program would aid the minority citizen. The 1968 Housing and Urban Development Act was passed on August 1, 1968, during a time when majority Americans were becoming publicly conscious of the injustices suffered by black Americans. In the spring of 1968, the National Advisory Commission on Civil Disorders had issued its report stating that inadequate housing was a deep grievance of the first level

⁵⁹ The "workable program" requirement is traditionally associated with the urban renewal program, but makes little rational sense as a condition for providing housing for lower income families. In 1969, this requirement was eliminated with respect to low-rent public housing and FHA 221(d)(3), but remains a condition for rent supplements by virtue of provisions which consistently have been included in annual appropriations legislation.

⁶⁰ Section 236, a companion program to 235, which provides rental housing for lower income families, is also free from the "workable program" requirement.

⁶¹ Hearings on Housing and Urban Development Legislation and Urban Insurance—1968 Before the Housing Subcommittee of the House Banking and Currency Committee, 90th Cong., 2nd session, pt. 2, at 1350 (1968).

⁶² Letter to Senator John J. Sparkman from the Reverend G. H. Woodard, Jr., executive counsel of the Episcopal Church, New York, N.Y., Mar. 11, 1968.

⁶³ *Id.*

⁶⁴ Report of the Senate Committee on Banking and Currency, S. Rep. No. 1123, 90th Cong., second session, 5 (1968).

⁶⁵ Letter to Senator Sparkman from Arnold Freeman, director of Economic Analysis, American Life Convention, and Ralph McNair, vice president, Life Insurance Association of America, Apr. 1, 1968.

of intensity⁶⁶ in the 20 riot cities studied by the Commission. And in April of 1968, Congress had passed the first national fair housing law, Title VIII of the Civil Rights Act of 1968.

Witness after witness appeared before congressional committees to express their support for the new homeownership program as a vitally needed answer to the housing problems of black Americans and as a means of relieving a principal cause of racial unrest.⁶⁷ Congress, itself, expressed the expectation that the 235 program would be of special benefit to minority group families. In fact, in 1968 nearly three of every five nonwhite families had incomes (\$3,000–\$10,000) that fell within the range of eligibility for participation in the 235 program.⁶⁸ As Senator Percy, whose earlier proposal for a National Home Ownership Foundation had been a prototype for the 235 program, put it:

We can democratize our cities. We can give people of the ghetto a piece of the action—let them be somebody and have something.⁶⁹

Achievements of the 235 Program

The 235 program relies on the private housing and home finance industry—private builders, private lenders, and private brokers—for its success. The private sector responded to the new homeownership program with immediate enthusiasm.⁷⁰ In January 1969, 3 months after the first appropriations had been made for the program, President Johnson said:

There are signs that the 235 program may well be the most rapidly accepted program for low- and moderate-income families. There is tremendous interest in it on the part of industry and the lenders.⁷¹

⁶⁶ The Commission on Civil Disorders divided major grievances into three levels of intensity. Housing was one of three grievances in the first level.

⁶⁷ See, e.g., testimony of Hon. James H. J. Tate, Mayor of Philadelphia, *supra* note 61, pt. 1 at 230; testimony of Q. V. Williamson, president, National Association of Real Estate Brokers, *Id.* at 666; testimony of Henry G. Parks, Jr., chairman, Housing Committee, National Urban League, *Id.* pt. 2 at 1235; testimony of Nathaniel Keith, chairman, National Housing Conference, "Hearings on Housing and Urban Development Legislation of 1968 Before the Housing and Urban Affairs Subcommittee of the Senate Committee on Banking and Currency," 90th Cong., second session at 831 (1968).

⁶⁸ *Supra* note 16 at 16.

⁶⁹ *Supra* note 64 at 210.

⁷⁰ The response was not as great in rural areas. According to Hon. James V. Smith, Administrator of Farmers Home Administration, as of May 17, 1969, only 144 commitments had been made on sec. 235 mortgages by Farmers Home. He blamed this on the unavailability of interested lenders and the income limits of the areas covered. However, production has increased under other programs administered by Farmers Home Administration and, as of June 1970, FHA's production had gone from 3,000 units a year in 1949 to 50,000 units in 1969, and was estimated to reach 90,000 in 1970.

⁷¹ First Annual Report on National Housing Goals, Jan. 23, 1969, Housing Document No. 91-63 at 25.

In fact, the initial \$25 million in contract authority which Congress appropriated in October 1968 was rapidly exhausted—in some HUD regional offices, funds were fully committed as early as January 1969.⁷² Moreover, an impressive amount of housing was provided under the program within a short time after its enactment. By May 1969, 11 months after the program was established and less than 7 months after funds initially were made available, 3,000 units had already been purchased and occupied by lower-income families. An additional 7,500 units had received FHA commitments and 57,000 units were in process. HUD reported that the FHA was receiving applications under the program at the rate of 2,000 to 3,000 units a week.⁷³

By the end of 1969, more than 25,000 units had been purchased under the 235 program.⁷⁴ By the end of 1970, this figure had risen to more than 130,000. Thus the 235 program, barely 2 years old already had accounted for well over one-tenth the number of low-income units that the low-rent public housing program had produced in more than 3 years of existence.⁷⁵

The birth of the 235 program occurred during a period of inflation and low productivity for the housing industry in general. In fact, housing production has declined sharply and over the last 4 years the volume of housing produced has been more than a million units short of the number necessary to keep pace with the Nation's growing population.⁷⁶ The 235 program has been responsible for a substantial proportion of all new lower-cost housing produced. In 1969, for example, there were only 112,000 new houses that sold for less than \$20,000.⁷⁷ Some 1 percent of these were purchased under the 235 program. Section 235 accounted for an even larger portion of lower priced housing in 1970. During that year, 256,000 new dwellings sold for less than \$25,000,⁷⁸ of which more than 77,000 (30 percent) were purchased under the 235 program.⁷⁹

⁷² *Supra* note 6 at 5.

⁷³ *Id.* 28-30.

⁷⁴ Forty-three percent were new or rehabilitated units and 57 percent were existing houses. Interview with Lloyd Lyons, Office of Deputy Under Secretary, HUD, Nov. 6, 1970.

⁷⁵ *Id.* The rehabilitation aspect of the 235 program has lagged far behind the new or existing unit aspect. As of November 1970, only 24 projects consisting of 163 rehabilitated units, had been insured under the program.

⁷⁶ *Supra* note 14 at 50.

⁷⁷ Department of Commerce, "Characteristics of New One-Family Homes," see 25-69-13, 66 (1969).

⁷⁸ U.S. Department of Commerce, "Sales of New One-Family Home Third Quarter of 1969 through Third Quarter of 1970," 9 (December 1970 Fourth quarter estimate by Mr. Mittendorf, U.S. Bureau of the Census).

⁷⁹ Information obtained from Statistical Division, FHA, "New 235 and 335 Insurance Written," Cumulative, December 1970.

In fact, the 235 program has been a major support for the private housing and home finance industry during a trying period. One builder reported to a congressional committee: "You take away 235 and 236 and we are not even existing."⁸⁰ As the Mortgage Bankers Association put it: "The Federal Government's assistance to housing through the subsidized programs of section 235 and 236 has been a major sustaining force of the housing industry."⁸¹

While the volume of housing produced under the 235 program has been impressive, not all regions of the country have shared equally in it. As early as October 1969, the National Association of Housing and Redevelopment Officials noted:

. . . 235 is not making the penetration it was expected to in the densely populated Northeast and mid-Atlantic States, where the need for more standard low-income housing is considered the most critical. These are also regions of the country where land and construction costs are the highest and where competition for available investment funds are considered greatest.⁸²

This trend has continued. As of the end of 1970, more than half the new 235 units and more than a third of the existing 235 units were located in Southern and border States. Nearly half of all 235 houses have been located in this part of the country. By contrast, only 6 percent of all 235 units and 3 percent of the new units were located in the northeastern region, which includes the States of Connecticut, Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, Pennsylvania, Delaware, Maryland, New Jersey, West Virginia, the District of Columbia, and New York.⁸³

Unanswered Questions

In addition to data on the geographic location of 235 housing, HUD maintains statistics which describe the typical 235 buyer. In 1969, he had a

median income of \$5,579 a year and purchased a house with a median sales price of \$14,957.⁸⁴ In the third quarter of 1970, the median income of the 235 buyer had risen to \$6,083 a year and the median sales price had jumped to \$17,004. The median age of the head of the family was 30 and about 25 percent of the families were headed by a woman. The median monthly subsidy was \$75 and the typical family was composed of four persons.⁸⁵

The data HUD collect concerning the typical 235 buyer and the location of 235 housing are useful, but they are inadequate to determine with any precision how well the program is working. For example, with all the information about the typical 235 buyer, no statistics are available concerning the race or ethnic origin of those who participate. Data on location of 233 housing do not include information on suburban versus central city location. In fact, there is very little way of judging the exact extent to which the program is fulfilling the expectations of its many supporters and of Congress.

In its 1968 testimony before the Subcommittee on Housing of the House Committee on Banking and Currency, this Commission emphasized the importance of several key questions concerning the proposed new 235 program:

Where will these units be provided, who will occupy them, and what will be the effect . . . in determining the nature of our society and of race relations for the future?⁸⁶

In 1969 testimony before the same Subcommittee, this Commission's Chairman promised that the Commission would try to answer some of these questions. During the summer of 1970, Commission staff members visited the four metropolitan areas to examine the operation of the 225 program. The following chapters explain what was found.

⁸⁰ *Supra* note 49 at 800.

⁸¹ "The Mortgage Banker," Sept. 10, 1970, at 47.

⁸² "Journal of Housing," No. 6, 282 (June 1969).

⁸³ For a list of FHA insuring offices ranked by the number of 235 mortgages issued as of the end of 1970, see appendix A.

⁸⁴ *Supra* note 3, pt. I, table I, at 271.

⁸⁵ "Characteristics of Home Mortgage Transactions Insured by FHA under Section 235(i)," Third Quarter, 1970, Department of HUD Housing Production and Mortgage Credit. FHA Division of Research and Statistics, Statistics Branch, Nov. 18, 1970, table 1.

⁸⁶ *Supra* note 61 at 883.

PART II

EXPERIENCE IN FOUR METROPOLITAN AREAS

In conducting its investigation of the operation of the 235 program, the Commission recognized the existence of a number of factors which qualify any conclusions that might be drawn.

First, since the 235 program is comparatively new and in an early stage of development, it is by no means certain that the way the program has operated thus far is the way it will operate in the future.

Second, in the few years since the program's establishment, its emphasis has changed to a large extent. At the outset, the great majority of units sold under the program consisted of existing houses. More recently, however, the proportion of new units provided under the program has steadily increased. As of the end of 1970, nearly 70 percent of all 235 units were new houses.

Third, since little data concerning the impact of the 235 program, such as the location and race of 235 buyers, are available, it has been impossible to evaluate the program on a nationwide and comprehensive basis. Rather, the Commission has had to rely mainly on material gathered through its own staff investigations. While the number of houses and buyers surveyed by Commission staff is substantial, it represents only a relatively small percentage of the houses and buyers that have been involved in the 235 program throughout the country. This, too, makes it impossible to draw precise conclusions regarding the nationwide operation of the program.

The Commission was convinced, however, that the potential importance of the program warranted the study at this early time. To obtain as comprehensive a picture as possible of the impact of the 235 program, the Commission decided to examine its operation under as many varying circumstances as possible.

Four metropolitan areas were selected for field investigations—Denver, Colo.; Philadelphia, Pa.; St. Louis, Mo.; and Little Rock, Ark. The areas were selected not on the basis of the number of 235 units being provided there, but because they represented diversity of size, geographical location, racial and

ethnic composition, and extent and kind of housing provided under the 235 program. In each case, staff surveys were combined with extensive interviews with local officials and others involved in the program, for the purpose of determining overall patterns in the operation of the program.

The diverse natures of the metropolitan areas selected for investigation provides the Commission with a basis for concluding that the patterns found are not atypical. Further, as the following chapters demonstrate, the same patterns were found in each of the four metropolitan areas. This strongly suggests that the experience of the 235 program in these four areas is an indication of the impact the program is having nationwide.

The northeastern city of Philadelphia, together with its suburbs, forms the largest metropolitan area in the survey.¹ The current population of nearly 4,000,000 is about evenly divided between the city of Philadelphia and the surrounding jurisdictions.² As of 1970, 19.7 percent of the Philadelphia metropolitan area was black and 91 percent of that black population lived in the inner-cities of Philadelphia and Chester.³ Seventy percent of the white families and 48 percent of the black families were homeowners.⁴ Although Philadelphia has the largest population of any area visited by Commission staff, it has produced the smallest number of new section 235 houses. As of December 31, 1970, only 11 new houses had been provided under the 235 program in the Philadelphia area. At the same time a total of

¹ The Philadelphia Standard Metropolitan Statistical Area includes the three New Jersey counties of Camden, Burlington, and Gloucester as well as the Pennsylvania Counties of Philadelphia, Bucks, Montgomery, Delaware, and Chester. The New Jersey Counties are served by an FHA Insuring Office located in Camden, N.J., and the Pennsylvania counties are served by an FHA Office located in Philadelphia. All sample cases were taken from the Philadelphia Insuring Office files.

² "U.S. Census of Population: 1970, General Population Characteristics, Pennsylvania." PC (V2)-40.

³ *Id.*, The Philadelphia metropolitan area includes the counties of Bucks, Chester, Delaware, Montgomery, and Philadelphia.

⁴ "U.S. Census of Housing: 1970, General Housing Characteristics, Pennsylvania," HC (VI)-40.

834 existing 235 houses had been purchased and occupied. (See appendices A and B.)

The second largest metropolitan area selected is St. Louis in the Midwest.⁵ The current population of the area is 1.6 million, with 61 percent of the population located in the fast-growing suburbs of St. Louis County.⁶ Forty-one percent of the city population and 4.7 percent of the county population are black.⁷ As of 1970, 66 percent of the white families in the metropolitan area were homeowners. Thirty-seven percent of black families were in the same category.⁸ A total of 990 section 235 mortgages had been insured in the St. Louis area⁹ as of December 31, 1970. Seventy-five percent of the mortgages were on existing houses. (See appendices A and B.)

The western metropolis of Denver, Colo., with a current population of 1.1 million, is the third largest area selected. Forty-six percent of the population lives in the city of Denver with the remainder distributed in Adams, Arapahoe, and Jefferson Counties.¹⁰ Current estimates are that 4.6 percent of the area's population is black and 7.4 percent is Mexican American. Between 9 and 10 percent of the city population is black and 11 percent is estimated to be Mexican American. Overall owner-occupancy in the metropolitan area is 62 percent, while approximately 41 percent of black families and 47 percent of Mexican American families are homeowners.¹¹ Of the four metropolitan areas surveyed, Denver was the largest producer of 235 houses. Approximately 70 percent of Colorado's 3,555 section 235 units are located in Denver.¹² Sixty-seven percent of the State total are newly constructed or rehabilitated houses. (See appendices A and B.)

The fourth area visited was Little Rock, Ark., a southern metropolitan area with a population of ap-

proximately 287,000.¹³ Twenty-one percent of the area's population¹⁴ is black.¹⁵ Sixty-five percent of the area's white families are homeowners, and 54 percent of the black families own homes.¹⁶ Little Rock was the second largest producer of new 235 houses in the survey. As of December 31, 1970, the Little Rock FHA Insuring Office had insured 1,992 section 235 mortgages throughout the State of Arkansas, 85 percent of which were on newly constructed or rehabilitated houses.¹⁷ (See appendices A and B.) Approximately 40 percent of the Arkansas 235 houses are located in the Little Rock metropolitan area.¹⁸

Beginning with St. Louis, which was studied in preparation for this Commission's Hearing in January 1970, Commission staff selected 286 cases for examination as a sampling of section 235 cases from each metropolitan area. For St. Louis, 79 cases were examined, all involving mortgages insured during the months of July, August, September, and October of 1969. The 61 cases selected in Philadelphia were drawn from an 11-month period beginning in April 1969 and ending in February 1970.¹⁹ The 64 cases selected in Denver were drawn from a 9-month period beginning in August 1969 and ending in April 1970. The largest sample was drawn from Little Rock, the last area visited. The 82 cases covered a 19-month period beginning in December 1968 and ending in June 1970. More than half the houses had mortgages insured in 1970.²⁰

Following an examination of the case files in Washington, field visits were made to each of the four metropolitan areas. Of the total sample of

⁵ The St. Louis Standard Metropolitan Statistical Area includes St. Louis, Jefferson, and St. Charles Counties, Missouri, Madison, and St. Claire Counties, Ill. The Illinois counties are served by an FHA Insuring Office located in Springfield, Ill. The Missouri Counties are served by an FHA Insuring Office located in St. Louis. All sample cases were taken from the St. Louis Insuring Office files and only included houses located in St. Louis City or St. Louis County.

⁶ *Supra* note 2, "Missouri," PC (V2)-27.

⁷ *Id.*

⁸ *Supra* note 4, "Missouri," HC (V1)-27.

⁹ The St. Louis FHA Insuring Office services the eastern half of the State of Missouri. FHA statistics are available by insuring office only and are not broken down by city within the insuring office area.

¹⁰ *Supra* note 2, "Colorado," PC (V2)-7.

¹¹ Overall statistics and those for blacks are from *Id.*, and *supra* note 3, "Colorado," HC (V1)-7. No similar census statistics are available for Mexican Americans; consequently those statistics are from "County Profiles-Denver SMSA," prepared by the metropolitan Department of Research and Planning, appendix tables I and II (June 1969).

¹² The Denver FHA Insuring Offices services the entire State of Colorado. FHA statistics are available by Insuring Office only and are not broken down by city within the Insuring Office area.

¹³ *Supra* note 2, "Arkansas," PC (V2)-5.

¹⁴ Includes Little Rock and North Little Rock and the remainder of Pulaski County, Ark.

¹⁵ *Supra* note 13.

¹⁶ *Supra* note 4, "Arkansas," HC (V1)-5.

¹⁷ The Little Rock FHA Insuring Office services the State of Arkansas. FHA statistics are available by Insuring Office only and are not broken down by city within the Insuring Office area.

¹⁸ Interview, Little Rock FHA Office, Sept. 14, 1970.

¹⁹ At the time the sample cases were selected in Philadelphia and St. Louis, no new houses had yet been purchased under sec. 235 in those areas.

²⁰ Table is as follows:

TABLE A.—SECTION 235 BUYERS IN SAMPLE

Metropolitan area	New houses	Existing houses
St. Louis	0	7
Philadelphia	0	6
Denver	27	3
Little Rock	64	1
Total	91	19

286 houses, 214 were surveyed and buyers were identified as members of a majority or minority group.²¹ The field visits revealed an immediately identifiable racial and ethnic pattern among 235 buyers.

In Philadelphia and St. Louis, the 235 buyers were predominantly minority group members. In fact, only five of the 54 St. Louis buyers surveyed and only three of the 31 Philadelphia buyers surveyed, were white.* In St. Louis, the remaining buyers were black. In Philadelphia, four of the buyers surveyed were Puerto Rican and the remainder were black. In terms of the comparatively few 235 units provided in St. Louis and Philadelphia, it would appear that minority group members were getting more than their proportionate share.

In Denver and Little Rock, which together had more than three times as many 235 buyers as St. Louis and Philadelphia combined, the majority of 235 purchasers were not members of a single minority group. In Little Rock, where all 82 of the purchasers were surveyed, 63 of the buyers were white,

*The term "white" is used in the report to refer to Caucasians who are not of Puerto Rican, Mexican, or Spanish descent.

²¹ The surveys consisted of locating the houses and identifying the race of the buyers. Not all buyers were interviewed. In little Rock, all 82 families in the sample were surveyed (100 percent.) In Denver, 47 of the 64 families in the sample were surveyed (73 percent). In St. Louis and Philadelphia FHA officials estimated that 75-85 percent of the 235 houses in those areas were being purchased by minority families, so in these cities, fewer buyers were surveyed—50 percent in Philadelphia and 68 percent in St. Louis. Care was taken, however, to survey buyers in different neighborhoods in these areas. Fifty-two of the St. Louis 235 buyers contained in the sample were interviewed by student volunteers in cooperation with the St. Louis Legal Aid Society and Freedom of Residence, a St. Louis fair housing organization.

and the remaining 19 were black. In Denver, where 47 (including all of the buyers located within the city limits of Denver) of the purchasers were surveyed, 23, or nearly half, of the buyers were white, 14 of the buyers were of Mexican American or Spanish descent, and 10 of the buyers were black.²²

The figures showing racial participation in the 235 program, taken by themselves, suggest that the program is indeed contributing substantially to meeting the housing needs of minority group families. Overall, the Commission's survey revealed that 102 of the total of 214 buyers surveyed were black, as compared with 94 white buyers. In addition, four were Puerto Rican, and 14 were of Mexican American or Spanish descent.

The overall figures on racial and ethnic participation alone, however, are not adequate indicators of the success of the program. For example, they do not reveal the location or type of housing which is being purchased by various racial and ethnic groups. These factors—location and type of housing—are of particular significance in determining the racial and ethnic impact of the 235 program.

²² See the following table:

TABLE B.—SECTION 235 BUYERS SURVEYED

Metropolitan area	White	Black	Spanish surname	Total
St. Louis.....	5	49		54
Philadelphia.....	3	24	4	31
Denver.....	23	10	14	47
Little Rock.....	63	19		82

CHAPTER I

RACIAL AND ETHNIC DISTRIBUTION

Despite the differences among the four metropolitan areas surveyed, the location patterns of 235 buyers were strikingly similar. In all four areas, black families were overwhelmingly segregated. All but three of the 102 black 235 buyers purchased existing houses, most of them located in all-black or racially "changing" neighborhoods in the central city.²³ Three-fourths of the black buyers surveyed were located in central city areas. In Philadelphia, the four Puerto Rican buyers were also housed in the central city, all in "changing" neighborhoods.²⁴ By contrast, white families were concentrated in suburban areas and in newly constructed houses. More than three of every four white buyers in the survey purchased new 235 houses and nearly nine of every 10 white buyers located in suburban areas.

SUBURBS VERSUS CENTRAL CITY

New Construction

The majority of new 235 houses are located in suburban areas. This is because vacant land is scarce in central cities and land prices tend to be higher in cities than in suburbs.²⁵

The concentration of new 235 houses in suburbia was anticipated. As early as January 1969, President Johnson said in his message on National Housing Goals:

As opposed to the other subsidized programs, the great bulk of the 7,200 units of new construction under sec. 235 is

expected to take place in outlying suburban areas where land problems should not be too severe.²⁶

The total Commission sampling of 286 section 235 cases included 91 newly constructed houses—27 in Denver and 64 in Little Rock. All but two new houses, both in Little Rock, were constructed in suburban areas.²⁷

With the exception of three black buyers in Little Rock and six Spanish surnamed buyers in Denver, all purchasers of new 235 houses were white. The six new Denver houses purchased by Spanish surnamed buyers were located in a large suburban development. Anglo* purchasers of new 235 houses also located in this development.²⁸

Two of the three new houses purchased by black buyers in Little Rock were located in the central city. These were the only new central city houses in the total sample. One house was built on a lot in a predominantly black area containing some aging and deteriorating houses.²⁹ The other was built in a predominantly black urban renewal area in North Little Rock. By contrast, all new 235 houses pur-

*The term Anglo is used here, as it is used throughout the Southwest, to refer to white persons who are not of Mexican American or Spanish descent.

²⁶ Message from the President of the United States, "First Annual Report on National Housing Goals," H.R. Doc. No. 91-63, 91st. Cong., first session, 44 (1969).

²⁷ The two exceptions were located in Little Rock, one is in an urban renewal area in North Little Rock, and the other in a residential area in Little Rock. Nineteen of the 27 new houses in Denver were located in a development which is east of the Denver airport (Stapleton International Airport). The remainder were located in Arvada, Aurora, and in northern sections of Adams County, Colo.

Of the 62 new suburban 235 houses in the Little Rock area, 60 percent were located in subdivisions southwest of Little Rock. More than a fourth were located in subdivisions north of North Little Rock. The other new suburban houses were located on the western edge of Little Rock (3) and the eastern edge of North Little Rock. (4). The one remaining new suburban house was located in a semirural area northeast of North Little Rock.

²⁸ Although the Denver sample of new home buyers included no black purchasers of new houses, Commission staff observed some black families residing in the development where the surveyed new houses were located. It is not known if any of these families purchased their houses with sec. 235 assistance.

²⁹ Information furnished by Ozell Sutton, Community Relations Service, Department of Justice, Little Rock, Ark., letter dated Oct. 15, 1970.

²³ Some black purchasers of new 235 houses were interviewed in St. Louis. However, these buyers were not part of the sample as they purchased houses after the sample was selected. They were interviewed because of problems they were encountering.

²⁴ Spanish surname families in Denver were not rigidly segregated as were black families, and some of these families did purchase new 235 houses. However, there was a noticeable concentration of Spanish surname 235 buyers in the western half of the city.

²⁵ The President's Committee on Urban Housing found that "within any given metropolitan area, the cost of land tends to rise as one moves toward the center of the city." The President's Committee on Urban Housing, "A Decent Home," 141 (1968).

chased by white Little Rock buyers were located in subdivisions outside or on the fringes of the city.³⁰

Existing Houses

More than seven of every 10 existing houses in the Commission's total sample were located in central cities. There were only two suburban existing houses in the total sample of 61 section 235 cases in Philadelphia.³¹ Fifty-five houses were located in the city of Philadelphia itself, and four houses in the central city of Chester, Pennsylvania. Of the 18 existing houses in the Little Rock sample, only two were located in the suburbs.³² In Denver, 13 of the 37 existing 235 houses were located in the suburbs.³³ Nearly half the existing houses in the St. Louis sample, however, were located in suburban St. Louis County. The remaining houses were located in the city of St. Louis.³⁴

In Philadelphia and Denver, all six of the suburban buyers of existing houses who were surveyed were white. In Little Rock, one of the suburban existing home buyers was white and the other was black. In St. Louis, however, 23 of the 26 existing suburban

³⁰ See the following table:

TABLE C.—DISTRIBUTION OF SURVEYED NEW HOUSES BY RACE AND ETHNIC GROUP

	Central City		
	Black	White	Spanish surname
Denver.....	0	0	0
Little Rock.....	2	0	0
Total.....	2	0	0
	Suburban		
	Black	White	Spanish surname
Denver.....	0	13	6
Little Rock.....	1	61	0
Total.....	1	74	6

³¹ One house was located in Lansdale (Montgomery County) and the other in Fairless Hills (Bucks County), Pa.

³² One house was located in a subdivision southwest of Little Rock and the other in semirural area northeast of North Little Rock.

³³ Six in Adams County, four in Arapahoe County and three in Jefferson County.

³⁴ See the following table:

TABLE D.—DISTRIBUTION OF EXISTING HOUSES IN SAMPLE

	Inner city	Suburban
	Denver.....	24	13
Little Rock.....	16	2
St. Louis.....	42	37
Philadelphia.....	59	2
Total.....	141	54

houses surveyed were purchased by black buyer. The remaining three St. Louis buyers were white.

Most central city buyers of existing housing were minority group families. In Philadelphia, only one central city purchaser surveyed was white. The remaining central city purchasers surveyed were 2 black families and four Puerto Rican families. In Little Rock as well, only one central city existing house purchaser was white. The remaining purchasers of existing central city houses were black. In St. Louis, two of the 28 central city existing home buyers surveyed were white, the remaining buyers were black. In Denver, central city existing house purchasers were nearly equally distributed between black (10), Spanish Surname (8) and Anglo (10) buyers.³⁵

Racial Characteristics of Neighborhoods

As the previous sections have shown, two distinct buying patterns emerged for the white and minority 235 buyers surveyed. Most minority buyers were purchasing existing houses in inner-city areas. Most white buyers were purchasing new houses in suburban areas. There is a third buying pattern that also divided along racial lines. Whereas white 235 buyer purchased houses throughout the metropolitan area, minority 235 buyers, whether in the central city or in suburbs, tended to cluster in two types of areas—predominantly black ghetto neighborhoods, and “changing” neighborhoods.³⁶ This pattern was found in each metropolitan area visited—regardless of size, racial composition, or area of the country.

³⁵ See the following table:

TABLE E.—DISTRIBUTION OF EXISTING HOUSES BY RACIAL AND ETHNIC GROUP

	Central City		
	Black	White	Spanish surname
Denver.....	10	6	0
Little Rock.....	15	1	0
St. Louis.....	26	2	0
Philadelphia.....	24	1	0
Total.....	75	10	0
	Suburban		
	Black	White	Spanish surname
Denver.....	0	4	0
Little Rock.....	1	1	0
St. Louis.....	23	3	0
Philadelphia.....	0	2	0
Total.....	24	10	0

Denver

The pattern was shown most clearly in Denver. Park Hill is Denver's "changing" neighborhood.³⁷ Ten of the 47 Denver buyers surveyed were black. Eight of these 10 black buyers, all of whom purchased existing houses in the central city, purchased them in the Park Hill area. The other two black 235 buyers purchased homes in a predominantly black area east of downtown Denver.

By contrast, white purchasers of existing 235 houses were scattered throughout the southwestern, southeastern, and northern parts of the city and in the suburbs. None of the white buyers purchased houses in the Park Hill area. Spanish surnamed purchasers of existing 235 houses were scattered throughout the western, central, and northern parts of the city, but did not purchase houses in the Park Hill area.

The former residences of black 235 buyers also showed this pattern of geographical concentration. Three of the 10 black families already had resided in the Park Hill area before they purchased their 235 houses. The other seven black families had lived in a predominantly black area east of downtown Denver. The white families had moved from various parts of the Denver metropolitan area.³⁸ Although all but one of the 14 Spanish surnamed 235 buyers formerly had resided in the city of Denver, they, too, had lived in various parts of the city.³⁹

A map showing the pattern of movement of Denver 235 families is attached as exhibit A.

ST. LOUIS

The St. Louis area, which has a larger population

³⁶ "Changing" neighborhoods will be discussed in part III, chapter 2. Essentially a "changing" neighborhood is a formerly white or integrated neighborhood into which mostly minority families are moving. Some of the "changing" neighborhoods in the four metropolitan areas surveyed have already become predominantly minority areas. Others are presently undergoing a rapid or gradual racial or ethnic change.

³⁷ A report entitled, "Park Hill Areas of Denver 1950-1966" traces the residential movement of black families in Denver. It states that black families were originally concentrated in downtown Denver and that, after 1940, these families began to move east and north from the downtown area. The subject of the report is black movement into a residential area known as Park Hill which is located in the extreme northeast section of Denver. George E. Bardwell for Commission on Community Relations, City and County of Denver, "Park Hill Areas of Denver 1960-1966, An Updating of the 1960 Census: A Study of Population Movement and Property Value," 4 (1966).

³⁸ Thirteen buyers previously had lived in the suburbs—six in Aurora, four in Englewood, one in Arvada, one in Derby, and one in southeast Adams County. One white Anglo family had moved from Colorado Springs. The remaining nine white majority families formerly had resided in northwest Denver (1), west Denver (2), southwest Denver (2), south Denver (2), and southeast Denver (2).

³⁹ The 13 city families had lived in northwest Denver (3), west Denver (5), southwest Denver (2), and northeast Denver (3). The one suburban family resided in Adams City.

than that of Denver and a much higher percentage of black residents, has several "changing" neighborhoods. During its January 1970 hearing in St. Louis, the Commission found that nine of every 10 235 houses purchased in St. Louis City and County were located either in predominantly black or "changing" neighborhoods. Since the time of that hearing, several local St. Louis groups have conducted their own investigations of the buying patterns of 235 buyers. According to a June 1, 1970, newspaper article concerning the 235 program:

. . . information on the program's use is very scant . . . Nevertheless, three months inquiry has disclosed that most of the houses are in racially changing neighborhoods bordering the Negro area extending from downtown St. Louis west into the north-central county. Concentrations were found in the West End, Walnut Park, the Pagedale-Normandy area and Northwest University City.⁴⁰

Commission staff found that nine out of every 10 black buyers surveyed in the St. Louis area purchased houses in "changing" neighborhoods. The remaining black families were divided between traditionally all-black neighborhoods in St. Louis City and St. Louis County. Thus, despite the fact that nearly half of these black buyers purchased houses outside the central city, none moved into a white area.⁴¹

The five white buyers surveyed in St. Louis purchased houses in predominantly white areas—two in the southern part of the city and the other three in predominantly white suburbs—one in the southern part of University City, one in Jennings, and one in Webster Groves.

Nearly four out of every five black 235 families surveyed had formerly resided in traditionally all-black areas—35 in St. Louis, three in Kinloch, and one in Meacham Park. Three of the white families had formerly resided in "changing" neighbor-

⁴⁰ "E. S. Evans, Subsidized Home Sales Limited to Few Areas," St. Louis Post-Dispatch, June 1, 1970.

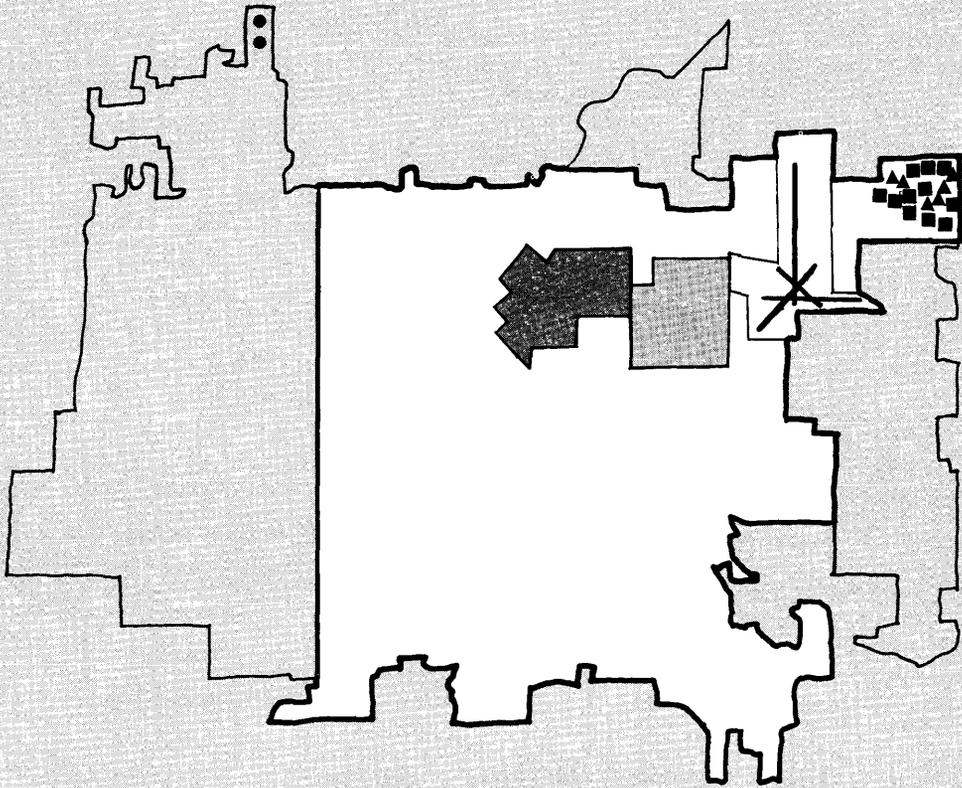
⁴¹ See the following table:

TABLE F.—DISTRIBUTION OF SURVEYED ST. LOUIS BUYERS—"CHANGING" NEIGHBORHOODS

	Black	White
Berkeley.....	1	0
Between O'Fallon and Fairground Parks.....	7	0
Kirkwood.....	1	0
Pagedale-Normandy-Wellston-University City (north).....	18	0
Rock Hill.....	2	0
Surrounding Lafayette Park.....	1	0
Skinker-DeBalivier.....	4	0
Walnut Park.....	12	0
Total.....	46	0

DENVER

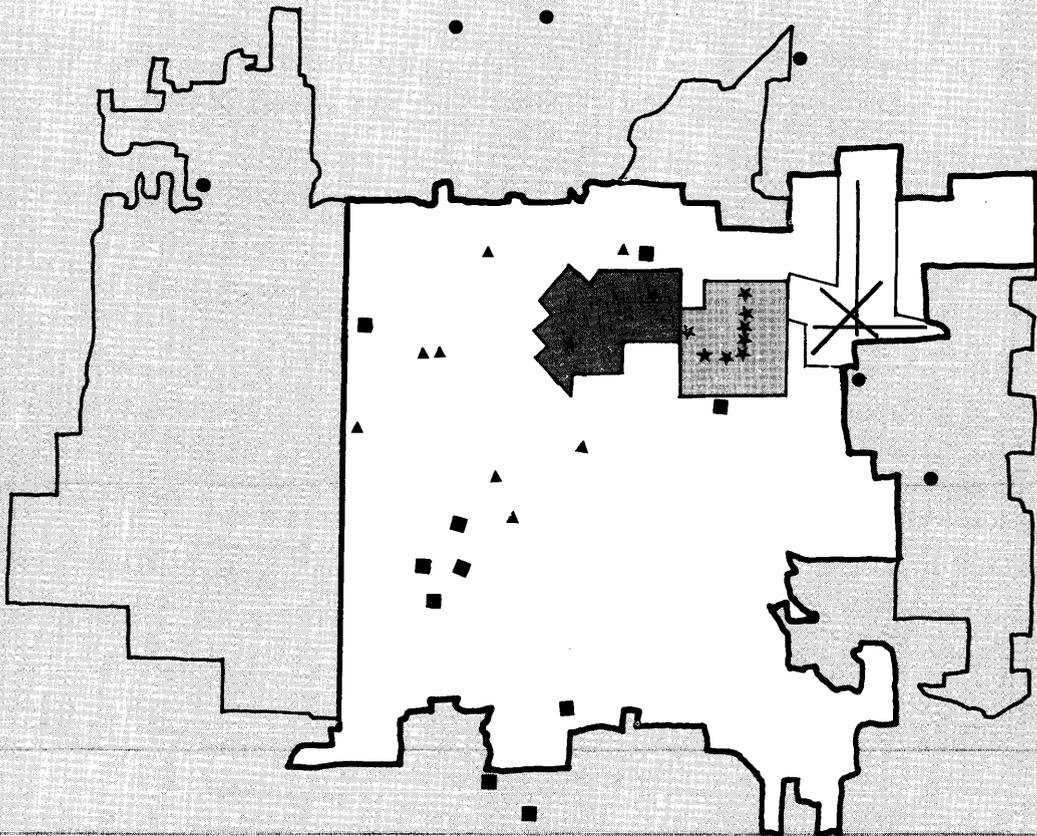
New Residences of Buyers of New Houses



- Black Areas
- Changing Areas
- ★ Blacks
- Whites
- ▲ Spanish-surnames
- Unsurveyed Group

DENVER

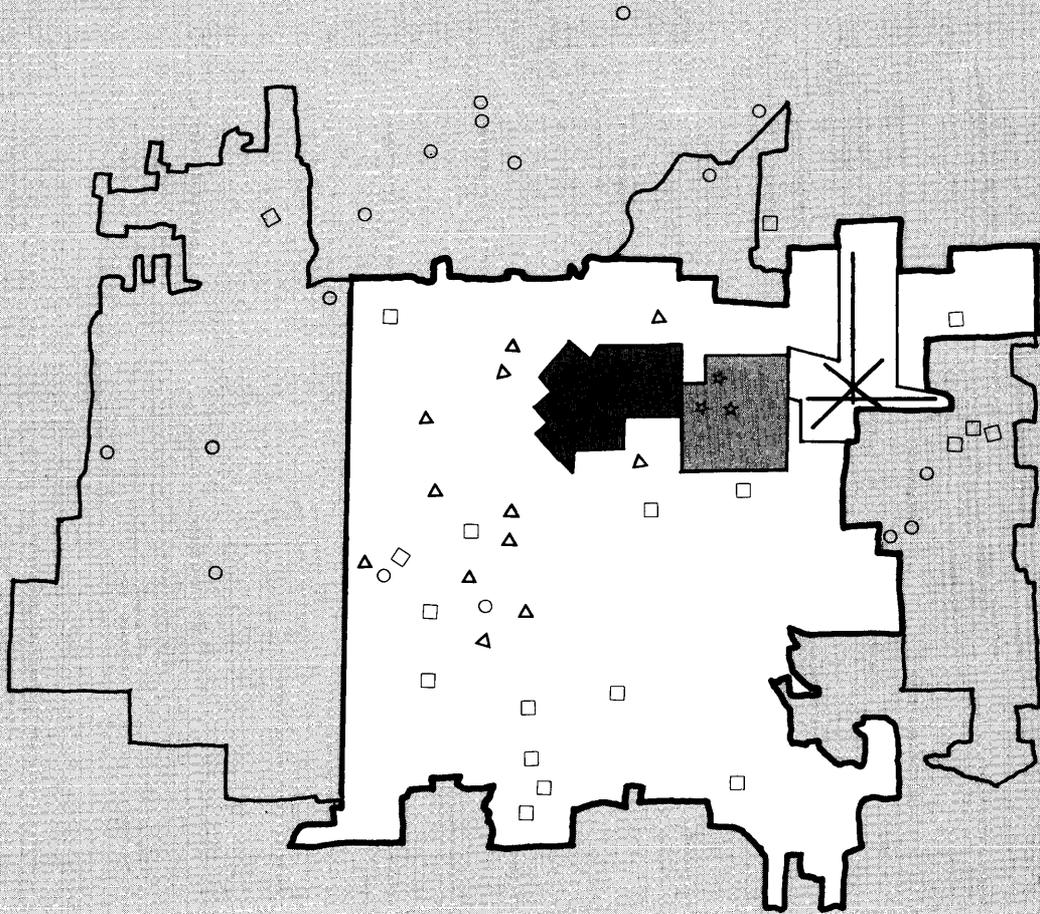
New Residences of Buyers of Existing Houses



- Black Areas
- ▨ Changing Areas
- ★ Blacks
- Whites
- ▲ Spanish-surnames
- Unsurveyed Group

DENVER

Former Residences of Buyers



- Black Areas
- Changing Areas
- ☆ Blacks
- Whites
- △ Spanish-surnames
- Unsurveyed Group

hoods—the same “changing” neighborhoods into which the black 235 buyers moved.⁴²

A map showing the pattern of movement of St. Louis 235 families is attached as Exhibit B.

Philadelphia

Like St. Louis, Philadelphia is a heavily populated area with a large percentage of nonwhite residents. Commission staff was advised by a Philadelphia real estate broker that the “entire city is a changing neighborhood.”⁴³ Although FHA maintains a published policy of disregarding racial factors in approving a house or applicant for mortgage insurance, FHA files were explicit in identifying Philadelphia’s “changing” neighborhoods.

FHA appraisers in Philadelphia noted on appraisal forms that 29 of the 55 Section 235 central city houses in the Commission’s Philadelphia sample were located in areas where a “change in occupancy is taking place.” One additional house, according to FHA, was located in an area where a “change in occupancy is anticipated.”⁴⁴

The “Valuation Instructions” for appraisers⁴⁵ state that the change referred to is a change in “income and *social characteristics* of the occupants other than those well established in the neighborhood.” (Emphasis added.) Commission staff found that the “changing” areas identified by FHA appraisers corresponded closely to racially changing neighborhoods in the city.

In addition to the 30 buyers moving into neighborhoods which FHA appraisers specifically identified as “changing” or where a “change . . . is anticipated,” there were 17 section 235 buyers who moved into the same neighborhoods, although in

⁴² The three neighborhoods from which white 235 buyers moved were Walnut Park, University City (north), and west of Lafayette Park.

⁴³ Philadelphia Real Estate Broker-Interview No. 3, July 15, 1970.

⁴⁴ FHA Form No. 2800-3, revised May 1968, FHA Underwriting Report is used to indicate the factors whereby a house is assigned a value by an FHA appraiser. The form contains information regarding the number of bedrooms, number of baths, age of house, comparable properties and their sale prices, estimated replacement cost, remaining economic life of property, etc. Included is a section (No. 30) containing “Neighborhood Data.” This section has a place for the appraiser to indicate if a “Change in . . . Use or Occupancy is . . . Taking place or Anticipated.” This form was revised in January 1970, and the neighborhood data section was changed. For the former information a space is now substituted where the appraiser must describe the “demand for amenity-income properties in the neighborhood.” The older version was still in use in all files examined for this study. A “Change in Occupancy” was indicated in seven St. Louis files. The neighborhoods involved were University City, Skinker-DeBalivier, Walnut Park, and the area just east of O’Fallon Park. No “Change in Occupancy” was indicated in the 64 Denver files examined. A “Change in Occupancy” was indicated for one house in Little Rock. This was an existing house located in the central city and purchased by a black buyer. For explanation of the “Change in Occupancy” block, see part III, chapter III.

⁴⁵ “Valuation Instructions” for appraisers using FHA Form No. 2800-3, Rev. May 1968.

these cases they were not identified as “changing” by FHA. Thus, a total of 47, or four out of every five 235 houses in the Philadelphia sample was located in “changing” areas.

All four of the Puerto Rican buyers surveyed and 19 of the black buyers surveyed purchased houses in “changing” neighborhoods. Of the remaining five black families, all purchased in traditionally all-black neighborhoods in west Philadelphia.⁴⁶

The one white central city buyer surveyed purchased a home in a predominantly white “changing” area in Oak Lane.

Three of every five black 235 buyers surveyed formerly had resided in predominantly black areas. All of the Puerto Rican families surveyed had moved within “changing” neighborhoods.

The two suburban buyers were both white, former residents of suburban areas. The white central city buyer had previously lived in a “changing” neighborhood in north Philadelphia.

A map showing the pattern of movement of Philadelphia 235 families is attached as Exhibit C.

Little Rock

A September 1970 article in The New York Times entitled “Resegregation: A Problem in Urban South”, describes resegregation in Little Rock, Ark., as follows:

Whites have fled to the suburbs by the thousands to escape (school) desegregation and the city is building itself racial islands, black ones in the central city and white ones farther out.⁴⁷

On the basis of the Commission’s staff investigation, a similar pattern of movement was found to be occurring among 235 buyers in Little Rock.

The pattern resembled a game of musical chairs in which black families moved to areas vacated by whites. It will be recalled that all but two of the 19 black 235 buyers in the Little Rock sample pur-

⁴⁶ See the following table:

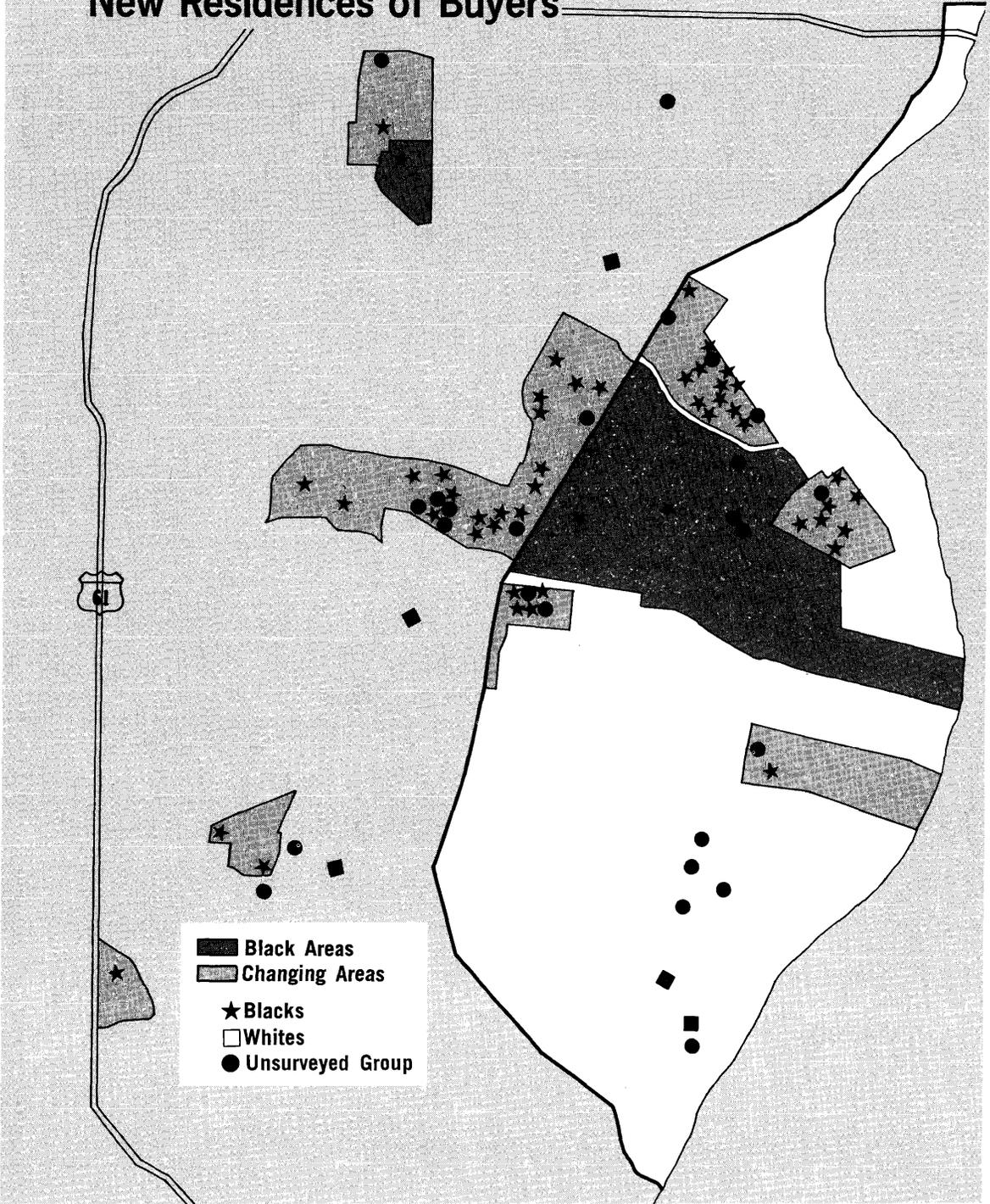
TABLE G.—DISTRIBUTION OF SURVEYED PHILADELPHIA BUYERS—“CHANGING” NEIGHBORHOODS

	Black	Puerto Rican	Majority group
Fern Rock	1	0	0
Logan	2	0	0
North of Lanier Park	1	0	0
Oak Lane	0	0	1
Southwest Philadelphia	4	0	0
Upper North Philadelphia	4	4	0
Upper West Philadelphia	1	0	0
West Oak Lane-Cedarbrook	2	0	0
Wynnefield	4	0	0
Total	19	4	1

⁴⁷ Roy Reed, “Resegregation: A Problem in the Urban South,” The New York Times, Sept. 28, 1970.

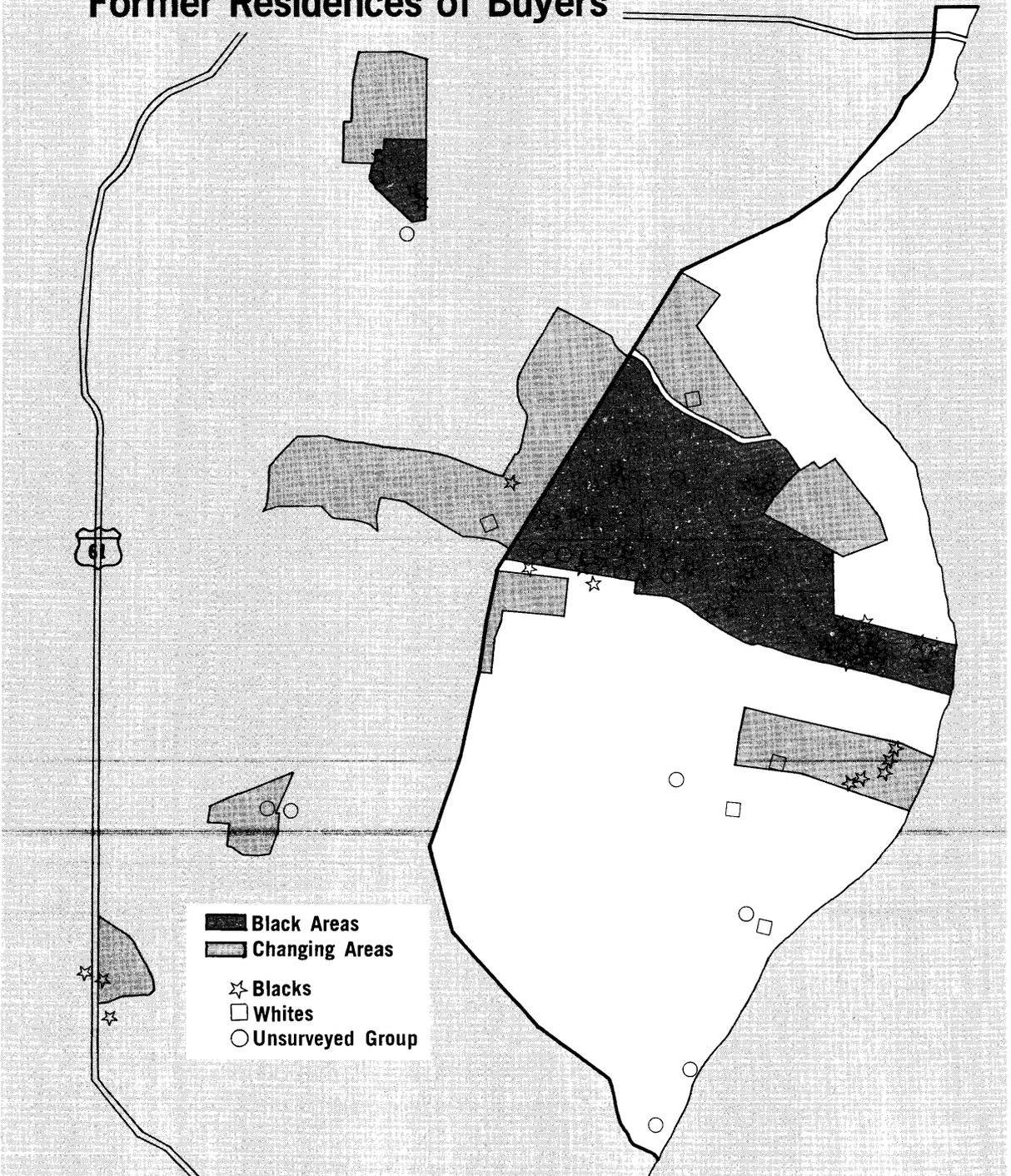
ST. LOUIS

New Residences of Buyers



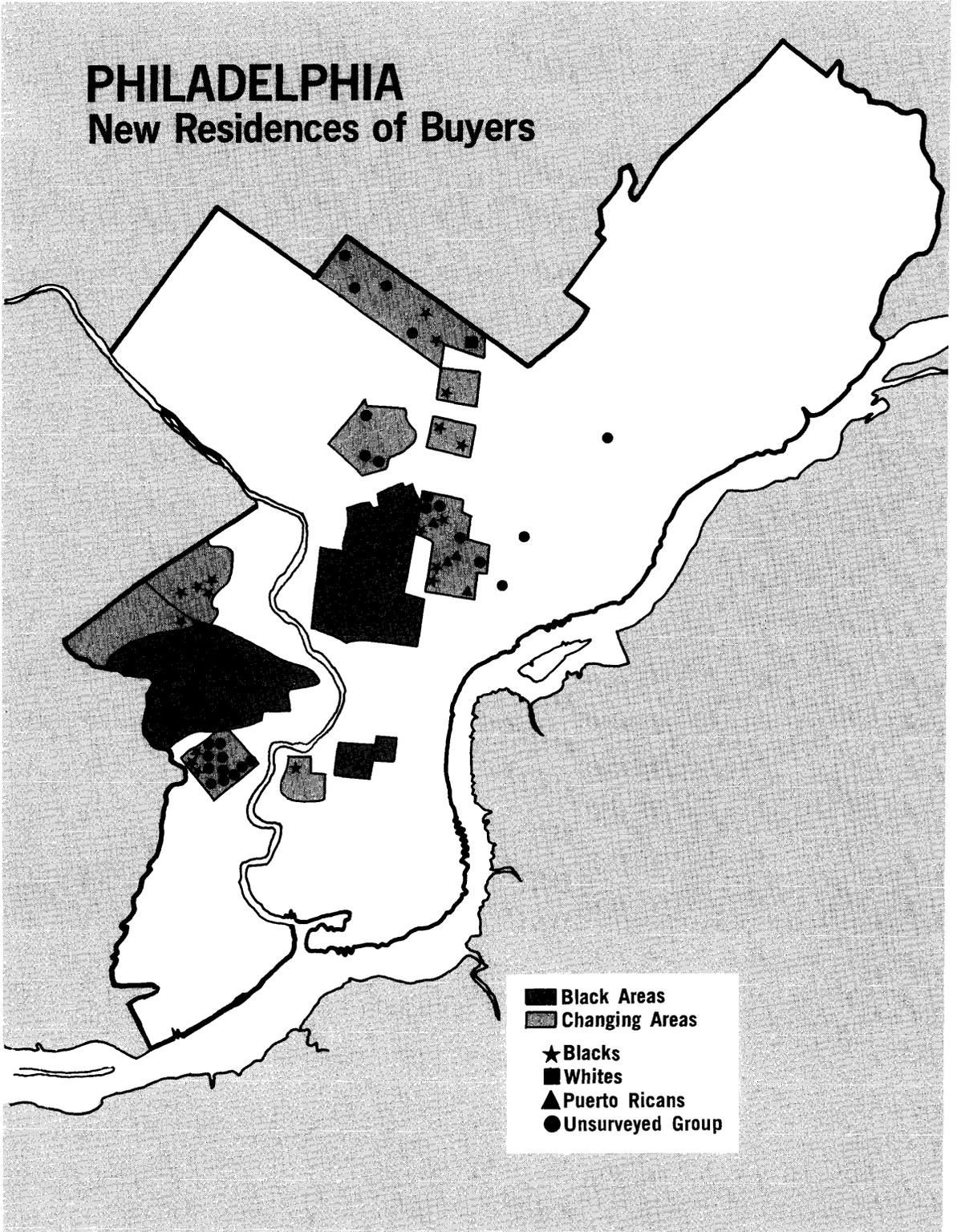
ST. LOUIS

Former Residences of Buyers



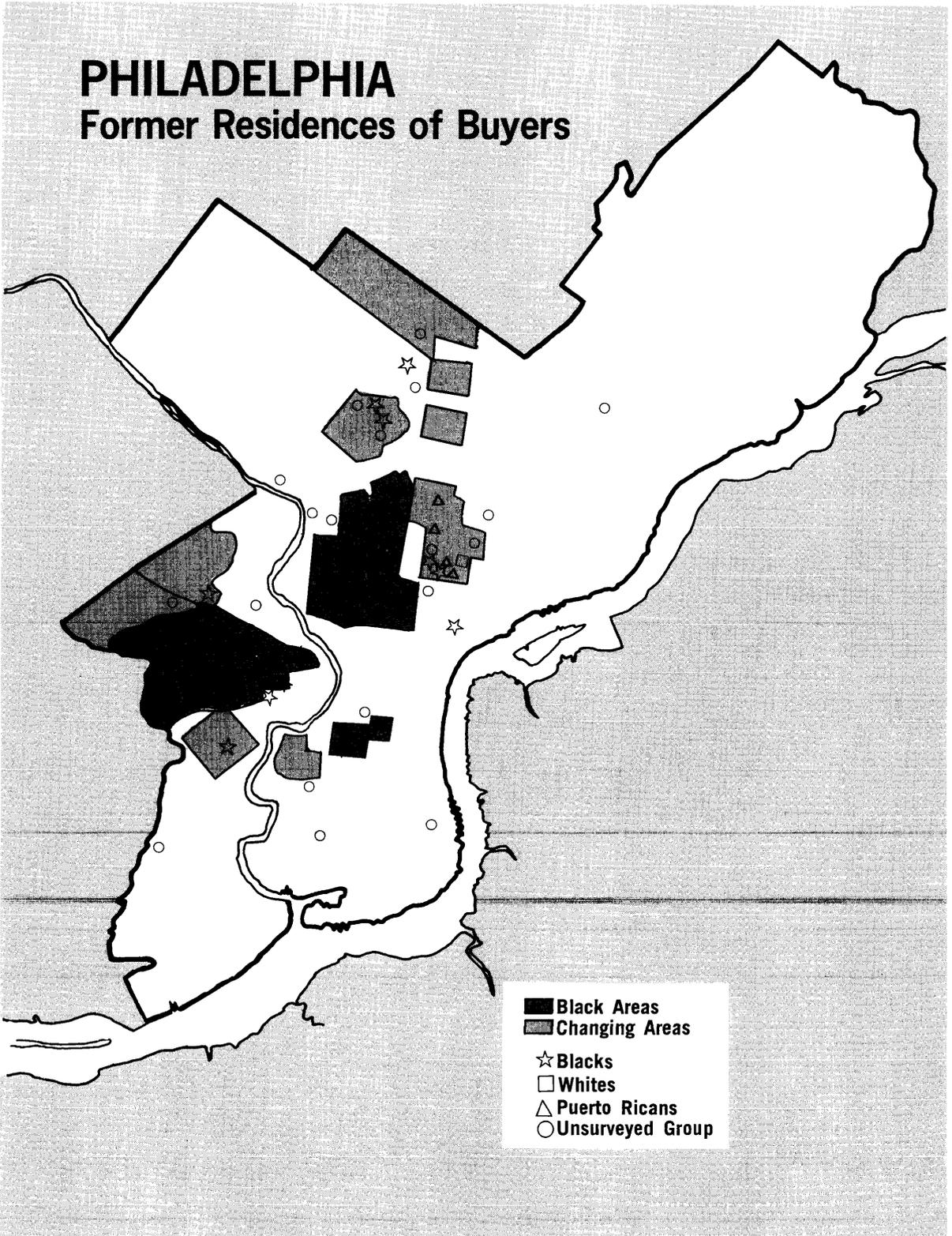
PHILADELPHIA

New Residences of Buyers



PHILADELPHIA

Former Residences of Buyers



chased houses in the central city, while all but one of the white 235 buyers purchased houses in the suburbs. More than two of every five of these white 235 buyers left central city areas to move to their suburban homes.⁴⁸ Most of these white 235 buyers moved from the very central city areas into which the black central city 235 buyers were moving.⁴⁹

The one white central city buyer purchased an existing house in a "changing" neighborhood. This was one of only two white buyers in the four-city survey who purchased homes located outside all-white neighborhoods.

Six of the white 235 buyers in the Little Rock area formerly had resided in small towns which are not part of metropolitan Little Rock.⁵⁰ The remainder came from throughout the Little Rock metropolitan area.⁵¹ The black 235 buyers also had moved from various locations in the metropolitan area. Many of the areas were predominantly black. More than half (10) already had been living in the central city.⁵²

A map showing the pattern of movement of Little Rock 235 families is attached as Exhibit D.

A Fourth Pattern

The 286 sample cases drawn from the four metropolitan areas revealed no instances of new 235 houses constructed in predominantly black subdivisions. However, Commission staff found that if the St. Louis sample had been drawn from a more recent period, this pattern would have appeared in the St. Louis case files.⁵³ When Commission staff visited St. Louis in August 1970, it found that only black families had purchased new 235 houses in Elmwood Park, a predominantly black urban renewal area

⁴⁸ Includes one white buyer who moved from a central city area in North Little Rock.

⁴⁹ This area, roughly bounded by Highway 30 on the east, the city limits on the south, Fair Park Boulevard on the west and Markam Street on the north, can be said to contain Little Rock's "changing" neighborhoods. In the center of this area is Little Rock's Central High School, the scene of the 1957 incident in which Governor Faubus attempted to prevent the desegregation of Central High School and President Eisenhower was forced to intervene with Federal troops. Central High School is now over one-third black.

⁵⁰ Three in Benton, one Cleveland, one in Weldon, and one in Hensley, Ark. Three white buyers had lived in Mabelvale, a town in the southern part of Pulaski County.

⁵¹ Another three white buyers formerly had resided in rural Pulaski County, 11 white buyers already were living in suburban locations, and the remaining white 235 buyers had moved from central Little Rock, central North Little Rock, and areas in the western and eastern sections of Little Rock and North Little Rock.

⁵² One moved from Granite Heights and one from Sweet Home (both in southeast Pulaski County), two moved from the southeast section of North Little Rock, one from northeast of North Little Rock, and four from what is the model city area in east Little Rock.

⁵³ The St. Louis sample was selected in late 1969, in preparation for the Commission's January 1970 Hearing. Since no new 235 houses had been completed in St. Louis at the time, none appeared in the sample. The samples from the other three metropolitan areas were all drawn from longer time periods and included 235 cases from 1970.

in St. Louis County. In addition, Commission staff found that new 235 houses were under construction in a predominantly white area in St. Louis County and were being marketed only in the white community.⁵⁴

This practice of constructing "separate but equal" federally assisted black and white subdivisions reminiscent of past practices of constructing "separate but equal" schools and "separate but equal" public housing projects, may be occurring in other metropolitan areas.⁵⁵

A newspaper article quotes South Carolina's FH Office:⁵⁶

The Federal Housing Administration Office says about half the loans it is processing in the State now are in the subsidy field. . . . Most of the homes built are in the \$10,000 to \$15,000 class. *Well over half are built for black* (Emphasis added.)

And in August 1970, a report by the Kentucky Commission on Human Rights describes a "separate but equal" 235 subdivision pattern in Louisville and Lexington, Ky.⁵⁷

⁵⁴ This situation will be discussed in greater detail in part III, chapter

⁵⁵ In connection with school desegregation efforts in Alabama, Georgia and Mississippi, civil rights lawyers of the Department of Justice often found that new schools constructed on the fringes of black communities have soon been surrounded by new subdivisions intended and advertised for black occupancy. Many of these houses have been sold with Section 235 assistance. (Telephone conversation with Martin Buckley, Attorney, Department of Justice, Mar. 3, 1971.) According to a Justice Department official, a Federal judge, while conducting a hearing on a school desegregation plan in Phoenix City, Ala., commented on the inconsistency of the Federal Government in requiring school desegregation while, at the same time, contributing to racial separation by allowing construction of all-black section 235-assisted subdivisions. In a local Phoenix City newspaper advertisement, he reported, one such development was called the "Soul" subdivision and the advertiser pointed out that the development is located near an all-black school. (*Id.*) The Justice Department is also investigating a similar situation in New Orleans where two all-black subdivisions have already been completed and a third is under construction. (Telephone conversation with Alexander Ross, Attorney, Department of Justice, Mar. 3, 1971.)

⁵⁶ "Dent Promotes Homes for the Needy," The Washington Post, June 26, 1970, at A7.

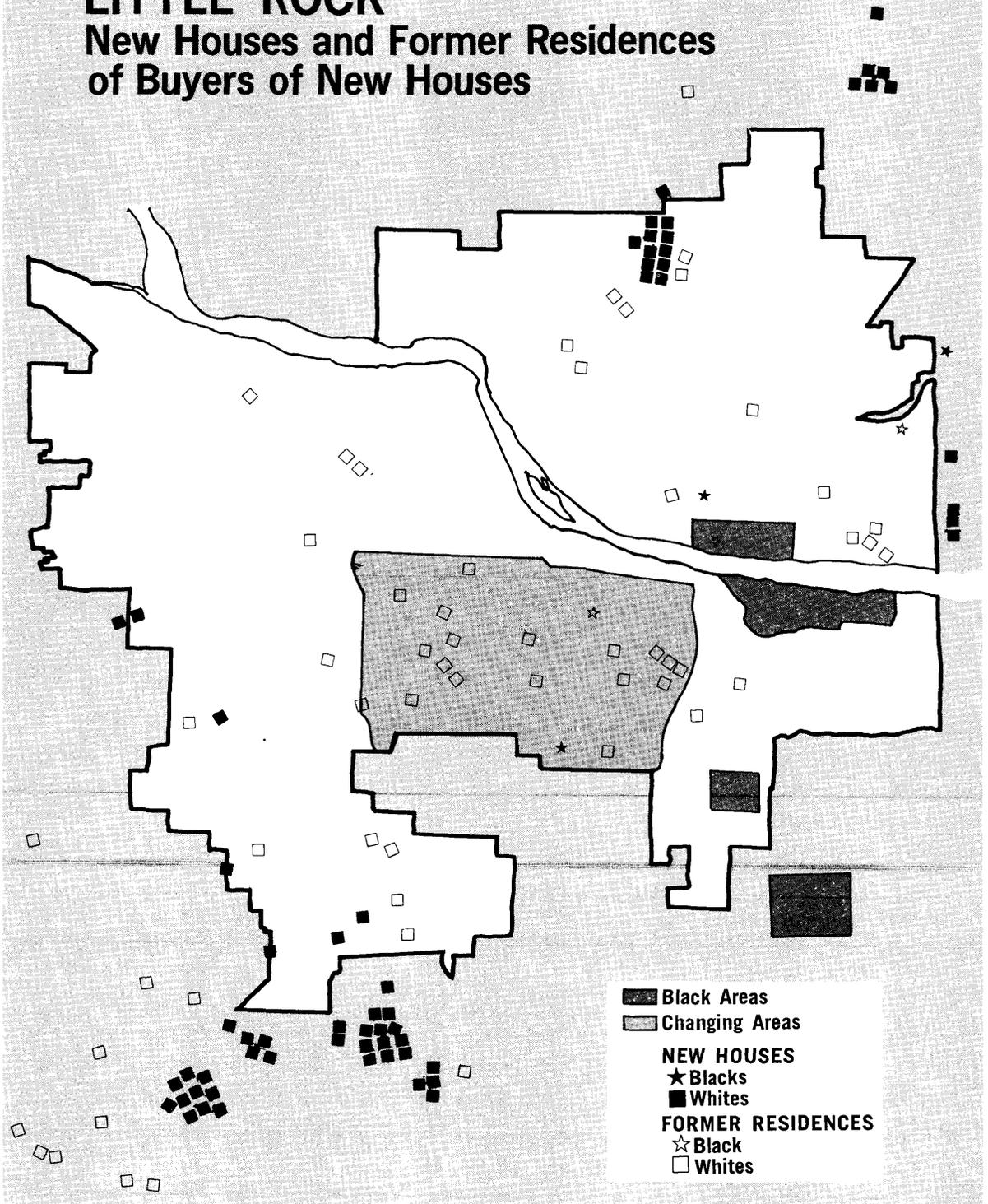
⁵⁷ The report entitled "Recommendations to the Department of Housing and Urban Development for an Affirmative Action Program To Eliminate Discrimination in Federally Assisted Low and Moderate Income Housing" was issued by the Housing Opportunity Division of the Kentucky Commission on Human Rights on Aug. 31, 1970. It states that developers in Louisville and Lexington are constructing separate subdivisions for black and white 235 buyers and are assuring their segregated character through discriminatory marketing practices. The following paragraphs are taken from the report, pp. 3 and 9.

"Seven of the developers of 235 homes for purchase in Lexington have used FHA commitments to build similar homes in both predominantly black and predominantly white subdivisions. As of August 1, not one of these developers had sold, under this program, a home in a white subdivision to a black family or a home in a black subdivision to a white family.

"A survey by the Louisville Housing Opportunity Center shows clearly how blacks are being left out of the benefits of 235 housing development. The questionnaire prepared by the Louisville HOC was mailed out under FHA's letterhead to the 53 developers of 235 housing in the Louisville area. By August 1, 36 developers, a 68 percent return, had responded. These 36 developers, 29 have sold no houses to blacks and 4 others are developing housing blocks that virtually all black . . . (of the three remaining), one out of these three has sold but one house to a black family."

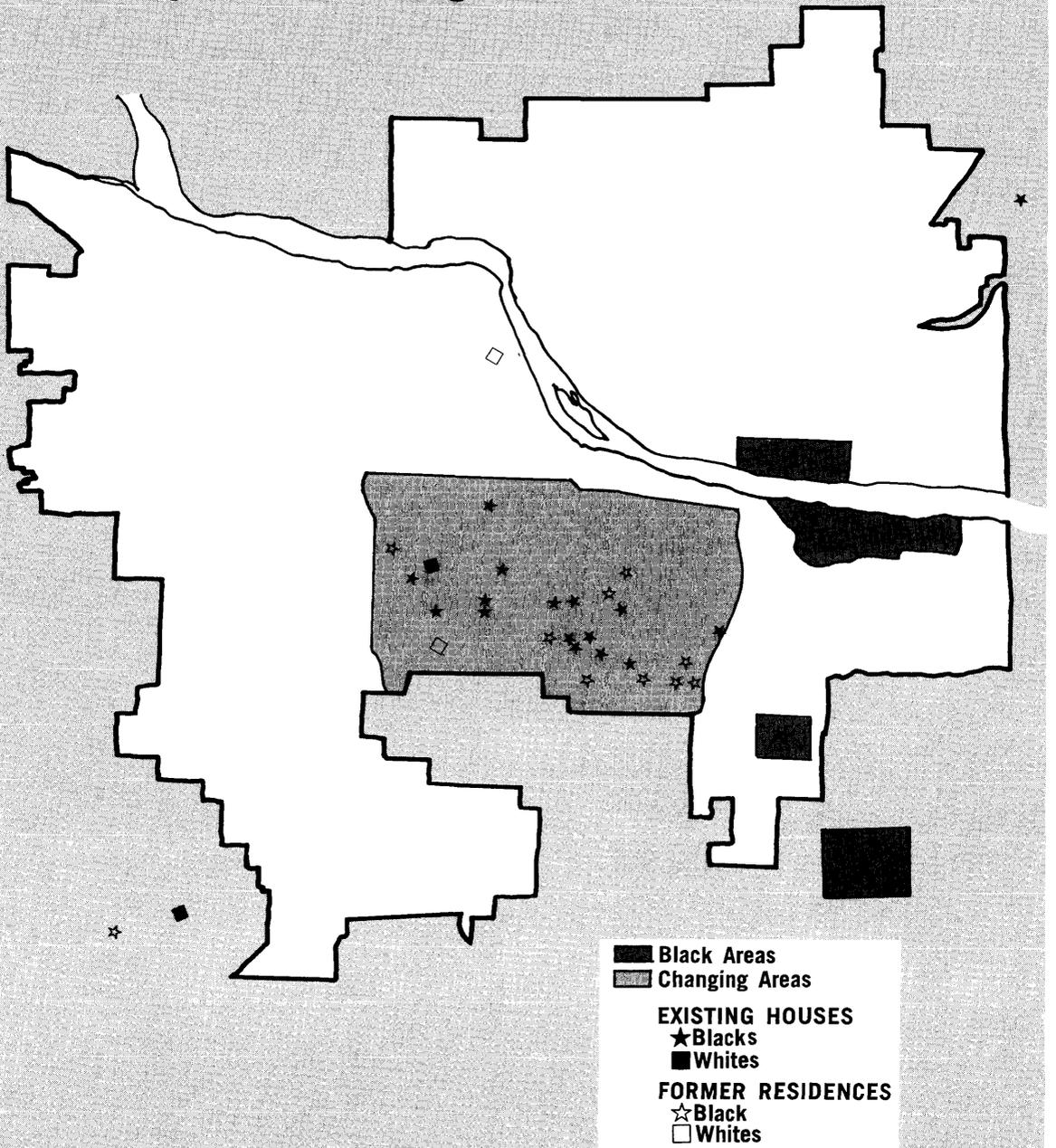
LITTLE ROCK

New Houses and Former Residences of Buyers of New Houses



LITTLE ROCK

Existing Houses and Former Residences of Buyers of Existing Houses



CHAPTER II

BUYER PROFILES

FHA reported that as of December 31, 1969, the typical 235 buyer had a gross annual income of \$5,579 and purchased a house costing \$14,957.⁵⁸ This corresponds closely with the typical buyer of houses surveyed by the Commission in the four metropolitan areas. The Commission's typical 235 buyer had a gross annual income of \$5,498 and purchased a house costing \$14,100.⁵⁹

FHA has not yet released statistics on the 235 program by metropolitan area. However, in March 1970, a special analysis was done of the 235 program in the Denver metropolitan area. The data were based on approximately 700 cases received in FHA's Division of Research and Statistics as of the first week of February 1970. The Commission's data for the same city are based on a sample of 64 cases, the latest

insured in April 1970. The figures again are closely comparable.

Table H. Profiles Denver 235 Buyers

Averages	FHA figures	Commission figures
Annual gross income.....	\$5,991	\$6,010
Family size (number).....	5	4.5
Sale price.....	\$15,423	\$16,017
New homes.....	17,100	17,292
Existing homes.....	14,271	15,086
Monthly subsidy.....	60	65
Type of construction (percent):		
New homes.....	40	42
Existing homes.....	60	58

The following table provides profiles of 235 buyers sampled in each of the four metropolitan areas.⁶⁰

in the Northeastern area of the country.

⁶⁰ The buyers' incomes do not necessarily reflect the 235 income limits set by FHA. For example, St. Louis, Mo., has the highest 235 income limits of the four areas visited, but the average income of St. Louis 235 buyers is the second lowest of the four areas. Section 235 income limits for the four metropolitan areas are attached as appendix C.

⁵⁸ "Hearings on Housing and Urban Development Legislation for 1970 Before the Subcommittee on Housing and Urban Affairs of the Senate Committee on Banking and Currency," 91st Cong., second session, at 721 and 725 (1970).

⁵⁹ Our sample is not representative of the national picture since it includes a Northeastern city and only 6 percent of all 235 houses are located

TABLE I.—PROFILES—235 BUYERS

Averages	Denver (64)	Little Rock (82)	St. Louis (79)	Philadel- phia (61)
Annual gross income.....	\$6,010	\$5,631	\$5,360	\$4,702
Family size (number).....	4.5	4.4	5.1	4.9
Sale price.....	\$16,017	\$14,889	\$12,890	\$9,123
New homes.....	17,292	15,690		
Existing homes.....	15,086	12,042		
Monthly subsidy.....	65	59	48	34
Type of construction (percent):				
New homes.....	42	78		
Existing homes.....	58	22		

RACIAL AND ETHNIC BUYER PROFILES

Income, Housing Cost, and Subsidy

As Table J indicates, the average minority 235 buyer had a slightly lower income than that of his white counterpart and the house which he purchased was of substantially lower cost than the typical house

purchased by a white 235 buyer. Consequently, the typical minority 235 buyer received a substantially lower mortgage subsidy than did his white counterpart. Although in some areas the sample of certain racial and ethnic groups was too small to form the basis for firm conclusions, it is significant that the pattern in each city was the same.

TABLE J.—RACIAL AND ETHNIC BUYER PROFILES—ALL HOUSES (214 Surveyed)

Averages	Denver (47)	Little Rock (82)	St. Louis (54)	Philadelphia (31)
Sales price:				
Spanish surnamed.....	\$15,218			¹ \$5,931
Black.....	15,067	\$12,095	\$12,904	9,381
White.....	16,603	15,731	¹ 14,415	¹ 14,231
Annual gross income:				
Spanish surnamed.....	5,940			¹ 4,051
Black.....	5,358	5,157	5,461	4,981
White.....	6,410	5,774	¹ 6,298	¹ 5,621
Mortgage subsidy:				
Spanish surnamed.....	62			¹ 11
Black.....	63	43	46	31
White.....	66	65	¹ 56	¹ 51

¹ Fewer than 10 families in sample.

The amount of the subsidy under the 235 program is tied by statute to the buyers' income. But it is also dependent, as a practical matter, upon the sales price of the house purchased. For example, a buyer eligible under Section 235 income limits who purchases a house below a given cost will receive no subsidy at all if he can pay the entire mortgage payment with 20 percent of his adjusted income. Thus, the amount of mortgage subsidy which a buyer receives reflects not only his income but also the cost of the housing made available to him for purchase.

FHA does not maintain records of the number of 235 applicants who are within the income limits for 235 assistance but who have been rejected for 235 mortgages because they are "over-income" for the houses they purchase. However, the Commission's study of 235 records suggests that this frequently occurs.

For example, one of the sample cases in St. Louis, although it carries a 235 file number, proved not to be a 235 case at all. The buyer, a black mother with six children and a gross annual income of \$6,640, was eligible for 235 assistance. However, the house which she purchased cost only \$7,300. The buyer, anxious to move from public housing, purchased the house although it was in extremely bad condition. There were rat holes in the basement, the roof leaked,

the walls were cracked, the wiring was defective, no ceiling lights worked, the commode rocked back and forth, and the interior woodwork was rotten. The buyer was told by the real estate broker that she was receiving Federal assistance in obtaining a home but actually received a 25-year market interest rate mortgage on this deteriorating dwelling, without benefit of a subsidy.⁶¹

Similar situations occurred in Philadelphia. One black "235 buyer" did not discover that she was paying the full amount of the mortgage payment until she went to the closing. At that time she discovered that she had been found ineligible for a 235 mortgage and without her knowledge,⁶² had been switched to a 221(d)(2) mortgage.⁶³ A Puerto Rican Philadelphia buyer who had a gross annual income of \$3,024 purchased a house costing \$4,200. The monthly subsidy which this 235 buyer receives is \$1.23, less than half the amount which FHA is paying the mortgagee monthly as a special fee for servicing her 235 mortgage.⁶⁴

⁶¹ St. Louis FHA Case No. 292-072289. Buyer interview by St. Louis students, summer 1970.

⁶² Philadelphia Buyer Interview No. 1, June 15, 1970.

⁶³ Section 221(d)(2) mortgages are for displaced and low- and moderate-income families. The dwelling must be mortgaged for less than 21,000 (\$24,000—if family has 5 or more persons) and the buyer must make 3 percent downpayment (\$200 in case of displaced families). There is no subsidy involved.

⁶⁴ Philadelphia FHA Case No. 441-164097.

Existing Houses

As noted earlier, minority 235 buyers tend to purchase existing houses while white buyers tend to purchase new houses. In addition, as Table K suggests, the existing houses purchased by minorities tend to be cheaper and older than the existing houses purchased by whites. They also tend to have shorter estimated remaining economic or physical lives.⁶⁵ Although in some areas the racial and ethnic groups in the sample were too small to form the basis for firm conclusions, once again the pattern was similar in each metropolitan areas.⁶⁶

Overcrowding and Large Families

The fact that minority families need larger houses with more bedrooms was one reason offered to Commission staff for the concentration of minority buyers in existing houses in the inner-city.⁶⁷ Indeed, it is true that the minority buyers surveyed tended

⁶⁵ FHA appraisers, as part of the valuation process, estimate the remaining economic life of the property under consideration. The economic life is the period during which the property continues to have amenity value, i.e., can be resold, rented, etc. The term of the mortgage is generally set at 75 percent of the remaining economic life of the property. For example, a house with a remaining economic life of 40 years could support a 30-year mortgage. The physical life of the property would be longer—the period during which the property is still standing. In Philadelphia and St. Louis, appraisers sometimes figured the mortgage term on the basis of the physical life of the property, since the estimated remaining economic life was too short to support a mortgage. Eleven, or more than 20 percent of houses purchased by black families in St. Louis had the physical rather than economic life of the dwelling used by the FHA appraiser. The physical life was used for the majority of Philadelphia houses.

⁶⁶ See the following table:

TABLE K.—RACIAL AND ETHNIC EXISTING HOUSING PROFILES (131 Surveyed)

Averages	Denver (28)	Little Rock (18)	St. Louis (54)	Phila- delphia (31)
Age of existing houses (years):				
Spanish surnamed . . .	1 48			1 68
Black	39	28	42	50
White	20	1 22	1 45	1 31
Remaining economic or physical life² (years):				
Spanish surnamed . . .	1 37			1 31
Black	40	41	37	33
White	42	1 43	1 38	1 38
Sales price:				
Spanish surnamed . . .	1 \$13,531			1 \$5,938
Black	15,067	\$11,919	\$12,904	9,385
White	15,521	1 13,025	1 14,415	1 14,233

¹ Fewer than 10 families in sample.

² FHA appraisers generally assign a remaining economic life of 55 years to newly constructed houses. If the new sec. 235 houses in Denver and Little Rock were included the disparity between minority and majority owned houses in the cities would be considerably greater. (Denver—Spanish surnames 42 years; black 40 years; Anglo 46 years) (Little Rock—black 43 years; white 54 years).

to have more children. Based on the sample, however, it is not true that they purchased larger houses with more bedrooms.⁶⁸ As a result, overcrowding⁶⁹ is far more common among minority 235 buyers than it is among white buyers.

Black families made up 20 of the 23 section 235 buyers surveyed with four or more children per bedroom. Two of these families lived in Philadelphia, two lived in Little Rock, five lived in Denver, and 14 lived in St. Louis.⁷⁰

Theoretically, the formula FHA uses to qualify a family for a 235 mortgage (deducting \$300 for each minor child who is a family member and resides with the family) is designed to assist families with many children. An examination of 235 files revealed that, in fact, this method could work to the detriment of large families by holding them to less expensive houses and less in the way of subsidy.⁷¹

For example, compare two actual 235 buyers in Little Rock, Ark. Buyer A has an annual gross income of \$6,198 and Buyer B has an annual gross income of \$6,120. Buyer A has six children; Buyer B has one child. Buyer A paid \$11,800 for a 23-year-old three-bedroom house. Buyer B paid \$18,100 for a new three-bedroom house. Both families are making monthly mortgage payments which equal 20 percent of their adjusted monthly incomes. Buyer A pays \$68 per month and receives a monthly subsidy of \$22. Buyer B pays \$91 per month and receives a monthly subsidy of \$81.⁷²

⁶⁷ Interview with Michael Galli, FHA Insuring Office Director, St. Louis, January 1970.

⁶⁸ Out of a total of 214 surveyed 235 buyers, there were five overcrowded Spanish surname families, 47 overcrowded black families, and eight overcrowded majority group families. Majority group families averaged three children each and bought houses with an average of 3 bedrooms; Spanish surname families averaged 3.2 children each and bought houses with an average of 3 bedrooms; black families averaged four children each and bought houses with an average of 2.8 bedrooms.

⁶⁹ Overcrowding is defined as more than two children per bedroom.

⁷⁰ The most serious overcrowding was found among St. Louis sec. 235 buyers. Fourteen of the 54 buyers surveyed in St. Louis had four or more children per bedroom. One of these families was white with seven children in a three-bedroom house. The remaining 13 families were black. Twelve of these seriously overcrowded black families purchased two-bedroom houses—five families had six children each, two families had seven children each, three families had five children each, and two families had four children each. The remaining black family purchased a one-bedroom house and had five children.

⁷¹ Table I shows that the new 235 houses in the survey were more expensive than the existing houses. In addition, on the average, larger houses were more expensive than smaller houses. In Denver, houses with fewer than three bedrooms (43 percent) had an average sales price of \$15,231. Houses with three to five bedrooms (57 percent) had an average sales price of \$16,628. In St. Louis, houses with fewer than three bedrooms (49 percent) had an average sales price of \$12,410. Houses with three to six bedrooms (51 percent) had an average sales price of \$13,359. In Little Rock, houses with fewer than three bedrooms (11 percent) had an average sales price of \$11,750. Houses with three to four bedrooms (89 percent) had an average sales price of \$15,276. In Philadelphia, houses with fewer

Continued on page 32.

Or compare two actual St. Louis buyers. Buyer C has an annual gross income of \$5,928 and Buyer D has a gross annual income of \$5,856. Buyer C has five children and Buyer D has one child. Buyer C paid \$11,700 for a 32-year-old two-bedroom house. Buyer D paid \$14,650 for a 15-year-old three-bedroom house. Both buyers are paying 20 percent of their adjusted incomes toward monthly mortgage payments. Buyer C pays \$68 per month and receives a monthly subsidy of \$29. Buyer D pays \$87 per month and receives a monthly subsidy of \$47.⁷³

In both cases, the families with fewer children (B and D) purchased more expensive houses and received substantially higher subsidies. It is not known if families A and C would have preferred to purchase more expensive houses. However, both families are overcrowded and Buyer C has experienced heating problems and cracked plaster.

Continued from page 31.

than four bedrooms (75 percent) had an average sales price of \$8,744 (less than three bedrooms—10 percent—\$7,392) and houses with four to six bedrooms (25 percent) had an average sales price of \$10,283.

⁷² Little Rock FHA Cases Nos. 031-038987 and 031-042016.

⁷³ St. Louis FHA Case Nos. 292-069236 and 292-073233.

What accounts for this disparity between families of approximately the same income? One explanation lies in the method by which FHA determines the price of house a family can afford. FHA qualifies a family for a 235 mortgage on the basis of its adjusted, not its gross, income. And Buyer A's adjusted income, because he had six children compared to Buyer B's one child, was \$1,426 less than Buyer B's, although the gross income for both was nearly the same. Although FHA sometimes approves a family which will be paying more than 20 percent of its adjusted income for mortgage payments,⁷⁴ it is entirely possible for a large family to be rejected for the house of their choice because the deduction of \$300 for each child makes their adjusted income too low to support the mortgage. At the same time, a family with a similar, or even lower, income could be approved if it had fewer children and, therefore a higher adjusted income.

⁷⁴ The FHA Section 235 Handbook states that families may pay more than 20 percent of their adjusted family income for their share of the mortgage payment. It states that such a case should be examined to "assure that this excess is not caused by such factors as extravagance of design, unreasonably high cost, or unnecessarily large size of dwelling."

CHAPTER III

QUALITY OF SECTION 235 HOUSING

Overall Quality

Commission staff found that the majority of houses purchased by 235 buyers in the total sample were of good quality,⁷⁵ usually superior to the housing they previously had lived in, and offering amenities that many of the buyers had not enjoyed before. In Little Rock, a white buyer gave Commission staff a tour of her new house, pointing out with pride the carpeting, paneled kitchen, shiny utilities, and the glass doors opening on to a patio.⁷⁶ Another Little Rock buyer called particular attention to the fact that her new house was air conditioned.⁷⁷ In most cases, if the buyers had problems with their new 235 houses, they were minor and were taken care of by the builder. For example, of the 19 buyers who purchased new 235 houses in a subdivision outside Denver, only two reported any significant problems.⁷⁸

In the case of existing housing, where problems of inferior quality most frequently have arisen, the majority of houses were solid and in good condition. FHA appraisal remarks attest to this fact as seen in its comments about a 9-year-old house in Denver:

Subject is well-maintained three bedroom SFD with full basement with finished bedroom, area full of similar SFDs that show good pride of ownership.⁷⁹

⁷⁵ On Mar. 31, 1971, Secretary Romney reported that HUD's Audit Division was in the process of conducting a comprehensive study of the new and existing construction in the entire 235 and 223(e) programs. (FHA insures mortgages on properties located in older, declining urban areas under a special program called Section 223(e). As of Dec. 31, 1970, 5 percent of all 235 houses had been insured under sec. 223(e).) On the same date, a representative of the General Accounting Office (GAO) which is cooperating with the HUD audit, testified that tentative findings of the audit indicate that three-fourths of the new 235 houses and nearly two-thirds of the existing 235 houses inspected met the minimum property standards for FHA mortgage insurance. However, over half (54 percent) of houses with sec. 223(e) mortgages were found to have conditions which should have been corrected before the properties were found eligible for FHA mortgage insurance. "Hearings on Abuses in Federal Low- and Moderate-Income Housing Programs Before the House Banking and Currency Commission," 91st Cong., second session (Mar. 31, 1971).

⁷⁶ Little Rock buyer interview No. 6, Sept. 15, 1970.

⁷⁷ Little Rock buyer interview No. 12, Sept. 17, 1970.

⁷⁸ Denver buyers interviews Nos. 14-32, Aug. 8, 15, 16, 1970.

⁷⁹ FHA Case No. 051-089321.

Concerning an 18-year-old house in Little Rock, FHA said:

Interior well-maintained; high ceiling; 480° basement area, good for storage; large enclosed porch at rear. Couple of bedrooms lack closets, new water heater.⁸⁰

With respect to old houses as well, FHA appraisal remarks were usually favorable. FHA stated in regard to a 60-year-old house in Philadelphia:

Owner-occupied, subject house is well-maintained, no evidence of settlement. Basement perfectly dry.⁸¹

Concerning a 45-year-old house in Denver, FHA appraisal remarks were as follows:

Old Park Hill brick beautifully landscaped, full basement. Nice recreation room, large nearly two-car garage; new bath fixtures.⁸²

In the four metropolitan areas surveyed, more than three-quarters of the existing houses purchased under the program drew either positive FHA appraisal remarks or none at all, indicating that, at the least, the appraiser found no serious problems nor any need for substantial improvements.

Further, most buyers interviewed by Commission staff were well satisfied with their purchases. Only a relative handful of buyers—those who had purchased houses with major defects—were actually sorry they had participated in the 235 program. Typically, one black Philadelphia buyer said: "It's a beautiful program. I feel I stepped way up. You always try to better yourself."⁸³ A black buyer in Denver, who told Commission staff that she had now "come off welfare and found a job," explained: "The program gave me encouragement and a little boost."⁸⁴ This buyer expressed sympathy for friends who had not been able to buy houses under the program.⁸⁵

⁸⁰ FHA Case No. 031-039192.

⁸¹ FHA Case No. 441-156852.

⁸² FHA Case No. 051-089891.

⁸³ Philadelphia Buyer Interview No. 3, July 15, 1970.

⁸⁴ Denver buyer interview No. 7, Aug. 5, 1970.

⁸⁵ *Id.*

Another black buyer who purchased a 71-year-old house in northeast Denver said: "I got one of the greatest deals in the State of Colorado. This is a very well-built house."⁸⁶

A black St. Louis couple with three small children, whose application for a new 235 house in a suburban section of St. Louis County had been accepted, went into detail to tell Commission staff how they planned to decorate the house, panel the basement, fence in the yard, and build a barbecue. Ground had not yet been broken for construction of the house but the family already had packed many of their belongings in anticipation of the move. The apartment which they looked forward to leaving consisted of four rooms above a grocery store in a predominantly black area in the city of St. Louis.⁸⁷

Many buyers stressed the fact that they would not have been able to purchase a house without assistance under the 235 program.⁸⁸ Several also pointed out that they were now paying less per month for their mortgage payment than they previously had paid for rent while getting much more for their money. As one white Denver buyer said: "Our rent was higher before and here we have so much room and the house is so nice, I just love it. It seems too good to be true."⁸⁹ In fact, a substantial proportion of 235 buyers are paying less in the way of monthly payments for homes that they own than they were paying for homes that they merely rented.⁹⁰

Finally, by contrasting the condition of the housing and neighborhoods in which they had previously lived, most of the buyers considered themselves fortunate to participate in the 235 program. One black family in Philadelphia with six children, which previously had rented a small apartment shared with a grandparent, now owns a spacious four-bedroom house.⁹¹ Another Philadelphia buyer told Commis-

sion staff that with the additional space her five children now would be able to come up from Florida to join her.⁹² Other Philadelphia families have moved from what they characterized as bad neighborhoods and are now living in homes on tree-lined residential streets.⁹³

A number of the 235 buyers had previously lived in public housing. They had been dissatisfied with conditions there and considered their move to 235 housing a distinct change for the better. One black buyer in Denver expressed sympathy for those friends still living in public housing who had not been able to purchase houses under the program.⁹⁴ She expressed particular pleasure in the schools in her new area and was glad that her children would not have to grow up in a public housing environment.⁹⁵

Abuses Under the Program

Examination of the 235 case files and field visit by Commission staff revealed that some houses being sold under the 235 program had serious physical defects. Similar findings were published in a report issued by the House Committee on Banking and Currency.⁹⁶ The report stated:

The Federal Housing Administration is insuring existing homes that are of such poor quality that there is little or no possibility that they can survive the life of the mortgage or even attempt to maintain any reasonable property value.

It should be pointed out, however, that problems in the quality of housing are by no means limited to the 235 program. Housing under other FHA programs—those not involving subsidies to lower-income families—also have these deficiencies. For example, in St. Louis, representatives of the Legal Aid Society told Commission staff that they had received many complaints from buyers who had purchased houses under the nonsubsidized section 20 program. One buyer found that 6 months after he had purchased his house, necessary roof repair amounted to \$275.⁹⁸

⁸⁶ Denver buyer interview No. 5, Aug. 5, 1970.

⁸⁷ St. Louis buyer interview No. 6, Aug. 27, 1970.

⁸⁸ Little Rock buyer interviews No. 13, Sept. 16, 1970; Nos. 18, 21, 22, Sept. 17, 1970; *supra* note 83, and Philadelphia buyer interview No. 9, July 17, 1970; Denver buyer interview No. 12, Aug. 5, 1970, and *supra* note 78.

⁸⁹ Denver buyer interview No. 4, Aug. 4, 1970.

⁹⁰ See the following table:

TABLE M.—BUYERS PREVIOUSLY PAYING HIGHER RENT THAN PRESENT MORTGAGE PAYMENT

City	Sample size	Total	Percent of total
Denver.....	64	34	53
Little Rock.....	82	21	26
St. Louis.....	79	37	47
Philadelphia.....	61	32	52

⁹¹ Philadelphia buyer interview, No. 5, July 16, 1970.

⁹² *Supra* note 83.

⁹³ Philadelphia buyer interview No. 6, July 16, 1970; *supra* note 83.

⁹⁴ *Supra* note 84.

⁹⁵ *Id.*

⁹⁶ "Investigation and Hearing of Abuses in Federal Low- and Moderate Income Housing Programs, Staff Report and Recommendations, Committee on Banking and Currency, House of Representatives," 91st Cong., second session, December 1970.

⁹⁷ *Id.* at 1. The Committee Report states that the most common deficiencies which Committee investigators found were: "faulty plumbing, leaky basements, leaky roofs, cracked plaster, faulty or inadequate wiring, rotten wood in floors, staircases, ceiling, porches, lack of insulation, faulty heating units, and the like."

⁹⁸ Interview: St. Louis Legal Aid Society, Aug. 25, 1970.

In Philadelphia, Commission staff was told that uses were not limited to the 235 program, but were "across-the-board problem".⁹⁹ Of the 13 cases of de violations and other problems in Philadelphia reported by the House Banking and Currency Committee staff, only two involved 235 housing. Ten involved the nonsubsidized 221 program and one involved the nonsubsidized 203 program.¹⁰⁰

Although these problems are confined to a limited portion of the 235 housing, they are of serious and legitimate concern to those families affected.

Houses in Existing Housing

FHA appraisal forms included in the 286 case files examined gave some indication of the physical condition of the houses. One such indication was age. If a house was extremely old, the appraiser generally estimated a relatively short remaining economic life. The remaining economic life of the property is the basis for determining the length of the mortgage term which the appraiser feels the property can support.

In the St. Louis and Philadelphia samples, the average existing house was more than 40 years old, while in Denver and Little Rock the average existing house was less than 30 years old. Consequently, houses in Denver and Little Rock had longer remaining lives (the average was 40 years) and longer mortgage terms (the average was 30 years) than houses in the two other cities. In Philadelphia the average house had a remaining life of 33 years and the average mortgage loan term was 23 years. In St. Louis, the average house had a remaining life of 36 years and the average mortgage term was 28 years.

These figures suggest that poor quality 235 housing was more prevalent in St. Louis and Philadelphia than in Denver or Little Rock. The field visits and appraisers' remarks contained in the case files supported this finding.

Although the poorest housing was found in St. Louis and Philadelphia, Commission staff found the low quality existing housing sold to 235 buyers all four metropolitan areas.

Philadelphia

One mortgage loan supervisor employed by a Philadelphia mortgage company which was par-

⁹⁹ Interview with Julian Granger, former staff member of Select Committee on Crime of the House of Representatives, Nov. 10, 1970.

¹⁰⁰ House Banking and Currency Committee, "Investigation and Hearings on Abuses in Federal Low and Moderate Income Housing Programs, Staff Report and Recommendations," 91st Cong., second session, 95 (1970).

ticipating in the 235 program told Commission staff that a number of the 235 houses she has handled "are in horrible condition".¹⁰¹ More than half the 235 houses in the Philadelphia sample carry mortgages of 20 years or less.¹⁰²

FHA appraisal remarks on existing 235 houses in Philadelphia indicated the range and seriousness of the defects:¹⁰³

Install cold water line to second floor. Repair leaking waterpipe in garage. Repair or replace front door. Produce roofing certification. Produce electrical certification. Paint all exterior wood work and metal, two coats.

Replace front steps. (waived) Install new roof, include porch. Repair area way window frame. Paper or paint all interior walls. Reshingle rear. Replace front door. Tenant occupied premises poorly kept; no signs of settlement.

Much settlement—cracks in rear walls—cracks on interior in most walls and ceiling (The latter statement was covered by a paper stapled to the form saying "V108 Repair cracks in ceiling. Paint exterior brickwork". This house was rejected by the first appraiser who noted "The property shows considerable evidence of settlement. This adverse factor limits physical and economic life, retards long term marketability and precludes favorable consideration.")

Roof cert., elec. cert. Paint brick front and two sides—replace rotted floor board on porch—Repair wall behind sink—install sash cords or chain where missing—plumbing cert. to include adequate water pressure—paint or paper 2d floor rear and 3rd floor rear bedrooms. Kitchen equipment poor-reclamation work fair . . . 30 AMP Wood porch floor. 9 steps to front door—7 doors away piano factory and sales room . . . 3rd floor area deteriorated—*price for uninformed purchasers.* (Emphasis added.)

St. Louis

An employee of a St. Louis mortgage company heavily involved in the 235 program told Commission staff that some of the older 235 houses "should have seen their last owner."¹⁰⁴ An employee of another St. Louis mortgage company, also heavily involved in the program, told Commission staff that "it is impossible to find a house for under \$15,000 that is up to FHA standards".¹⁰⁵ This is particularly significant since the average sale price of 235 houses

¹⁰¹ Philadelphia Mortgagee Interview No. 1, June 17, 1970.

¹⁰² Commission staff had been told by a Review Appraiser for the Washington, D.C., FHA Insuring Office that shorter term mortgages are a sign of deteriorating and low quality property. He explained that it is the job of the FHA appraiser to determine life expectancy of the unit he is appraising. An FHA insured mortgage cannot be for a term of more than 75 percent of the estimated life expectancy. In his view, a unit that cannot support a 30-year mortgage "has seen its better days" and "is not worth having". Interview: FHA Review Appraiser, Washington, D.C., Insuring Office, Mar. 11, 1970.

¹⁰³ Philadelphia FHA Cases Nos. 441-162941, 441-160438, and 441-165684.

¹⁰⁴ St. Louis Mortgagee Interview No. 1, Aug. 26, 1970.

¹⁰⁵ St. Louis Mortgagee Interview No. 2, Aug. 28, 1970.

in the St. Louis sample was \$12,890 and all had been approved by FHA.¹⁰⁶

One buyer reported that part of her house is being held up by a floor jack. (See Exhibit E.) The buyer had to delay moving into the house for 6 months while the seller made repairs. (FHA had estimated improvement costs of \$600 at the time of the appraisal.) Even so, she had to spend an additional \$400 for bathroom plumbing repairs after she took possession of the house.¹⁰⁷

Denver

Although most FHA appraisal remarks in Denver 235 files were complimentary, some indicated that the buyer would encounter some repair problems:¹⁰⁸

Subject needs redecorating on interior and minor maintenance is needed on exterior. Condition is good structurally, but home has been neglected.

Subject shows much deferred maintenance and very hard wear. . . . No lawn in rear and very poorly maintained front lawn. Junk auto and miscellaneous scattered throughout rear and side yards. Interior extremely dirty, this taken into consideration when arriving at value.

Subject in fair condition in and out, shows wear, exterior trimming, windows peeling. Putty missing, some screens missing. Front and rear screen doors broken, low foundation, a little seepage thru north fdn. wall, not serious; kitchen flooring worn out, counter top lino worn out, using contact paper some loose tile around tub, generally good landscaping, a little neglected, snow covered.

The Denver Department of Welfare discovered in March of 1969 that some welfare recipients were purchasing deteriorating houses under the 235 program. Since that time, department staff has been inspecting houses to be purchased by welfare recipients under the 235 program. Thomas Arnott, in charge of special services for the department, provided Commission staff with information on 42 welfare recipients whose prospective homes had been inspected by department staff. All of the units had been appraised by FHA and approved for FHA mortgage insurance. The welfare department found 12 of these units—more than one-fourth—to be substandard.¹⁰⁹

One existing section 235 house in Denver was in such poor condition that, after closing, FHA allowed the house to be deeded back. An official of the Den-

ver FHA Insuring Office told Commission staff that the house was later torn down because "it was too far gone to rehabilitate" and the office would sell the vacant land.¹¹⁰

Several Denver 235 buyers who were interviewed expressed dissatisfaction with their houses. One had to install a new sewer line because the old one had holes in it.¹¹² Another was having difficulty with the plumbing and the furnace. This furnace was inspected by the environmental health service of the city and county of Denver which informed the buyer that the furnace was dangerous and would blow up if turned on. The seller agreed to repair the furnace but had not done so at the time of the interview (August 5, 1970).¹¹³

Little Rock

A Little Rock real estate broker who also serves as an FHA fee appraiser, told Commission staff that "buying a used house is like buying a used car—there is always a risk."¹¹⁴ He asserted, however, that the FHA makes sure needed repairs are made. He cited as an example that the agency always makes sure the heating is in working condition.¹¹⁵

One black Little Rock buyer, however, told Commission staff that her house does not and never did have any heat. Although there was a pilot light in the floor vent, the furnace was not in working order. After the buyer moved in, the gas company turned off the pilot light. During the winter of 1969, the buyer used a small portable electric heater and kitchen stove to heat the three-bedroom house.¹¹⁶

The buyer also experienced other difficulties. The FHA file on this case contained the following appraisal comments:

Dwelling is in very run-down condition, but repairs should make property desirable. Roof and exterior paint is poor, interior walls and ceilings aren't good and not acceptable, floors are fair to good, kitchen base cabinets good but little room, upper cabinets, garage is good and has finished interior and electricity.

The buyer told Commission staff that the house had been painted but that, 3 months later when the paint began to peel, the painter and the broker informed her that this was no longer their responsibility.

¹⁰⁶ Interview with staff, Legal Aid Society, St. Louis, Mo., Aug. 25, 1970. More than half the St. Louis 235 buyers interviewed by the St. Louis students had problems with their houses ranging from minor difficulties with cracked front steps and basement leakage to major defects such as exposed and faulty electrical wiring, inoperative furnaces, sagging ceilings, and antiquated wornout plumbing.

¹⁰⁷ St. Louis Buyer Interview No. 1, Aug. 25, 1970.

¹⁰⁸ Denver FHA Cases Nos.: 051-093430, 051-089352, 051-091188.

¹⁰⁹ Letter from Thomas Arnott, supervisor, Special Services, Denver Department of Welfare to U.S. Commission on Civil Rights, Oct. 7, 1970, and interview Denver Department of Welfare, Aug. 5, 1970.

¹¹⁰ Interview, Denver FHA Insuring Office, Aug. 7, 1970.

¹¹² Denver Buyer Interview No. 9, Aug. 5, 1970.

¹¹³ Denver Buyer Interview No. 10, Aug. 5, 1970.

¹¹⁴ Little Rock Real Estate Broker Interview No. 2, Sept. 16, 1970.

¹¹⁴ Little Rock Real Estate Broker Interview No. 2, Sept. 16, 1970.

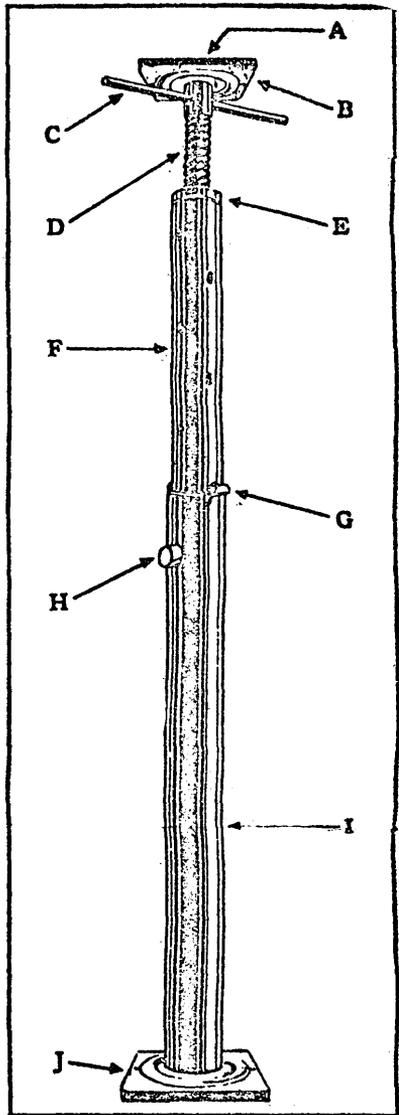
¹¹⁵ *Id.*

¹¹⁶ Little Rock FHA Case No. 031-045277, Little Rock Buyer Interview No. 10, Sept. 16, 1970.

EXHIBIT E

FOLLOW THESE SIMPLE DIRECTIONS:

1. When installing place the bottom plate on footing where Floor Jack is to be located.
2. Remove set screw from top of adjusting screw assembly, install top plate and replace set screw tightly.
3. Place head assembly into top of inside telescoping post.
4. Stand the outside telescoping post upright on base plate.
5. Insert the above complete with inside telescoping post into outside telescoping post and raise to beam. For maximum height plain end of small tube with no holes should be up. For minimum height invert small tube.
6. Place notched pin into nearest set of holes above top edge of outside telescoping post. Lower inside telescoping post and assembly to resting position.
7. Turn inside telescoping post until holes register through both posts and insert full round pin.
8. Insert handle. Turn screw upward until top plate is firm to beam or joist so that Jack is in proper vertical position. Fasten top plate to beam with suitable nails or screws, then proceed to turn handle until first desired lift is made.
9. Do not make complete desired lift at one time. To level sagged floors, use carpenter's level to do it gradually turning screw one-half turn each week. Too much turn, too often could cause dislocation of plaster. Take it easy . . . let the walls return to their normal position gently.



NOTICE: Never have more than 3/4 inches of thread showing above the top of adjusting nut. If more adjustment is needed, change location of pins in tubing to obtain proper height.

REPAIR PARTS

REF. LTR.	PART NO.	DESCRIPTION OF PART	WEIGHT		PRICE
			LBS.	OZS.	
A	4-1	Set Screw		1	.....
B	4-2	Top Plate	2 1/2		.....
C	4-3	Handle	1		.....
D	4-5	Adjusting Screw	4		.....
E	4-6	Adjusting Nut	1		.....
F	4-7	Inner Tube	12		.....
G	4-8	Top Pin		8	.....
H	4-9	Bottom Pin		8	.....
I	4-10	Outer Tube	13		.....
J	4-11	Bottom Plate	2 1/2		.....

Made in U. S. A.

Another black 235 buyer in Little Rock said he "didn't know you could get a good house under the program." The house purchased by this family is infested with roaches and the front yard is gradually washing into the street. The plumbing is old and has already been repaired by the buyer.¹¹⁷ The FHA file on this case contained the following appraisal comments:

Poor condition: No kitchen cabinets, walls and ceilings in poor condition. Floors poor. Exterior fair. Needs complete redecorating, bath fixtures are old style. No decorations considered. Value estimated as is."

Speculators

The activities of real estate speculators¹¹⁸ in the 235 program have received wide publicity.¹¹⁹ In fact, some houses in the Commission's sample had been sold by speculators.

Speculation seemed to be more prevalent in Philadelphia and St. Louis than in the other two areas. A January 1970 Commission Staff Report on Housing in St. Louis found that 29 percent of existing section 235 houses in the St. Louis sample had been sold by the same person, identified by FHA as a "speculator".¹²⁰ At least four individual sellers in the Philadelphia 235 buyer sample were found by Commission staff to be speculators.

Houses sold by speculators, however, appeared to be of equal quality to houses in the same price range sold by other owners. For example, one black Philadelphia 235 buyer purchased her house for \$7,300 in March 1970 from a speculator who had paid \$3,800 for it 2 months earlier. The buyer found no defects in the house and was very pleased with her purchase. She pointed out that the house had been papered and painted and a new garbage disposal had been installed before she moved in.¹²¹

In some cases, however, houses sold by speculators have had serious defects. One black Philadelphia 235 buyer purchased her house from a speculator for \$5,500 in March 1970. The speculator had paid \$2,000 for it in November 1969. The buyer has had problems with the plumbing and with vermin. In addition, between the time the buyer made her downpayment and the time she moved in, the house

was vandalized. Rugs and walls were torn up, light fixtures were pulled down and the kitchen sink, pipes and linoleum were removed. As of July 17, 1970, the speculator still had not completed the repairs which he had only reluctantly agreed to do. This was the only house which the buyer had been shown by the speculator/broker and she now regrets she bought it.¹²²

In other cases, despite defects, buyers were still satisfied with their houses. For instance, another black Philadelphia 235 buyer paid \$12,000 for her house which had been purchased by a speculator for \$7,500 in the same month (March 1970). Although the cellar leaked badly and was filled with water this buyer was also pleased with her house. She had formerly rented a house that had been rehabilitated by the "redevelopment people". The house was located, she said, "in a very bad neighborhood." The buyer selected her 235 house because it was "in a better neighborhood" and the "schools are good".¹

The Predicament of the 235 Buyer

It is not difficult to understand why some 235 buyers are purchasing existing houses which have serious defects. Minority home seekers traditionally have had little alternative to inferior housing. As a study for the President's Committee on Urban Housing pointed out:

The nonwhite population has not, as a general rule, been afforded the same access to adequate housing regardless of income.¹²⁴

In addition, many of the buyers, especially welfare recipients with children, are desperate to escape from inadequate living quarters. Housing under the 235 program, even with defects and at inflated prices, represents a substantial improvement.

Many of the families surveyed by the Commission had female heads of households. This was particularly so in St. Louis and Philadelphia where the houses purchased under the program were old and cheapest. In these cities, more than seven of every 10 families in the sample were headed by women.

¹¹⁷ Little Rock Buyer Interview No. 1, Sept. 14, 1970, and Little Rock FHA Case No. 031-042287.

¹¹⁸ A speculator purchases real estate properties for the purpose of reselling them quickly at a profit.

¹¹⁹ "Sixty Minutes", CBS Television, Jan. 5, 1971.

¹²⁰ Hearing in St. Louis, Mo. Before the U.S. Commission on Civil Rights, Exhibit No. 21, 559, (1970).

¹²¹ Philadelphia FHA Case No. 441-163229; Sale Price January 1970, the Philadelphia Metropolitan Real Estate Directory; *supra* note 91.

¹²² Philadelphia FHA Case No. 441-166694; Sale Price November 1970; The Philadelphia Metropolitan Real Estate Directory; Philadelphia Buyer Interview No. 7, July 17, 1970.

¹²³ Philadelphia FHA Case No. 441-165691; Speculator Sales Price, Philadelphia Metropolitan Real Estate Directory; *supra* note 93.

¹²⁴ President's Committee on Urban Housing, Technical Studies, vol. (1968), at 227.

¹²⁵ In Philadelphia, 47 of the 61 families were headed by women; in St. Louis, 56 of the 79 families were headed by women. One-third of Denver families (21 out of 64) and one out of every 10 families in Little Rock (8 out of 82) were also headed by women.

In addition, in Philadelphia and St. Louis a large number of families received public assistance. In fact, more than half the families in these cities received public assistance, primarily under the program of Aid to Families with Dependent Children.¹²⁶

These families tend to be those most desperately in need of housing. They also tend to be most susceptible to speculators and unscrupulous real estate brokers. Dr. George Sternlieb, author of "The Tenement Landlord," describes the type of housing market which is open to these families:¹²⁷

The market realities of central city real estate all too frequently are very grim. And what this means, by the way, also is the fact that we have structures standing for which there is no economic justification, because the owner of that structure knows doggone well that if he clears the land it is worth even less. As long as the shell remains he can sort of hope and pray that someday somebody will be desperate enough to move in.

A staff member of the St. Louis Urban League put it this way:¹²⁸

Sure, people know they are being cheated. They half-way expect to be cheated and they don't look a gift horse in the mouth. It's all relative anyway, if you've got nothing and you get something—or nearly nothing—for the same price, you take it.

¹²⁶ In St. Louis, 43 out of 70 families (54 percent) received public assistance; in Philadelphia, 32 out of 61 families (52 percent) received public assistance. Five families in the Denver sample received public assistance (five out of 64). No family in Little Rock received public assistance. There the level of public assistance is too low for a family to qualify for sec. 235 assistance. Most of the families on public assistance also had income from other sources such as wages and child support. (Families who received social security benefits in addition to wages or other income were not considered as public assistance recipients.)

¹²⁷ "Hearings on Housing and Urban Development Legislation—1968 Before the Housing and Urban Affairs Subcommittee of the Senate Banking and Currency Committee," 90th Cong., second session, at 138 (1968).

¹²⁸ Interview-Staff, Operation Equality, St. Louis Urban League, Aug. 25, 1970.

Abuses in New Housing

Although new construction units were of higher quality than existing 235 units, they were not without problems ranging from minor to massive.

One Denver buyer has had difficulty with the drainpipe when it rains and has had settlement in the backyard.¹²⁹ Another Denver buyer claimed his house was poorly constructed generally and that he had received no satisfaction after complaining to the builder.¹³⁰ A Little Rock buyer complained that his house had been constructed from salvage materials.¹³¹ Another Little Rock buyer had a faulty garbage disposal.¹³²

The most serious complaints regarding the quality of new 235 houses came from residents of a predominantly black urban renewal area in St. Louis County. Here, the purchasers have not fared as well as their counterparts in Little Rock and Denver in obtaining quality housing.

The residents, who have formed themselves into neighborhood grievance committees, complained of such problems as roofs leaking, rocky yards, and inadequate landscaping, no tile around shower area and consequent softening plaster, crossties instead of proper back steps, unpaved driveways, water in basements necessitating pumping into the backyards, plastic instead of wire screens, and unfinished basements.¹³³

Several of these residents told Commission staff that they had written to the builder and FHA in an unsuccessful effort to remedy some of the defects in their houses.¹³⁴

¹²⁹ *Supra* note 78

¹³⁰ *Id.*

¹³¹ Little Rock Buyer Interview No. 7, Sept. 15, 1970.

¹³² Little Rock Buyer Interview No. 16, Sept. 17, 1970.

¹³³ Interview, St. Louis Buyer Interviews Nos. 2, 3, and 4, Aug. 25, 1970.

¹³⁴ *Id.*

PART II

SUMMARY

Measured only by the extent of minority participation in the four metropolitan areas studied, the 235 program is proving a success. In each of these areas, minority families are participating in larger proportions than they represent in the overall population.

Measured by the quality of most housing purchased by 235 buyers, the program also is proving to be successful. In some cases, particularly with respect to existing housing, the housing has been of poor quality. In addition, instances in which speculators have profited under the program at the expense of lower-income buyers have come to the attention of the Commission. But only in a minority of cases have abuses been found under the program. Moreover, they are not unique to it. The same problems and abuses have been found in connection with other FHA-insured programs as well—those not involving subsidies for the poor.

The success of the program, however, cannot be judged solely by reference to the number of units minority and majority buyers are purchasing, nor by the quality of housing being provided. Also important is the impact the program is having on the problem of residential segregation. By this standard, the program is not yet succeeding.

Participation in the 235 program has taken place along rigid racial lines. Most new 235 units are being located in suburban areas and are being purchased largely by white buyers, while most existing units are being located in inner-city ghetto areas or “changing” neighborhoods and are being purchased largely by minority buyers. In those cases where minority 235 buyers are purchasing new suburban housing, it is usually located in subdivisions reserved exclusively for them.

In addition, houses purchased by minority buyers tend to be older, cheaper, and smaller than houses purchased by majority buyers and, therefore, minority buyers are most likely to be overcrowded, to receive smaller subsidies, and to have shorter mortgage terms than majority 235 buyers. Hence, the program, instead of opening up new housing opportunities for minority buyers outside areas of traditional minority residence and reversing the trend toward racial separation, is contributing toward perpetuating and intensifying the familiar pattern of racially separate and unequal housing.

The chapters that follow will analyze the role that each of the various groups involved in the 235 program has played in shaping the pattern of segregated participation that has emerged.

PART III

THE ANATOMY OF SEGREGATION IN 235 HOUSING

There are at least two reasons why the pattern of housing under the 235 program might be expected to depart from the traditional one of racial segregation.

First, 235 housing is subject to a variety of laws providing civil rights guarantees: the program was established after passage of the first national fair housing law, Title VIII of the Civil Rights Act of 1968, which prohibits discrimination or segregation in the sale or rental of housing and in the financing of housing. Further, it directs the Secretary of HUD to administer all programs relating to housing and urban development so as to carry out the purposes of Title VIII—fair housing throughout the United States. In addition, since the 235 program involves Federal assistance by way of a subsidy as well as mortgage insurance, it is covered by Title VI of the Civil Rights Act of 1964, which prohibits discrimination or segregation in programs or activities receiving Federal loans or grants. The program also is subject to the nondiscrimination requirements of the Executive order on equal opportunity in housing.

Second, housing under the program serves families who, by statute, all must be in the same low-

to moderate-income range. By the same token, all housing, whether new or existing, whether suburban or inner-city, must be, again by statute, in the same moderate-price range. Thus the traditional economic rationale often advanced to explain the separate housing markets for white and minority families has no application here. All program participants are in the same income range and all housing under the program, new and old, suburban and inner-city, is equally within the means of eligible families.

Nonetheless, as the previous chapter has shown, the traditional segregated pattern is being repeated under the 235 program. Buying patterns under this program have mirrored the buying patterns in the housing market at large, with new suburban housing going to white families while older inner-city housing is going to minority families.

Why has this happened? In an effort to answer this question, the Commission has examined the role of the various groups involved—industry, government, private civil rights and community groups, and buyers themselves. Each has played a part in producing the final unequal, segregated product.

CHAPTER I

THE ROLE OF THE PRIVATE HOUSING AND HOME FINANCE INDUSTRY

Commission staff found that the major responsibility for informing the public of the existence of the Section 235 program fell upon members of the real estate industry. Local Federal Housing Administration Insuring Offices did not advertise the 235 program nor did they seek out potential eligible buyers. Rather, they informed participants in the real estate industry—brokers, builders, and mortgage lenders—of the terms of the program and waited for them to bring in applicants for 235 mortgages. Even this was not done in an organized or systematic manner. Rather, depending upon the decision of individual FHA Insuring Office Directors, information was provided to the industry by such means as conferences, written instructions, or informal conversations. Real estate brokers and builders who wished to utilize Section 235 financing sought out potential 235 buyers themselves and told them about the new homeownership opportunity.

Real Estate Brokers and Existing Houses

FHA's decision to administer the 235 program by waiting for real estate brokers to present them with applicants for 235 mortgages placed the brokers in a unique position. As one St. Louis broker put it, "The 235 program has made us social workers."¹ In fact, brokers have been in the position of making key decisions on how this aspect of the program would operate. The brokers reacted to this responsibility in various ways.

Reluctant Brokers

Many brokers who did not customarily deal with low-income families shunned the program and refused to handle buyers who wanted to finance their

homes with Section 235 mortgages. For example, one white suburban Philadelphia buyer, who had read an article about the 235 program in a Philadelphia newspaper, went to 20 different brokers before she found one who was willing to handle her application.²

Brokers have expressed reluctance to sell houses under this program because 235 buyers are not allowed to pay closing costs.³ This means that closing costs must be paid by the seller, whom the broker represents. One Philadelphia broker said that because of this: "Brokers only sell under 235 when they can't find another buyer—only the really crummy houses, the lemons, are sold under 235."⁴ A St. Louis broker told Commission staff: "In all the good areas where there are nice houses, the seller won't pay closing costs. If a seller's in trouble with his house, he'll take 235 buyers."⁵

Some brokers are also reluctant to participate because they cannot be sure 235 funds will be available once buyers and sellers have agreed on a purchase. Many brokers told Commission staff that they originally were enthusiastic about the program, but that

² Philadelphia Buyer Interview No. 10, Dec. 8, 1970.

³ Closing costs are the costs involved in conveying property title from seller to buyer and include such items as fees for preparation of the abstract, examination of title, preparation of deed, and taxes on the property exchange. Theoretically the closing costs are estimated by FHA appraisers and added to the appraised value of the house to comprise the total value upon which FHA bases its mortgage—the FHA-set sale price. Real estate brokers in Philadelphia, Denver, and St. Louis told Commission staff that FHA frequently underestimates the amount of the closing costs and that it is customary in their cities for the seller to receive the full sale price (FHA value) and require the buyer to pay the closing costs as well, thus requiring the buyer to pay the closing costs twice. (This practice is not followed in Little Rock, Ark.) FHA does not allow 235 buyers to invest more than the required downpayment unless the excess funds are applied toward prepaid items such as property taxes and fire insurance. Therefore, the 235 buyer, even if he has the money available, cannot pay the double closing costs.

⁴ Philadelphia Broker Interview No. 1, July 16, 1970.

⁵ St. Louis Broker Interview No. 2, Aug. 27, 1970.

¹ St. Louis Broker Interview No. 1, Aug. 26, 1970.

erratic funding had caused them to stop accepting 235 buyers.⁶ They claimed that it was expensive and inconvenient to hold a house off the market until section 235 funds became available, and they had lost sales when 235 money "dried up". A Denver broker told Commission staff: "I lost 28 cases when the money ran out with 1 day's notice."⁷ Another Denver broker said she had had three houses ready for closing⁸ under 235 a year earlier, "but then the program ran out of funds so I said to heck with that."⁹ A Philadelphia broker who had sold approximately 25 section 235 houses said he gave orders to his salesmen not to accept any more 235 buyers because of the uncertainty of the funds. He said that when funds became available again "I'll get back in the program, but I won't tie up my prime listings in case the funds run out again."¹⁰ A St. Louis member of the National Association of Real Estate Brokers, the trade association for black brokers, complained that the uncertain funding of the 235 program favors speculators. He wrote a letter to FHA Commissioner Eugene Gullledge saying:¹¹

At the present time this office has paid more than one thousand (\$1,000) dollars for credit reports and FHA appraisals without closing the transactions. Apparently ownership of the land is the key to getting 235 applications approved under the present FHA guidelines. While listing agents are waiting for available funds their contracts become delinquent dated contracts. This situation favors the speculators who in most cases have no interest in the neighborhood or the people they represent: as a result many people are moved from one substandard home to another substandard home, the speculator making more than a reasonable profit.

⁶ Congress has funded the 235 program in bits and pieces. The first funds (\$25 million) were appropriated in October 1968. The second appropriation (\$45 million) was made in July 1969. Funds for fiscal year 1970 (\$90 million) were not appropriated until November 1969. Then appropriations for fiscal year 1971 (\$130 million) were vetoed by the President and reappropriated (\$130 million) in December 1970. The erratic funding referred to by real estate brokers is not just a product of sporadic congressional funding but the result of internal FHA policies. Originally FHA funds were allocated to local insuring offices on a need/cost formula basis. But some offices were able to use the funds quickly and some were not. FHA began reallocating funds on the basis of use and shifted funds around from office to office on a request basis. Then in the spring of 1970, production of new 235 houses increased and FHA set an administrative limit of 10 percent on the amount of funds to be used for existing houses which have not been rehabilitated under sec. 235(j). The net result of these improvisational policies has been that Insuring Offices have been unsure, from month to month, of the number of 235 applications they would be able to accept for existing houses.

⁷ Denver Broker Interview No. 2, Aug. 5, 1970.

⁸ Closing is the term used to denote the signing of the papers which convey the property title from seller to buyer.

⁹ Denver Broker Interview No. 7, Aug. 6, 1970.

¹⁰ Philadelphia Broker Interview No. 3, July 15, 1970.

¹¹ Letter from Hezekiah Lewis, Jr., Missouri Realty and Company, to Eugene Gullledge, Assistant Secretary of Housing Production and Mortgage Credit, FHA Commissioner, Mar. 18, 1970.

Brokers also complained to Commission staff that the 235 program is too complicated and that FH has changed the rules so often that they can hardly understand the program themselves, much less explain it to buyers. A Denver broker said: "It's such a hodge-podge. I wish we had more information. I've tied up several houses and then found out the buyer weren't eligible under the program."¹² A Philadelphia broker, who claimed to be the first in the city to sell under 235, told Commission staff that in his opinion, "there isn't a broker around who knows the formula and can predict the amount of the subsidy." He said he feels every 235 buyer should be counseled and given a chart which shows price monthly costs, and income limits so they could present the chart to the broker when they came in to look for a house. "It is unfair to give a broker this responsibility. The program is too complicated."¹³

Participating Brokers

Some brokers, particularly those who also speculate in residential property, saw the 235 program as a golden opportunity to make money. A salesman for a St. Louis broker who, as a speculator, sold 2 percent of the houses in the Commission's St. Louis sample, told staff members that his firm had mailed out about 12,000 post cards to potential 235 buyers after the program began. Even after 235 funds for the St. Louis area had been exhausted, 3,000 additional cards had been prepared for use when the funds became available again. (See Exhibit F, p. 47. Many of the post cards went to public housing tenants¹⁴ and most of the recipients were black.)

Some brokers commented on how easy it was to sell a house to a 235 buyer. A Denver saleswoman said: "We write up the contract before they even see the house—that's how easy they are to sell."¹⁵ Another Denver saleswoman said that: "The 235 buyer will buy literally anything."¹⁶ A Philadelphia broker, who was also a speculator, said that many of his applicants lived in public housing and that "compared to where they're coming from, they want whatever I show them."¹⁷

¹² Denver Broker Interview No. 1, Aug. 2, 1970.

¹³ Philadelphia Broker Interview No. 4, July 17, 1970.

¹⁴ Over one-fourth of the 235 buyers in the St. Louis sample formed resided in public housing projects in the City of St. Louis.

¹⁵ *Supra* note 5.

¹⁶ Denver Broker Interview No. 4, Aug. 5, 1970.

¹⁷ Denver Broker Interview No. 8, Aug. 6, 1970.

¹⁸ Philadelphia Broker Interview No. 2, July 15, 1970.

EXHIBIT F

HAVE YOU HEARD THE NEWS?

Several of your neighbors have become home owners because of the

NEW FHA PROGRAM.

If you are receiving:

- (1) ADC or
- (2) Social Security or
- (3) Have 5 or more minor children or
- (4) Live in a project

You can afford a newly decorated home with nice yard for your family.

Your house payment is figured on what your income is now.

YOUR SATISFIED NEIGHBORS ARE OUR BEST RECOMMENDATION

FOR MORE INFORMATION CALL
EVENINGS:

THESE ARE GOVERNMENT APPRAISED, VACANT, CLEAN BUILDINGS.

Other brokers, however, complained that 235 buyers are too choosy, considering the fact that they are getting a Federal subsidy. One Philadelphia salesman went so far as to say that such buyers were more particular than unsubsidized buyers. He told Commission staff: "I've shown properties to 235 buyers who turned them down and then sold the same property the next day to a regular unsubsidized buyer."¹⁹ A Denver broker complained that: "Some 235 buyers think they can buy any house."²⁰

Nearly all brokers agreed that the typical 235 buyer had, at best, only a dim understanding of how the program works. Despite the fact that they were often the primary contact and source of information for 235 buyers, few brokers felt obliged to enlighten them any more than was necessary to complete the sale.

For example, a Denver saleswoman who had sold five section 235 houses told Commission staff that: "The buyers don't understand that their income will

be reevaluated in 2 years. They're too dumb to ask about something like that."²¹ A Denver broker who has also done rehabilitation work under section 221 (h) said that: "The buyers just don't understand the program. They don't realize they own the house; they think they are still renting. If anything goes wrong with the house, they call the broker and ask him to fix it."²² A Philadelphia broker told Commission staff that most of his 235 buyers were on public assistance. He said: "They don't know there's a lien²³ on their property. We could tell them but it's not our ball game. It should be up to their caseworker to tell them."²⁴

Many brokers said that, even when asked, they were unable to tell the 235 buyers what their monthly payment would be or the amount of their subsidy since they did not know the figures themselves. Some brokers attempted to estimate the payment amount. Others sent the buyers to the mortgage companies to learn the terms in advance. Many brokers said that the buyers learned the amount of their monthly payments at the closings. In one case, a Philadelphia buyer did not learn that she would not receive a 235 subsidy until she went to the closing; the broker who sold her the property said he thought the mortgage company had notified her that she was ineligible for 235 assistance. An employee of the mortgage company said he had called the broker and asked him to notify the seller.²⁵

While these attitudes and perceptions of brokers go far toward explaining the purchase of inferior housing by some Section 235 buyers, they do not explain the difference in housing quality for majority and minority buyers or the segregated buyer patterns observed by Commission staff. The patterns are the product of a more basic and widespread problem.

Real Estate Brokers and the Separate Housing Markets

Nearly all brokers interviewed by Commission staff were convinced of one thing—minorities, particularly lower-income minorities, do not want to

¹⁹ *Supra* note 17.

²⁰ Denver Broker Interview No. 9, Aug. 6, 1970.

²¹ The State of Pennsylvania records a lien against the property of public assistance recipients. The first judgment is for \$2,000. As the recipient continues to receive public assistance, additional judgments of \$2,000 are added. There is no record of liens by type of ownership so the State was unable to furnish information on the number of sec. 235 properties on which the State of Pennsylvania has a claim. Telephone conversation, Claims Settlement Office, State Department of Welfare, Harrisburg, Pa., Oct. 16, 1970.

²² *Supra* note 10.

²³ *Supra* note 13, and Philadelphia Mortgagee Interview No. 1, June 17, 1970.

¹⁹ *Supra* note 13.

²⁰ *Supra* note 12.

move into predominantly white areas. In every metropolitan area surveyed, Commission staff was assured by broker after broker that minority 235 buyers desired to live in minority neighborhoods. For example, a Little Rock broker told Commission staff:

I just get the feeling that colored people want to live in colored neighborhoods. They don't want to be isolated with no colored neighbors.²⁶

A Denver broker said:

Seventy-five percent of my 235 applicants are minorities. Half are black and half are Hispano. The Hispanos are forming a political bloc and they don't want to disperse. And no black 235 buyers want to move out of black areas.²⁷

Another Denver broker gave his view of upward mobility in the black community:

All our black buyers want to move to Park Hill. Moving to Park Hill is a status thing—it's moving up in black society.²⁸

A Philadelphia broker distinguished between different types of black applicants:

The 235 applicants want to buy houses in the areas where they live—unless they're fancy colored and then they go to West Oak Lane.²⁹

Thus, the separate housing market for minority buyers, as perceived by brokers, leads to broker specialization. Most of the real estate brokers interviewed by the Commission staff identified themselves as serving a specific racial or ethnic group in a racially or ethnically identifiable area.

For example, one white Little Rock broker candidly explained that he serves black applicants in "changing" neighborhoods.

My business is with the Negro people. I deal mostly with that type property—with older property. I concentrate on areas where white people are moving away and blacks are buying.³⁰

Another white Little Rock broker told Commission staff that he serves the black market because it is profitable. He explained:

There is a real demand for houses by black people. Many of the people living in the projects want to move out. I saw the need for someone to take that market and I got into the business. I only work with low-price houses.³¹

Brokers in the three northern metropolitan areas operated in similar fashion. For example, a white Philadelphia broker, located in the ghetto, said simply: "My listings and clientele are black."³²

Another white Philadelphia broker whose office located in the Germantown area said: "My area a changing neighborhood. Most of my buyers a black or Puerto Rican."³³ A white Denver broker told Commission staff: "The majority of our clients are black and Park Hill is our area. We work strongly."³⁴

Some black brokers interviewed by Commission staff saw black buyers and black areas as their rightful province. A black St. Louis broker responded indignantly when asked if he showed suburban listings to his applicants:

I understand their needs. They need to stay in the city. There is nothing for poor families in the suburbs. They shouldn't have to buy a house because the larger the house the more the heat costs. In addition, taxes are higher in the suburbs. It's up to the practitioners to determine the right location for the family.³⁵

A black Little Rock broker spoke critically of white brokers who sell to black clients. He said they canvass neighborhoods looking for customers and sometimes they call him to find out if he has "any houses available for blacks." He said: "We can sell all our houses ourselves." He added, however, "Sometimes we do cooperate with white Realtors who can't get rid of their houses."³⁶

Advertising Practices of Real Estate Brokers

Many real estate brokers direct their advertisements toward the racial or ethnic market which they desire to serve. The most blatantly discriminatory advertising was found in Little Rock, Ark. The following ad was printed in an early 1970 issue of the Arkansas Gazette, and was placed by the broker who told Commission staff his business was "with Negro people".

SOLD

We urgently need listings on older homes under \$15,000 especially in mixed neighborhoods. We sold 68 of the properties in 1969 and have a prospect for every one on list.³⁷

In Little Rock, many advertisements begin with the word, "Anyone," or with the phrase, "Anyone May Buy." (See Exhibit G) The following ads are typical:

ANYONE—4 BEDRMS.

Completely remodeled inside and out on full corner lot. A bargain at \$12,500. Only \$400 down FHA. Walk to Central High.³⁸

²⁶ Little Rock Broker Interview No. 2, Sept. 15, 1970.

²⁷ *Supra* note 7.

²⁸ *Supra* note 16.

²⁹ *Supra* note 18.

³⁰ Little Rock Broker Interview No. 6, Sept. 17, 1970.

³¹ Little Rock Broker Interview No. 4, Sept. 16, 1970.

³² *Supra* note 18.

³³ *Supra* note 10.

³⁴ Denver Broker Interview No. 6, Aug. 5, 1970.

³⁵ *Supra* note 1.

³⁶ Little Rock Broker Interview No. 1, Sept. 15, 1970.

³⁷ Arkansas Gazette, early 1970.

³⁸ Arkansas Gazette, fall 1970. Central High is over one-third black and is surrounded by "changing" neighborhoods.

EXHIBIT G

REAL ESTATE SALES ★

168. Houses, All Sections

CENTRAL HIGH

ANYONE QUALIFY for \$11,000 loan can move in clean 3 bdrms., 1 1/2 bath home, dbl. carport. Walk 12 yrs. school.

CLEAN 2 bdrms. & sleeping porch. Fenced yd., storage. \$10,000. FHA-V.A. Low down pmt. Pmts. cheaper than rent.

14TH ST: Zoned Apt. 8 rms., 2 baths. Being used for duplex. FHA-GI. CHARLIE W. FOX, 683-5985.

B L O C K REALTY CO. 376-4111

2004 ARCH: Lovely, spacious 3-bdrms., 2-bath, all conveniences. Basement. 2 carport. PHONE 375-8129 or 682-2148.

ANYONE MAY BUY

Brick duplex. Out-of-town owner says sell 5 large rooms and bath downstairs, 5 large rooms and bath upstairs, plus efficiency apt. at back. Total income of \$240 per mo. 73x150 ft. lot. Small down. FHA or buy GI.

ANYONE MAY BUY

5 large rooms and bath, \$19,990. Small down FHA or buy GI. Pretty hardwood floors, fireplace, lots of cabinets in kitchen, large closets, fenced back yard and large.

ANYONE CAN BUY

1. NEW HOME.
I SELLER CARRY PAPER: We have two new homes. These won't last. Call NOW.
3. DUPLEX: Single family homes? We have them with 2, 3 and 4 BR's all over town. All prices ranges. FHA or GI financing available.

REDWOOD
—CONTEMPORARY STYLING—
Owners need offer on this pretty 3-bedroom home. Large carport and storage. Lovely lawn with shrubs. Neighborhood of nice homes. Let me show you through.

MARCEL MORRIS, 562-8554
SOUTHWEST • Realty Co., Inc. 562-0763

ANYONE—3 bdrms. with garage on full level lot. Only \$30 down, \$75 mo. 1 w/h finance, no red tape. Total price only \$8,500. A BARGAIN FOR SOMEBODY.

INCOME LOW?

Still want a new home for your family? If your income falls between \$3,500 and \$7,500 you may qualify for the FHA 235 housing program. Income level depends on the number in your family. This program is designed to help low income families live in a nice home. We can give you all the information and also build your house for you. These houses have 3 or 4 bdrms., brick, 1 1/2 baths, large eat-in kitchen with range, washer and dryer connections; some carpeting, central heat. Monthly payments based on your salary. Call any of our salesmen.

ANN CALLIS, SK 8-0285
JENNY BIERY, SK 3 2621
PAULINE BURNS,
SK 3-1419
MARY HUDDLESTON,
SK 3-8287
U.F.S. Realtors SK 8-0226

REAL ESTATE SALES ★

174. L. R., No. of 8th. West of University

BUY EQUITY, COLONY WEST
6 1/2 % loan 3 bedrooms, office, fireplace in den. All built-ins. 19 Queens Park. PHONE 228-1208.

2 LOTS
Water. Near Robinson.
PHONE 682-5438.

PLEASANT VALLEY

SAVE \$2,000—BUY FROM OWNER
One-story, 3 bdrms., 2 baths, fam. room fireplace. Mid thirties. Assume loan. Small down payment. CALL MO 3-0259.

BRK. & FR. COLONIAL: 4 bdrms., den w/ fireplace, sep. din., carpet. Lots of living. Good area. Dbl. carport, trees. CHARLIE W. FOX, 683-5985.

B L O C K REALTY CO. 376-4111

6 1/2 % LOAN: 2 yr. old colonial brk. 4 bdrms., 2 baths, plush carpets, drapes, fenced yard, paneled fam., rm., dbl. garage, all appl., kit., Cen., H.A.A. Equity, \$219 mo. pmts., everything. \$32,750. DEWEY BUNTINGTON, 225-4428.

B L O C K REALTY CO. 376-4111

AN EXQUISITE

HOME
IN A PRIME
LOCATION

The outstanding value of an address in River Ridge is well known. 4 BRs., 3 full baths, large family room, game room, 2 woodburning fireplaces, located on 1/2-acre lot with lots of trees. Select your carpet. It is truly elegant. Priced low, \$50,000.

CALL MARION SEAY, 225-1484
SOUTHWEST • Realty Co., Inc. 562-0763

LEAWOOD
Would you do a little painting for a real good buy? 4 BRs., 3 baths, big family room with woodburning fireplace, lots of storage, C/H & A/C, fully appointed kitchen. Low interest rate, low equity.
CALL MARIAN SEAY, 225-1484
SOUTHWEST • Realty Co., Inc. 562-0763

FOXCROFT

#45 Tallaho Lane
OPEN ALL DAY
3 br., 2 1/2 bath
luxury
2300 sf single level

Home on large tree shaded lot. Hall high area. Big eat-in kitchen. Large den, w/ fireplace, dbl. garage, lg. closets & bdrms, plush w/w carpet, generous storage, new now ready - by owner-trades. Johnny Parker, 225-2628, 225-6882.

REAL SWELL BUNGALOW
Excellent condition two bdrms. plus sep. dining. W-W carpeting, lovely towering pines. Located close to Heights Shopping, Jefferson and Hall H school districts. Owner will finance.
SANFORD BROOKS, 683-1855
THE GUARDIAN CO., 376-2921
374-3763, Ext. 392

PLEASANT VALLEY

Have homes. 4 bdrms. up. Some new, some finance. 7 1/4 % annual rate.
DELBERT CLEM REALTY
684-1980 off., 225-2272 res., after 5 p. m.

HEIGHTS SPECIAL

B Owner financed. Asking \$7,000- below cost. Peerless quality, very distinctive A/C Col. brick home. Big columns, tasteful decor., expensive carpeting, draperies, tile foyer, circular stairway, huge den, w/tp. din. rm., 4 spacious bdrms., 3 tile baths, util. rm., dbl. gar., gorgeous oversized level landscaped lot. Patio. Fantastic buy. Mrs. Don Brizza. 686-8607, Robert Meurer,

REAL ESTATE SALES ★

178. L. R. So. of Roosevelt Road and Hwy. 6

FOR SALE BY OWNER: 3 bedrooms 2 full baths, 5 1/2 % loan, C/A and heat, carpet and drapes; convenient to all schools. CALL 688-5451.

"YOUNG FAMILY"

A REAL DOLL HOUSE IN WINDAMBERE on lovely lot. Brick, 3 BRs., 1 1/2 BATH, CARPETING, CH/OA. EQUITY SALE and pick up pymts. of \$15. Walk to school and SW City Mall. PAT DAVIS, 225-7138.

L & L REAL ESTATE, INC. 225-2830

EQUITY BUYERS LET'S look at this. Almost new beauty. 3 bdrms., brick, 1 1/2 baths, appliance-filled kit., paneled family room, w/w carpets, inclosed garage. Total PRICE ONLY \$21,500

RAYMOND STIGALL, 683-1190
THE GUARDIAN CO., 376-2921
Mobile Phone: 376-4879

DELUXE MOBILE HOME on large level lot. All utilities. Full electric. 2 large bdrms., 1 double, 1 queen-size bed. W-W carpets, all furniture included, ch and a-c. Priced to sell.

I. J. STEED, 374-6195
THE GUARDIAN CO., 376-2921

"WINDAMBERE EQUITY"

One level, 4 KINGSIZE BRs., paneled kit., FAMILY AREA, 2 baths, dbl. carport, carpet, RCA appl., drapes, fenced, 2 LOTS, excl. condition. Cloverdale and McClellan schools. MARY BOSTON, 686-6630.

L & L REAL ESTATE, INC. 225-2830

3 BDRMS., 2 baths, C/H & A, W/W carpet. Large level lot. Dbl. garage. No. 7 Melinda, after 5, any time Sat. & Sun. \$2,500 cash, pymts. \$175 mo. PHONE LO 5-4011.

WAKEFIELD AREA: Owner leaving state. All brick, 3 bdrms., 1 1/2 baths, lge. 8x12 Morgan util. bldg. in back yard. Pymts. \$110 mo., 6% int. Buy equity at \$4,000. PHONE 525-8310.

No. 235 UNDER CONSTRUCT. 3 bdrms., kit-ham., rm., many cabinets, lge. closets. Baseline area. ED M. COHEN, 683-5239.
B L O C K REALTY CO. 376-4111

SOUTHWEST AREA

EQUITY!
Immediate possession, lovely 3-bedroom brick and frame, fully carpeted, central air and heat, drapes, nice built-in kitchen, enclosed garage and separate gen. To see please call and ask for FRED ALARDIN, 562-5384.

SOUTHWEST • Realty Co., Inc. 562-0763

3-BEDROOM HOUSE
C/H, small down and \$18.50 per mo. PHONE 566-3678.

OUT-OF-STATE OWNER says SELL! this 4-bdrm., 2-bath home with many extras. Large den with fireplace.

DAVIS-STRINGER REALTY 688-6898

"PAYING RENT?"
Depending on your total income and size of your family, you may qualify for FHA 235 loan. OWN YOUR HOME FOR \$200 DOWN, PYMTS. LESS THAN RENT. 3 BRs., dbl. kit., carpeting, extras. PAT DAVIS, 225-7138.

L & L REAL ESTATE, INC. 225-2830

2,040 SQUARE FEET CENTRAL HEAT AND AIR CONDITIONED AREA w/ Meadowlark 4 bdrms. or 3 and office, PLUS sep. den, and sep. recreation rm. and sep. dark room or hobby room. Built-in kit., "L" shape living-dining, intercom system. Walk to Elementary School. Bus service to Catholic schools. Chain link fenced, tree-studded, big corner lot. Buy big equity and save.

RAYMOND STIGALL, 683-1150
THE GUARDIAN CO., 376-2921
MOBILE PHONE, 376-4879

"THE IMPOSSIBLE DREAM"
YES, you CAN own a home for \$200 down and pymts. less than rent if you qualify for an FHA 235 loan. CALL TODAY to see if you can own one. DOROTHY ARMSTRONG, 683-2836.

L & L REAL ESTATE, INC. 225-2830

BY OWNER: Transferred. 3 bdrms., CH, CA, dbl. carport, corner lot, equity, assume loan. \$52-8797. After 5 562-1542.

BASILINE AREA
LOW EQUITY

FOR SALE TO ANYONE

1621 BOOKER: 3 large bedrooms, family room, tip-top condition. Easy terms.³⁹

When the Commission staff asked one Little Rock real estate broker what the "Anyone" caption meant, he responded that this was put on the ad to indicate that the house is not expensive—that the house is cheap enough that any one can buy it.⁴⁰ This same broker's firm had placed the following ad which stipulated that the buyer's income be \$6,200 or more per year:

ANYONE

Beautiful 4-bedroom brick bungalow, 2 baths, separate dining room, oodles of closets and built-ins, nice drapes and carpets, A/C unit workshop, storage, garage. Near bus and Central High. FHA or GI. Good credit and income \$6,200 year or more. Don't miss.⁴¹

Other brokers, however, gave a different explanation. One said that, "Anyone can Buy" is put in as a "signal to colored". He said that this tells them that the property is available to them. He said there are other ways of signaling, such as mentioning that the property is near a black school or a black church.⁴² Another broker said: "'Anyone' calls the ad to the attention of the colored buyer." He said he knows of "certain areas that the colored want to get into" and when he has a house in that area, he captions it "Anyone Can Buy". He added: "Colored people hesitate to call on any ad. Putting 'Anyone Can Buy' on the ad helps them out."⁴³

While brokers in northern cities did not make such extensive use of signal words, they, too, directed their advertising, and particularly their 235 advertising, to the racial market they wanted to reach. A Denver broker told Commission staff: "Some brokers advertise houses under 235—these houses are invariably in black areas and they are dogs."⁴⁴ The following ad was placed by a St. Louis broker who sells in the Walnut Park area of St. Louis, a "changing" neighborhood:

ARE YOU ANXIOUS?

To move from that cold, drafty place you are living in where it takes half of what you earn to pay the heat bill? Give us a call and let us put you in one of our warm cozy bungalows. It takes practically nothing down and payments are much less than rent. ADC, Social Security and Pensioners are welcome as well as people who are separated.⁴⁵

Moderately priced houses located in all-black or "changing" neighborhoods were specifically ad-

vertised as 235 houses. For example, another St. Louis ad was placed in the University City section of the real estate page. (University City is "changing" area.)

FHA 235 PROGRAM

If your income is too low for you to qualify for a home it may be possible that you may qualify for a home under FHA 235 PROGRAM (WHEREBY THE GOVERNMENT PAYS A PORTION OF YOUR MONTHLY PAYMENTS) Contact our office for information concerning many choice 2-3-4 bedroom homes which we have available.⁴⁶

In Philadelphia, this ad was placed in the real estate page under the West Philadelphia section. (A substantial portion of West Philadelphia is predominantly black).

WEST PHILA
OPEN PORCH

3 BEDRMS
BIG KITCHEN

Seller to help with Settlement

235 PLAN AVAILABLE ⁴⁷

As a rule, this practice was not followed for similarly priced houses listed in white areas.

From the Buyers' Point of View

In the four metropolitan areas visited, more than half the surveyed purchasers of existing 235 houses told Commission staff that they had learned of the 235 program from a real estate broker.⁴⁸ Many of these buyers were shown only one house, or were told by the broker that only specific houses were available under 235. While none of the minority buyers interviewed by Commission staff expressed a specific desire to live in a predominantly white neighborhood, they did not express a desire to live in a segregated neighborhood either.⁴⁹ Their concern was with improving the quality of their housing—with getting a home of their own of better quality in a safer neighborhood with good schools.

⁴⁶ *Id.*

⁴⁷ The Philadelphia Inquirer, summer 1970.

⁴⁸ The remaining purchasers of existing houses learned of the 235 program from friends and relatives (20 percent), newspaper ads (13 percent), local counseling services (7 percent), caseworkers (5 percent) and at their jobs (1 percent).

⁴⁹ The probability that an open unitary housing market would result in racial integration was illustrated by an experimental counseling project conducted by a private group in Indianapolis, Ind. in 1967-68. (This project is described in a book, "Toward a Free Housing Market", by Daniel J. Baum and published by the University of Miami Press in January 1971.) The project, using voluntary counselors, showed FHA acquired properties, distributed throughout Indianapolis, to inner-city families being relocated through urban renewal or other inner-city programs. The families selected houses on the basis of personal preference (large kitchen, full basement, etc.) and integration per se was not pressed. Nevertheless, the result of the project was that 20 out of 38 black families selected homes in white neighborhoods, 4 black families chose integrated (significantly less than 50 percent black) neighborhoods, and 14 black families chose predominantly black areas (50 percent or more black). The seven white relocated families assisted by the project chose homes in white areas.

³⁹ *Id.*

⁴⁰ Little Rock Broker Interview No. 3, Sept. 15, 1970.

⁴¹ *Supra* note 37.

⁴² *Supra* note 31.

⁴³ *Supra* note 26.

⁴⁴ *Supra* note 16.

⁴⁵ St. Louis Post-Dispatch, early 1970.

For example, a black Little Rock buyer told Commission staff that his broker showed him four houses. Three were in what the buyer called, "a slum area in East Little Rock" and the fourth, which he purchased, was in a "changing" neighborhood. The house was described by the FHA appraiser as being in poor condition and needing complete redecoration. When the family expressed a desire for a better house in a better location, the broker told them they could not buy a better house with 235 assistance. The family did not learn that there were new houses being sold under 235 until after they had purchased their house. When asked if they would have been willing to move to a predominantly white area, the wife replied: "I wouldn't mind living in a white area if the house was a good house." The husband replied: "If the house was what I wanted, I wouldn't let an all-white community stop me."⁵⁰

More than half the existing house buyers in Denver had been shown only one house. Some of them were completely satisfied with their location, but others were not. For example, one Mexican American buyer said that the family had wanted to see more houses but the broker had told them: "This is the only house available under 235 right now."⁵¹ They did not discover that new 235 houses were available until after the sale had been completed.⁵²

A black Philadelphia buyer visited a broker and asked to see a house the broker had advertised in the newspaper. The broker informed the family that the house in question was "too expensive for a 235 buyer."⁵³ It was listed at \$12,500, the price of the house which the family eventually purchased. The broker showed the family a cheaper house in what the buyer termed "a very bad neighborhood."⁵⁴ The family persevered and eventually found a broker who sold them their present home, located in a "changing" neighborhood.⁵⁵

A black St. Louis buyer described to Commission staff her long frustrating search for a decent 235 house.⁵⁶ She first responded to an ad directed toward potential 235 buyers. A salesman showed her a "grimy box-like house with rotting floors"⁵⁷ located

in the Walnut Park area. When she said that she now lived under better conditions than that, the salesman told her: "This is what you get under the program."⁵⁸ The buyer then spent a year going from broker to broker. One refused to show her anything outside the downtown area. Most of the houses she was shown, she said, were in very bad condition. In one instance in which the house was not dilapidated, the broker asked her to sign a special sales contract. Under this contract, the broker was given a specified time in which to find a "regular FHA buyer." Meanwhile the 235 buyer had to wait, hoping no regular buyer could be found.⁵⁹

Builders and New Houses

In two of the metropolitan areas visited by Commission staff, St. Louis and Philadelphia, there were no new 235 houses at the time the sample case files were selected. By August 31, 1970, two new houses in Philadelphia and 106 new houses in St. Louis had been purchased by 235 buyers. (See Appendix A.) As of the same date, more than 2,500 new 235 houses had been purchased in Little Rock and Denver. This disparity does not reflect a greater need for lower-income housing in Little Rock and Denver than in Philadelphia and St. Louis. The explanation lies mainly in the cost limits of the 235 program in relation to problems of high land and construction costs in Philadelphia and St. Louis. These problems have impeded the construction of Section 235 houses in these two metropolitan areas. The problems were discussed by a spokesman for the Council of Housing Producers in hearings before the Subcommittee on Housing of the House Committee on Banking and Currency in July of 1969.

This Section 235 program which held out so much promise for bringing home ownership within reach of disadvantaged low-income families by subsidizing the interest rate has encountered cost difficulties which make it unworkable in many areas. Unfortunately, it is least workable where most needed—in our metropolitan areas.⁶⁰

When Commission staff members questioned a Philadelphia developer concerning the lack of newly constructed 235 housing in the Philadelphia metropolitan area, they were told that "it is impossible to get land [for low-cost housing] in the suburbs, outside of the few black areas."⁶¹ The developer also

⁵⁰ Little Rock Buyer Interview No. 1, Sept. 14, 1970.

⁵¹ Denver Buyer Interview No. 6, Aug. 5, 1970.

⁵² *Id.*

⁵³ Philadelphia Buyer Interview No. 2, July 15, 1970.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ This buyer was one of five black families whose applications were accepted for newly constructed 235 houses in a predominantly white area. This situation is discussed in more detail in the following section on builders and new 235 housing.

⁵⁷ St. Louis Buyer Interview No. 5, Aug. 27, 1970.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ "Hearings on Housing and Urban Development Legislation for 1969 Before the Housing Subcommittee of the House Banking and Currency Committee," 91st Cong., first session, at 345 (1969).

⁶¹ Philadelphia Builder Interview No. 1, June 16, 1970.

complained that it was impossible to build a house for less than \$17,000 in the Philadelphia area so it was difficult to make a profit on Section 235 housing.⁶²

Another Philadelphia builder who participates in subsidized housing programs complained of rising construction costs and said that units which could be built for \$17,000 2 years ago now cost \$19,400 to build. He said that he builds only in the city of Philadelphia since "zoning, political, and cost considerations inhibit suburban development."⁶³

St. Louis developers also spoke of suburban stumbling blocks to the provision of low-cost housing. One builder said he felt the opposition was a matter of social class rather than race.⁶⁴ A St. Louis Urban League Staff member disagreed. She alleged to Commission staff that in one instance the developer of a 235 subdivision was able to get zoning permission only after he promised not to bring in a lot of black families.⁶⁵

The director of the State Department of Housing and Community Development of California told a congressional committee of similar problems with low-cost suburban housing in his State:

Currently, we see in our State what might be termed a "backlash" to the section 235 and section 236 subsidy housing programs for low- and moderate-income families. Some communities have utilized their police powers inherent in zoning practices to successfully kill proposed projects under these programs.⁶⁶

In spite of the obstacles to construction of low-cost housing, many builders have been able to take advantage of the 235 program, particularly those in the South. As of December 31, 1970, more than half (53 percent) of all new or substantially rehabilitated 235 houses were located in Southern States and more than 40 percent divided between the West and the Midwest.

Participating Builders

When the 235 program first began, builders could be assured that 235 assistance funds would be available for potential buyers of their houses⁶⁷ by secur-

⁶² *Id.*, Philadelphia is a "high cost" area so 235 houses may be mortgaged for \$21,000 (\$24,000 for a family of five or more persons). The builder, like any seller, undergoes expenses in selling his houses.

⁶³ Philadelphia Builder Interview No. 2, Nov. 2, 1970.

⁶⁴ St. Louis Builder Interview No. 1, July 20, 1970. (Interview conducted by St. Louis Legal Aid Society staff.)

⁶⁵ Interview, Operation Equality, St. Louis Urban League, Aug. 25, 1970.

⁶⁶ "Hearings on Housing and Urban Development Legislation for 1970 Before the Housing and Urban Affairs Subcommittee of the Senate Banking and Currency Committee," 91st Cong., second sess., at 384 (1970).

⁶⁷ Some builders complained that the slow and piecemeal funding of the 235 program by Congress hindered construction of new 235 houses. A Denver builder said: "If funds run out it means stopping construction

ing reservations for assistance funds from the directors of their local FHA Insuring Offices. A builder was not allowed to reserve funds for fewer than five or for more than 200 dwelling units at any one time. Although this system has been modified,⁶⁸ builders still have virtual control over the distribution of 235 assistance to new homebuyers. Applicants for new 235 houses apply to the builder, not to FHA. Thus builders with assistance funds reserved for them determine which families receive the benefits of the 235 subsidy. As with real estate brokers regarding existing houses, the responsibility for publicizing new housing under the 235 program and soliciting 235 buyers has fallen upon the builders.

Like the participating real estate brokers, builders who have constructed 235 houses have directed their attention to a specific racial market—but this time the market has been largely white.

Racial Practices of Builders

Many builders of new 235 subdivisions operated on the assumption that occupancy would be by one racial or ethnic group only. In some instances, their practices were such as to assure that this assumption proved correct.

St. Louis

The new 235 units located in a predominantly black urban renewal area in St. Louis County were purchased by black buyers. Although some buyers in this suburb told Commission staff that they had expected the development to be integrated,⁶⁹ their

right in the middle of peak activity. This creates problems with keeping a large staff fully occupied." (Denver Builder Interview No. 3, Aug. 4, 1970).

This problem was described by Robert Wood, Director of the MIT Harvard Joint Center for Urban Studies at Hearings on National Housing Goals held by the Subcommittee on Housing of the House Committee on Banking and Currency in May of 1969: "The point I want to emphasize * * * is that the stop-and-go aspect of our housing programs is one of the most serious problems we have to contend with. I mean no criticism of the Congress; I am simply stating cold facts when I say that the long delay in action on the pending supplemental appropriations has already hurt us. Now housing is simply too big and too complicated a business to be turned off and on at will; people have to do long-range planning in connection with housing programs and consequently you cannot just turn it on and off because of long leadtime factors involved. And lack of continuity costs not only time but money."

⁶⁸ As of Oct. 9, 1970, one-third of section 235 assistance funds was tied up in unbuilt reservations. In late October, HUD established a system of priority registrations to replace the fund reservation procedure. Under the new system, a builder or seller is promised priority for contract authority [assistance funds for buyers] when it becomes available. A eligible buyer's application covered by a priority registration will be considered ahead of eligible buyers of properties not covered by priority registrations. When builders or sellers holding priority registrations apply for firm commitments [have buyers] available funds are obligated or, if funds are not available, the applicants will receive priority as soon as additional funds become available. This system still gives builders control over the distribution of 235 assistance to new home buyers.

⁶⁹ St. Louis Builder Interview No. 4, Aug. 26, 1970.

was little chance of their expectation being fulfilled. The marketing of the housing was done primarily through black real estate brokers and local black churches. In addition, former relocated residents of the all-black urban renewal area were given first opportunity to buy.

By contrast, the new 235 houses under construction in a predominantly white area of St. Louis County were marketed quite differently. The builder did not advertise the fact that houses in the development were available under 235 and, in fact, discouraged applications from black families. It was only through the intervention of the local Urban League that a few black families were able to purchase there.

The Urban League Placement Service⁷⁰ learned of the project by accident. An Urban League staff member noticed a sign outside the sales office while driving through a predominantly white area in St. Louis County.⁷¹

After the Urban League learned that the development would contain 30 houses, most of which would be sold with 235 assistance, its placement service referred black applicants to the sales office. The applicants returned saying they had not been allowed to leave deposits and that they had been told by sales representatives that their names would be added to a long list. They also said they felt that sales representatives were giving them incorrect information regarding the amenities included with the houses.

After several applicants had been thus discouraged, Urban League staff members accompanied 10 black applicants to the development's sales office. Two of the applicants were allowed to leave deposits that evening, and three left deposits later in the week. The Urban League had already complained to FHA about the developer and a meeting had been arranged by FHA to conciliate the complaint. At that meeting, the developer admitted discrimination and agreed to accept the five families' applications.⁷²

Two of these families were interviewed by Commission staff. One buyer, who had spent a year going from broker to broker, worked in a large shopping

center in northwest St. Louis County and was looking forward to living at a convenient distance from her job.⁷³ The other family, then living in four rooms above a grocery store in the city of St. Louis, was eagerly awaiting moving day. This family described the difficulties they had had in finding decent housing which they could afford. They said that apartments were very hard to find in St. Louis. "Rents are impossible and a lot of places won't take children; all apartments have waiting lists."⁷⁴ The wife described her fear of the neighborhood: "There are a lot of robberies and there is always a gang of boys on the corner who make remarks," and said that she spends most of her time in the four-room apartment with the three children.⁷⁵ When asked if they were apprehensive about moving to a predominantly white area, the husband said: "If they don't bother me, I won't bother them. I'll build a big fence around my backyard and never mind the neighbors."⁷⁶

Denver

There are several builders in Denver who have constructed houses sold with Section 235 assistance. Some of these builders have constructed only a few houses at a time and, since the demand for the houses is so great, they have found no need to advertise. For example, one builder, who constructed nine houses to be sold under 235 in southwest Denver, sold them all within 1 week after they had been put on the market and before construction had been completed.⁷⁷

According to the head of the counseling service at the Metropolitan Denver Fair Housing Center (MDFHC),⁷⁸ only one 235 builder uses newspaper advertising. He said all the other builders develop "under a cloak of secrecy"⁷⁹ and added that he was concerned that minority families were not learning of the availability of these houses. Unlike St. Louis, however, the Denver FHA Insuring Office gave MDFHC a list of developers with 235 fund reservations and the Center was planning to contact them.⁸⁰

One Denver builder constructed a large number of 235 houses in the Denver area. This builder does advertise. In July of 1969, MDFHC complained to

⁷⁰ The Placement Service is a function of Operation Equality, an open housing service connected with the St. Louis Urban League.

⁷¹ Urban League staff members told Commission staff that they had repeatedly asked FHA to notify them when developers were issued fund reservations for sec. 235 housing, but the FHA Office had refused to furnish them this information. *Supra* note 65. When questioned about this policy, the Director of the St. Louis HUD Area Office replied that when the office acquires an equal opportunity staff, this staff will know the location of new 235 houses: "They will have to pass on everything." He declined to discuss the issue further. Interview, Director, St. Louis HUD Area Office, Aug. 28, 1970.

⁷² *Supra* note 65, Miss Helen Mohr.

⁷³ *Supra* note 57.

⁷⁴ St. Louis Buyer Interview No. 6, Aug. 27, 1970.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Supra* note 34.

⁷⁸ The Metropolitan Denver Fair Housing Center is a private nonprofit corporation established in January 1966, to promote equal opportunity in housing throughout the Denver metropolitan area.

⁷⁹ Interview, Metro. Denver Fair Housing Center, Aug. 3, 1970.

⁸⁰ *Id.*

the Department of Housing and Urban Development that he was directing his advertising to an exclusively Anglo market. The advertisement, which MDFHC claimed discouraged minorities from applying, contained a large picture of seven Anglo men in working clothes with the caption: "What do these men have in common?" The answer contained in the ad was that all the men were eligible for section 235 assistance, but, as MDFHC pointed out, they also had in common the fact that they all were Anglos.

HUD investigated the advertising complaint and arranged a conference with the developer and MDFHC. The developer voluntarily agreed to depict minority group individuals in future ads. The first integrated ad appeared on August 2, 1970, in the Sunday edition of the Denver Post. (See Exhibit H, p. 55)

The advertising builder told Commission staff that he felt integrated advertising was unnecessary but that he had agreed to it to please MDFHC. He said that the fact that the development is integrated speaks for itself.⁸¹ Although no black buyers were included in the Commission's sample of new houses constructed by this developer, black families were, in fact, seen to be residing in the area. Anglo and Mexican American buyers contained in the sample and interviewed by Commission staff commented on the "racial harmony" existing in the development.⁸²

Little Rock

The Little Rock FHA Insuring Office has attempted to assure statewide distribution of new 235 houses by limiting builders to fund reservations for no more than 10 or 15 houses at a time.⁸³ Consequently, many different builders have been able to participate in the 235 program throughout the State. The Commission's sample of 64 new 235 houses in the Little Rock area included houses built by more than 20 separate builders.

Most builders interviewed by Commission staff operated on the assumption that if black families were to have new 235 houses at all, they would have to be located in all-black areas or in areas designated for black occupancy. For example, one white builder said:

There's a big demand for new houses in the black community. The problem is getting black builders to build in

⁸¹ Interview-Denver Builder No. 3, Aug. 6, 1970.

⁸² Denver Buyer Interviews Nos. 18-31, Aug. 6, 15, and 16, 1970.

⁸³ Interview-Asst. Director for Single Family Mortgage Insurance, Little Rock FHA Insuring Office, Sept. 14, 1970.

that price range. If we had an area close in where lo weren't too expensive, we could sell every house we could build.⁸⁴

This builder said he was constructing "new house for black people" in an urban renewal area in the central city.⁸⁵

Another white Little Rock builder told Commission staff that: "There is no market for new black houses because the only way you can get cheap land is to go far out. Blacks don't want to move there."

A white real estate broker said that black families are not buying new 235 houses because "no one is pushing subdivisions for colored."⁸⁷ A black real estate broker said the black business community is to blame because "they didn't buy the land when it was available and develop it."⁸⁸

Black builders interviewed by Commission staff were building new 235 houses almost exclusively in the city. Although one builder complained that lots are very scarce and expensive⁸⁹ in the city, he built new 235 houses only in the city because in his view "most blacks just think about city lots."⁹⁰ When asked if he could build in the suburbs, he said: "I haven't had a buyer who wanted to live there."⁹¹

Another black builder told Commission staff that his firm is "building new houses all over."⁹² When pressed to define "all over", the builder conceded that this meant all over the city, primarily in the urban renewal area in north Little Rock. He said that "land is more expensive outside the urban renewal area."⁹³

When asked to explain why black 235 buyers were not purchasing new homes in white subdivisions white builders gave a variety of explanations. One white builder pointed to a lack of interest on the part of black families. He said:

From a legal standpoint, blacks can buy anywhere they choose. But I never had any call from black families asking for Southwest. A friend of mine who builds in Southwest said they don't have colored interested.⁹⁴

⁸⁴ Little Rock Builder Interview No. 5, Sept. 17, 1970.

⁸⁵ *Id.*

⁸⁶ Little Rock Builder Interview No. 7, Sept. 17, 1970.

⁸⁷ *Supra* note 31.

⁸⁸ Little Rock Broker Interview No. 7, Sept. 17, 1970.

⁸⁹ According to the head of the Homebuilders Association of Greater Little Rock, the lot is 10-12 percent of the sales price of an average house. He said lots in the city's urban renewal areas are expensive—some lots in University Park cost \$3,500 to \$4,000. One black builder interviewed said he is paying \$2,750 for lots in the city.

⁹⁰ Little Rock Builder Interview No. 6, Sept. 17, 1970.

⁹¹ *Id.*

⁹² Little Rock Builder Interview No. 2, Sept. 15, 1970.

⁹³ *Id.*

⁹⁴ *Supra* note 84.

What do all these men have in common?



EXHIBIT H

Another pointed to fear as a factor:

Blacks are afraid. I would hate to be the first builder to sell to a black in a white subdivision. It would be traumatic for the family.⁹⁵

A third accounted for it on grounds of personal preference:

It's an old pattern. The colored people prefer to live in Rose City. There aren't any in this area. Colored have called but when they are told it is in Levy, they say no.⁹⁶

The president of the Arkansas Homebuilder's Association said:

They prefer to live in the central city because of transportation problems.⁹⁷

Black builders and brokers, however, had a different point of view. A black builder told Commission staff:

Transportation isn't the reason. Most black families have their own cars and there is a suburban busline that takes care of the baseline area. It's the Realtors. They're selling whites' houses to blacks and selling the whites new houses. They buy a house from a white family for \$7,000; get an appraisal for \$10,500 and resell to a black family. Then they sell the white a new \$15,000 house. Everyone's losing but the broker . . . Blacks would move to the suburbs if it meant they could get housing.⁹⁸

A black broker said:

If I tried to get listings in white subdivisions, the white banks and lending institutions would put me out of business.⁹⁹

Another black builder summed up the explanation this way:

The only new 235 houses that black families get are in urban renewal areas or on vacant lots. . . . I haven't heard of any builders advertising open housing The black buyers don't know they could purchase a house in a white project.¹⁰⁰

In fact, only one of the black purchasers of 235 existing houses interviewed by Commission staff had actually known that new 235 houses were available when he purchased his existing house.¹⁰¹ This family had attempted to buy a new house only to be told that all the new houses were sold.¹⁰²

Overt Discrimination

A black Little Rock buyer told Commission staff of her difficulties in finding a builder. She had read

⁹⁵ *Supra* note 86.

⁹⁶ Little Rock Builder Interview No. 8, Sept. 17, 1970.

⁹⁷ Interview-President, Homebuilders Association of Greater Little Rock, Sept. 17, 1970.

⁹⁸ *Supra* note 90.

⁹⁹ *Supra* note 88.

¹⁰⁰ Little Rock Builder Interview No. 1, Sept. 15, 1970.

¹⁰¹ *Supra* note 50 and Little Rock Buyer Interviews Nos. 3, 4, 5, 8, and 9, Sept. 15-17, 1970.

¹⁰² Little Rock Buyer Interview No. 10, Sept. 17, 1970.

about the 235 program in a newspaper article and called the FHA Insuring Office for more information. An FHA employee explained the program procedure over the telephone and suggested she watch the ads. The buyer telephoned an advertising builder's office and was asked her present address. According to the buyer, when the saleswoman discovered that the buyer lived in a black area, she told her that the lots for new houses were all sold. Perhaps, the saleswoman asked, she would be interested in an existing house? When the buyer finally reached a black builder who would agree to construct a 235 house for her, he purchased a lot two blocks from where she had grown up. The buyer said she "wasn't crazy about the location" which the builder selected.¹⁰³ When Commission staff asked her if she would be willing to move to the predominantly white area of southwest Little Rock, the buyer said: "Sure, moving to southwest would be something for me."¹⁰⁴

Commission staff, consisting of one white and one black person, visited the office of the builder who had originally rejected this black buyer and asked to speak to the broker. Upon being told that the broker was out, they asked to speak to someone about the 235 program. A saleswoman, assuming they were potential buyers, ushered them into a back room and told them that no new 235 houses were available. When the staff members identified themselves, the saleswoman appeared to become confused. She conceded that the firm had built a few 235 houses, but emphasized that they usually handled high-cost houses. In answer to a question on the location of 235 houses, she searched a map on the wall and said she could not seem to find the location—there were only a few.¹⁰⁵

Shortly before the Commission staff visited this office, the following ads had appeared in the Arkansas Gazette, placed by two of the agency's sales personnel:¹⁰⁶

FHA 235

Low Interest Program. Brand New 3 bedroom home can be yours. \$200 down and payments less than rent. Three locations to choose. Little Rock or North Little Rock. Call me to see if you qualify.

¹⁰³ Little Rock Buyer Interview No. 22, Sept. 17, 1970.

¹⁰⁴ *Id.*

¹⁰⁵ Little Rock Builder Interview No. 4, Sept. 16, 1970. Eleven (17 percent) of the new 235 houses contained in the Little Rock sample were constructed by this builder. The houses were located in three separate subdivisions, all clearly observable on the saleswoman's map. In addition, the office had sold two of the new section 235 houses in the sample in a fourth subdivision for another builder.

¹⁰⁶ *Supra* note 38.

DO YOU WANT A NEW HOME? THINK YOU CAN'T AFFORD IT?

There are many ways of financing—some with payments less than rent. Low downpayments that you wouldn't even miss. Have several nice locations. For full information call me:

Commission staff visited the onsite sales office of another builder. In this case, both Commission staff members were black. The woman in charge of the "open house" office assumed that they were potential buyers and told them that there were no new houses available for sale with 235 assistance. She claimed that the builder was behind in his construction and that all houses planned for construction were already sold.¹⁰⁷

The builder in question was interviewed the following day. He admitted that he did, in fact, have more 235 reservations to build and sell. He said: "She was dodging you when she didn't admit that there are more 235's under construction that haven't been sold."¹⁰⁸ Then the builder called his onsite office and held the following telephone conversation:¹⁰⁹

Have you had any colored looking for houses? What did you tell them? You can't keep me out of trouble that way.

The builder, who said that he personally is not opposed to integration, told Commission staff of the following incident which, he said, illustrated community pressures against integration: A black couple had expressed interest in buying one of the new 235 houses in southwest Little Rock. The salesman warned them that it was an all-white area, but they said they wanted the house anyway. The couple arranged to make their deposit the next day. The following morning the white employer of the husband of the black family called the builder's office. He told the builder's wife that he did not want his employee to purchase a house in an all-white subdivision. The builder's wife suggested showing the black couple a rehabilitated house in the central city. Subsequently, the black couple purchased the rehabilitated house.¹¹⁰

Advertising Practices

As in Denver and St. Louis, many of the Little Rock builders did not advertise new 235 houses. One black builder told Commission staff that it wasn't necessary to advertise. He said: "Nowadays everyone wants to own a house. People hear about the

235 program by word-of-mouth. And if they qualify for the program, we tell them about it."¹¹¹ A white builder told Commission staff that he never advertises. He explained: "We build a good house for less money than any other builder in Little Rock. Word-of-mouth advertising is the best—and it's free."¹¹²

Commission staff discovered in the office of one white builder a copy of an ad which was virtually identical to the Denver ad found objectionable by the Metropolitan Denver Fair Housing Center. The ad, which appeared in an early 1970 issue of the Arkansas Gazette, contains a picture of five different individuals—a nurse, a policeman, a fireman, a businessman, and a workman. The caption on the ad reads: "What Do These People Have In Common?" The answer contained in the ad is that they can all buy a new 235 house. All of the individuals in the ad are white. (See Exhibit I, p. 58)

The advertising builder, who said he had never thought of the ad as discriminatory, told Commission staff that he had seen it at a convention of homebuilders in Texas. He said that undoubtedly other 235 builders were also using the same ad.¹¹³

The Mortgagee and the Section 235 Program

The mortgagee¹¹⁴ plays the role of the middleman in all FHA programs. If a seller wishes to have his house appraised by an FHA appraiser, he or his broker must apply for the appraisal through an FHA approved mortgagee. Further, real estate brokers or builders who wish to sell houses to FHA buyers must submit the buyers' applications through an FHA approved mortgagee. It is the mortgagee who receives periodic information from FHA regarding the procedures to be followed in obtaining a Section 235 mortgage, and it is the mortgagee who usually informs brokers about the operation of the program. In short, of the three elements of the private housing and home finance industry involved in the 235 program, the mortgagee is in the best position to observe the way the program is working and, through his mortgage lending policies, to exert influence over it.

Savings and loan associations represent the major mortgage finance institution. According to the U.S. Savings and Loan League, the trade association for savings and loan associations: "The principal sup-

¹¹¹ *Supra* note 92.

¹¹² *Supra* note 96.

¹¹³ *Supra* note 86.

¹¹⁴ The mortgagee is the lender who makes the mortgage loan. A mortgagee who makes FHA insured mortgage loans must be approved by FHA.

¹⁰⁷ Interview—"Open House" Office, Sept. 16, 1970.

¹⁰⁸ *Supra* note 86.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

WHAT DO These People Have In Common?



They all can buy a new 3 bedroom, fully carpeted brick home

will show the homes and tell you how you can BUY your OWN new home through the FHA Section 235 special finance program.

You Must do this now to get this special financing.

pliers of funds to the residential mortgage market are savings and loan associations, which hold over 40 percent of the mortgages loans outstanding.”¹¹⁵ Yet few savings and loan associations were primary sources of section 235 mortgage loans in the four metropolitan areas surveyed. Ninety percent [276] of the 235 loans included in the total sample were made by mortgage companies.¹¹⁶ The only savings and loan association represented in the Commission’s 235 sample was located in Little Rock, Ark. It made 7 percent of the 235 loans in the sample from the area.

Savings and Loan Associations were reported to be hostile to the 235 program in several areas visited by Commission staff.¹¹⁷ For example, a Denver newspaper article which was critical of the 235 program relied heavily on quotes from savings and loan officials.

“This program is being carried out at the expense of the taxpayers who were duped into believing FHA program 235 was designed to help the poverty stricken and the economically underprivileged,” a savings and loan association official told Cervi’s Journal.¹¹⁸

¹¹⁵ Hearings on National Housing Goals Before the Subcommittee on Housing of the House Banking and Currency Commission, 91st Cong., first sess., at 597 (1969).

¹¹⁶ Mortgage companies generally resell their mortgage loans to investors such as insurance companies, pension funds, employment funds, and the Federal National Mortgage Association. In most cases, the mortgage companies continue to service (collect payments) the loans. Since many secondary investors are out of State, and since most out of State investors are restricted to Government insured or guaranteed loans, it is usually essential for mortgage companies to be approved FHA mortgagees. According to the director of research of the Mortgage Bankers Association of America, as of April 1970, section 235 loans were making up three-fourths of most mortgage bankers’ business. Interview, director of research, Mortgage Bankers Association of America, Apr. 2, 1970.

¹¹⁷ Testimony before a congressional committee indicates the reason for lack of participation in the 235 program by savings and loan associations. This statement was made before the 1968 Housing and Urban Development Act was passed: “To the extent this plan (235) would reduce the monthly mortgage payments required, it assists achievement of the goal of low-income homeownership. The National League would prefer to achieve that goal, however, by lengthening the permissible maturity of the mortgages involved. If the house is soundly constructed, the maturity limit could be extended to as long as 60 years from an economic standpoint”. (Hearings on Housing and Urban Development Legislation—1968, before the Housing Subcommittee of the House Banking and Currency Committee, 90th Cong., second sess., at 678 (1968)). In 1969, the U.S. Savings and Loan League expressed cautious support of the 235 program but indicated that the lender needed more financial incentive to make 235 loans: “With respect to specific provisions of the 1968 Housing Act, we feel that the interest and rent subsidy programs will prove to be an effective means to help meet the housing problems of low-income families when they are more fully funded and in workable form. Sections 235 and 236 loans will probably always be somewhat more difficult to make than regular FHA and conventional loans and may involve the lender in potential social conflicts in his community. Thus, some type of incentive in addition to the market rate of interest may be required to encourage the lender to finance any real volume of these loans and other loans in the inner city.” (*Supra* note 115 at 562.)

¹¹⁸ Douglas Bradley, Home Subsidies for Poor; Straining Taxpayers’ Backs, Cervi’s Rocky Mountain Journal, Jan. 21, 1970.

The savings and loan official said the primary benefactors under the FHA program are the home builders “even more than the home purchasers awarded the Federal subsidy at the taxpayer’s expense.”¹¹⁹

Some mortgagees interviewed by Commission staff appeared to be participating in the 235 program reluctantly, expressing disapproval of the clientele. One loan officer, who had personally handled more than one hundred 235 applications during the prior 6 months, said: “Owning property is a privilege and should remain so. Most 235 buyers are undeserving.”¹²⁰ When asked to explain, the loan officer said that most of his applicants are young white couples who are “just not willing to save and buy.”¹²¹ With regard to older low-income families, the loan officer said “Poverty-level people aren’t aware of what it takes to maintain a house. They shouldn’t own a house because they haven’t learned the responsibility of homeownership.”¹²² This loan officer had been referred to Commission staff by several real estate brokers who said he had told them that most 235 buyers were not making their mortgage payments.¹²³ The loan officer had no idea how many 235 buyers were in default, but after he checked with his loan servicing department, he found that of approximately 500 section 235 mortgages made and serviced by the mortgage company, there had been two foreclosures and seven defaults.¹²⁴

Another loan officer, who was a past president of the Arkansas Mortgage Bankers Association, expressed similar views. He said: “The 235 program should be more rigidly controlled. A lot of people are getting something for nothing.” He also commented on the number of young white buyers participating in the 235 program. He said, however, that the program can’t meet the needs of “real low-income families”, even if they qualify, because “it isn’t adaptable to those types of people.”¹²⁵

A Philadelphia mortgage company official expressed some bitterness over the fact that welfare recipients were getting Federal subsidies for homeownership, and declared he though he should go on welfare so he could buy an \$18,000 house.¹²⁶

¹¹⁹ *Id.*

¹²⁰ Denver Mortgage Interview No. 3, Aug. 7, 1970.

¹²¹ *Id.*

¹²² *Id.*

¹²³ Denver Broker Interviews Nos. 3 and 5, Aug. 5, 1970, and *Supra* note 17.

¹²⁴ *Supra* note 120. A mortgage is in default when the monthly mortgage payment has not yet been made by the time the next payment falls due.

¹²⁵ Little Rock Mortgagee Interview No. 1, Sept. 15, 1970.

¹²⁶ Philadelphia Mortgagee Interview No. 1, June 17, 1970. The average sales price of section 235 houses in the Philadelphia sample was \$9,123. The median sales price was \$8,000.

Most mortgagees, however, were in favor of the 235 program, and saw it as a blessing for many people. But they also mentioned problems which they had encountered. For example, nearly every mortgagee interviewed by the Commission staff indicated that the FHA Insuring Offices were negligent in furnishing information about the 235 program. The loan officers complained that there were frequent changes in program operation which they often learned about afterwards or from sources other than the FHA Offices themselves.

One loan officer said that the local FHA Office had to be pressured from Washington to brief local mortgagees about the 235 program. Since the briefing, he said: "There has been a 150-percent change in processing," but none of the changes had been reported to them by the FHA Office.¹²⁷

Another loan officer said that when the 235 program first began, the FHA Insuring Office had been unclear about the processing of 235 mortgages. He said: "You used to be able to send anything over [to FHA] and it would be approved."¹²⁸

He added that since that time, the FHA Office has been very slow about keeping the mortgagees up-to-date on the program. He said, "I think there is a new income limit for this area, but I don't know what it is. I'm still using the old chart."¹²⁹

Racial Attitudes of Mortgagees

The role of the mortgagee is essentially a passive one, in that applicants for 235 mortgages are generally not solicited by the lenders. Nonetheless, because of the dependence on mortgage financing by builders, brokers, and homeseekers, the mortgagees' views concerning racial and ethnic segregation can be extremely important. Their views on residential segregation can be key elements in their decision to finance particular builders or individual loan applicants.

Commission staff found that many mortgagees participating in the 235 program were aware of and accepted segregation of 235 buyers as being in the natural order of things. For example, mortgagees in Philadelphia and St. Louis told the staff that white buyers were not participating in the 235 program because the 235 houses were in black or racially changing areas. A Philadelphia loan officer said: "The seller is willing to pay settlement costs in racially changing areas just to get out of the

neighborhood. Whites don't want to go to colored neighborhoods You don't see advertisements for 235 in the suburbs."¹³⁰

A Denver loan officer expressly recognized discrimination as a factor in the operation of the 235 program. He said:

Every area in this city has properties which will qualify under 235, including the suburbs. It's true that 235 has not made it possible for minority families to move into white neighborhoods, but the reason is not economic. It's probably because of discrimination.¹³¹

When asked why black 235 buyers were not purchasing new houses, Little Rock mortgagees gave the same answer as white builders and brokers—there were no black subdivisions. One Little Rock loan officer said: "A lot of builders would build for colored, but they can't find lots where they can put them together. We're running out of lots in Pulaski County, even for white people."¹³²

Summary

The institutions that make up the private housing and home finance industry—real estate brokers, builders, and mortgage lenders—have the primary responsibility for the operation of the 235 program. They, not the FHA, publicize the availability of Section 235 assistance, solicit potential 235 buyers, and initially determine who participates and under what circumstances. Buyer patterns revealed by this survey reflect practices followed by the members of this industry.

For example, although the low quality housing purchased by some 235 buyers may result in part from the fact that 235 buyers do not pay closing costs and/or from unreliable 235 funding, it also results from deliberate exploitation on the part of real estate brokers and speculators. They have found many 235 buyers particularly vulnerable, because of their lack of knowledge concerning the program, their inexperience with home ownership, and their desperate need for housing.

The industry's role in producing the segregated and unequal 235 housing patterns is also clear. Most brokers and builders participating in the program marketed their houses to separate racial and ethnic groups. Operating on the assumption that minority buyers did not want to live outside areas of minority concentrations, both white and minority real estate brokers only showed minority 235 applicants houses

¹²⁷ St. Louis Mortgagee Interview No. 1, Aug. 26, 1970.

¹²⁸ Philadelphia Mortgagee Interview No. 4, July 16, 1970.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Denver Mortgagee Interview No. 2, Aug. 6, 1970.

¹³² Little Rock Mortgagee Interview No. 2, Sept. 16, 1970.

in minority areas or “changing” neighborhoods. In some cases, brokers used discriminatory advertising to reach their chosen racial or ethnic market, either openly—“Anyone May Buy”—or indirectly through newspaper ads listing 235 houses in minority or “changing” neighborhoods.

Most builders also acted on the assumption that minority buyers would not want to live in white areas. The new 235 houses were constructed in predominantly white suburban areas and builders used newspaper ads designed to appeal to white buyers only, or limited their advertising to “open house” signs at the construction sites.

In some cases there was evidence to suggest that both builders and brokers used overt discrimination to prevent minority buyers from purchasing houses in predominantly white areas. However, overt discrimination was usually unnecessary in that the tradition of separate housing markets coupled with the urgent need of uninformed applicants virtually guaranteed a segregated pattern.

Mortgage lenders play a more passive role in the 235 program than brokers or builders, since they do not advertise the program or solicit potential buyers. Some mortgagees are participating in the program reluctantly, expressing a lack of sympathy with its purpose and expressing indignation that lower-income families are getting “something for nothing.” The mortgagee, however, is a key element in the section 235 process. He is the informational link between FHA and the builder and broker concerning the procedures to be followed in carrying out the program. The mortgagee also is in the best position to understand the housing patterns resulting from the program and to exert influence over them through his mortgage lending policies. Commission staff found that mortgagees have made funds available for 235 mortgages and have provided information about the program to builders and brokers, well aware of the segregated and unequal housing pattern that has resulted.

CHAPTER II

THE ROLE OF LOCAL COMMUNITY GROUPS AND AGENCIES

In some areas, local community groups have become involved in the 235 program, either through the provision of counseling or welfare services or as residents of the neighborhoods in which the 235 houses are located.

Counseling Services

The provision of special counseling services to families acquiring homes under Section 235 has been considered an important ingredient of the program since its inception. The 1968 Housing and Urban Development Act makes special provisions for such services:

The Secretary of Housing and Urban Development is authorized to provide, or contract with public or private organizations to provide, such budget, debt management, and related counseling services to mortgagors whose mortgages are insured under section 235(i) or 235(j) (4) of the National Housing Act as he determines to be necessary to assist such mortgagors in meeting the responsibilities of homeownership. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of the subsection.¹³³

Before passage of the 1968 act, Robert C. Weaver, then Secretary of HUD, told Members of Congress:

I think that, in order to provide a sound program of homeownership, either for low- or for moderate-income families, you have to do more than to simply say; "It's desirable and we are going to give you some financial assistance in terms of an interest subsidy." You have to have a counseling service as we have provided for here, and it must be adequately funded.¹³⁴

Congress also stressed the importance of counseling for Section 235 buyers:

Since many of the families who would be assisted have had little experience in the proper care of a home and the budgeting of income to meet regular monthly payments on a mortgage, this section would authorize appropriate counsel-

ing, either directly by HUD or by contract with public or private agencies, to assist these families in meeting their new responsibilities. Appropriations would be authorized for this purpose.¹³⁵

The 1968 Housing and Urban Development Act also provided for a new program designed to help families with poor credit histories to qualify for FHA-insured mortgages.¹³⁶ Under this program, Section 237, families are to receive budget, debt management, and related counseling to make them an acceptable risk for homeownership. Such families could be applying to purchase a house under section 235 or under a number of other FHA programs, such as the nonsubsidized Section 203 program.

These counseling programs have been widely supported by private groups, both business and socially-oriented. In 1969, a representative of the Council of Housing Producers testified before a congressional committee:

Homeownership carries with it responsibilities as well as privileges. Many families, especially low-income families, need guidance and counseling before they can undertake these responsibilities. . . . Unless given proper guidance these new homeowners soon could find themselves so overburdened that they might well default on their mortgage payments and lose their homes. Instead of sharing in the American dream they would experience a nightmare of discouragement and disillusion.¹³⁷

And the National Urban League¹³⁸ testified that:

The Urban League constantly must turn away thousands of 235 clients who need its help because the resources are not there: in the counseling program, because they have not received appropriations: in subsidy programs when available funds have been exhausted.¹³⁹

Despite this support, neither the 235 nor the 237 counseling programs, often confused with each other,

¹³⁵ 114 Congressional Record 6509 (1968).

¹³⁶ National Housing Act, Public Law No. 479, 73d Cong., 48 Stat., 1246, sec. 237; also *Supra* note 133, sec. 102.

¹³⁷ *Supra* note 60 at 347.

¹³⁸ Two of the 235 counseling services in the cities visited by Commission staff were sponsored by local Urban Leagues.

¹³⁹ *Supra* note 66 at 863.

¹³³ Housing and Urban Development Act of 1968, Public Law No. 90-448, 82 Stat. 476, sec. 101(e).

¹³⁴ Hearings on Housing and Urban Development Legislation—1968 Before the Housing and Urban Affairs Subcommittee of the Senate Banking and Currency Committee, 90th Cong., second session, at 35 (1968).

have yet been funded by Congress. It was not until fiscal year 1971 that HUD requested funds either for 237 credit counseling or for counseling for 235 buyers. In May of 1969, Congressman Henry S. Reuss of Wisconsin had questioned HUD Secretary George Romney about this omission:

How about counseling on credit and other matters for low-income homeowners under section 211, section 235, and so on. I am disappointed that neither this nor the predecessor administration asked for any funding whatsoever on the very important section 235, which would provide funds for credit counseling. I find in Milwaukee that the people they are putting into homeownership desperately need budget and credit counseling and in many cases aren't getting it.¹⁴⁰

Secretary Romney replied that voluntary organizations would be encouraged to take on the responsibility of counseling low-income homeowners.¹⁴¹

In its 1971 fiscal year budget request, HUD asked Congress for \$3.1 million for counseling services. The money was to be used to advise families with poor credit histories or irregular income patterns on budget management and to provide counseling for "mortgagors under section 235 who need assistance in meeting the responsibilities of homeownership."¹⁴²

This request was rejected by the Committee on Appropriations of the House of Representatives which stated:

Voluntary counseling services have been and are being provided in many areas. The committee feels that voluntary counseling offers an excellent opportunity for local participation and accordingly has denied the request for funds to finance counseling service.¹⁴³

The conference report on the appropriations bill (H.R. 17548) included the following paragraph:

The conferees suggest that any needed counseling services can be provided by voluntary groups and existing community services, but where such services are not provided they may be made available as part of the normal mortgage insurance initiation and servicing activities.¹⁴⁴

According to the HUD 1971 Budget Summary, approximately 30 organizations were providing counseling to FHA buyers on a voluntary basis during calendar year 1969. Most of these organizations

¹⁴⁰ *Supra* note 115 at 38.

¹⁴¹ *Id.* at 39. Secretary Romney added that: "47 of our FHA offices are presently offering counseling services to persons with housing problems. The service has been quite popular, having provided more than 37,000 interviews." The FHA Counseling Service which was established before the enactment of 235 or 237 is a general housing information service. This will be discussed in greater detail in Part III, ch. III.

¹⁴² HUD, Office of the Secretary, Office of the Budget, Summary of the HUD Budget, Fiscal Year 1971, FHA 13 (January 1970).

¹⁴³ Independent offices and the Department of HUD Appropriations, 1970, H.R. Rep. No. 91-1060, 91st Cong. second. sess. (1970).

¹⁴⁴ *Id.* H.R. Rep. No. 91-1345.

were funded wholly or in part by the Office of Economic Opportunity, churches, or various public agencies. In three of the metropolitan areas visited by Commission staff—St. Louis, Philadelphia, and Denver—private organizations were providing such voluntary counseling.

Counseling in St. Louis and Philadelphia was provided by the local Urban League offices. In Denver, the voluntary counseling organization was the Metropolitan Denver Fair Housing Center. In Little Rock, there was no organization that provided counseling services. The Director of the Little Rock HUD Area Office told Commission staff that he had attempted to interest the local poverty agency in counseling program but that lack of funding for counseling services was a deterrent.¹⁴⁵

The director of the Urban League of Greater Little Rock told Commission staff that he knew very little about the 235 program and had received no HUD publications explaining the program. He expressed great interest in establishing a counseling service and has since received information on the 235 program and Section 237 credit counseling from the HUD Area Office. The Little Rock Urban League staff, however, is very small and will be unable to make any staff available for counseling without some outside monetary assistance.¹⁴⁶

All three counseling services examined by Commission staff had contracted with FHA to do Section 237 credit counseling on an unpaid basis.¹⁴⁷ The counselors expressed the view that neither credit counseling—what do you do with your money—nor counseling on home maintenance was the primary need of low-income applicants. According to the counselors, potential 235 buyers with no experience in homeownership needed guidance on how to purchase a home.¹⁴⁸

¹⁴⁵ Interview, Director, Little Rock HUD Area Office, Sept. 18, 1970.

¹⁴⁶ Interview, H. Love, director, Urban League of Greater Little Rock, Sept. 18, 1970.

¹⁴⁷ Section 237 credit counseling was narrowly defined by the local FHA office in St. Louis. The St. Louis Urban League counselor was not allowed to accept applicants for credit counseling if their monthly salary was four times the monthly mortgage payment less fire insurance. The requirement did not take into account the fact that the 235 buyer would be making a subsidized mortgage payment. Under this procedure, only 1 of the 179 FHA applicants certified as good credit risks by the Urban League between October 1969 and August 1970 were 235 buyers. The FHA office reversed this policy in August 1970. However, the Urban League Placement Service had been regularly counseling potential 235 buyers as part of their general role of helping families obtain housing.

¹⁴⁸ Some real estate brokers, however, emphasized the need for counseling on home maintenance. Commission staff was told, for example, by speculators and real estate brokers that deteriorating houses owned by 235 buyers were the result of poor maintenance by the buyers rather than low-quality housing. One Denver real estate broker said that 23 buyers "are used to renting substandard houses—houses which should be condemned. They don't know how to take care of hardwood floors or ho

Each of the three counseling services primarily worked with minority buyers. All were located in or on the edge of minority areas in the central city. Only one counseling service—the Philadelphia Urban League—actually advertised the availability of the Section 235 program. (In addition, the Philadelphia Urban League prepared a leaflet for distribution to potential 235 buyers. See Exhibit J.)

While the counseling services accepted walk-in applicants, they also served applicants referred by city agencies, in particular, departments of public assistance. According to a Philadelphia counselor, the 235 program in that city had become “known as a black welfare program.”¹⁴⁹ The Philadelphia counselor told Commission staff that all of the city agencies—the Housing Authority, the Relocation Service, the Welfare Department—sent their poor people to the counseling service. “We’re actually filling a city function—unpaid,” she said.¹⁵⁰

All of the counseling services followed essentially the same process in counseling potential 235 buyers. They first obtained information from the buyers on their financial status and family size to determine their eligibility under the program. Next, they explained the details of the program—the amount of mortgage subsidy, the downpayment, the terms of the mortgage, and the price of the house the applicant could afford. Then they referred the buyer to a “cooperating broker” who was willing to sell to 235 applicants.

All the counselors interviewed had encountered real estate brokers who refused to cooperate with section 235 buyers. A Philadelphia counselor said:

The resistance on the part of the brokers was phenomenal. Most of them had never heard of the program and when people came in to ask about it, they would claim it didn’t exist. . . . Some were actually insulting to clients over the telephone.¹⁵¹

A St. Louis counselor said:

Some brokers won’t deal with 235 buyers at all—or any low-income buyers. The broker still prefers dealing with the high-income person, even for the same house. The brokers tend to tell 235 buyers they can’t buy more expensive houses. That’s because they’re speculators and they don’t have more

to use a garbage disposal.” This issue was discussed in the Report of the House Committee on Banking and Currency on abuses in the 235 program which stated “. . . no homeowner can be expected to cope with poor construction, cracked foundations, improper wiring, and a general failure of contractors to meet local building and maintenance requirements.” And Commission staff found that most complaints of 235 buyers—water in the basement, nonworking furnaces, holes in the sewer lines, etc. could not possibly be attributed to faulty maintenance on the part of the present buyers.

¹⁴⁹ Interview: Philadelphia Urban League, June 15, 1970.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

expensive housing to sell. The brokers can and should be policed. If people knew their position—their rights—the broker couldn’t get away with telling them anything he wants to.¹⁵²

According to a Denver counselor:

People go to a broker and get turned off. They are told they can’t afford to buy a house. Most real estate brokers in Denver have never worked with minority people. They are bastions of conservatism.¹⁵³

When faced with resistance on the part of many brokers, each counseling service, out of necessity, developed a list of “cooperating brokers” and referred applicants only to them. Many of these cooperating brokers were the same real estate brokers interviewed by Commission staff—those brokers who deal in the “black market” and specialize in “changing” neighborhoods. Thus, the counseling services were forced into the position of cooperating in the perpetuation of residential segregation.

Racial Attitudes of Counseling Services

The counseling agencies all are dedicated to opening up new housing opportunities for minority families in majority areas. Faced with the twin realities of a discriminatory housing market and the desperate housing need of minority families, however, integration often seems a middle class luxury.

Many counselors interviewed by Commission staff expressed impatience when asked about the segregated patterns of Section 235 housing. A Philadelphia counselor said: “No one I counseled wanted to buy in a white area.”¹⁵⁴ In St. Louis, the view was expressed that: “People generally want to live in areas where they’ve heard they can buy. . . . They want to live near their friends or their jobs.”¹⁵⁵ And in Denver, Commission staff was told:

Hispanos want to stay in their own communities, just like blacks. I’m talking about people who need to be in the core city. Their jobs are in the core city. They need to be near their families. They depend on their families for babysitting.¹⁵⁶

Counselors conceded, however, that the personal choice of minority buyers was not the sole factor responsible for the segregated patterns. They also reported that most 235 buyers were vulnerable to steering by real estate brokers. For example, a Philadelphia counselor said:

People never have any idea what they want when they go to a Realtor. Some have no idea of what neighborhood

¹⁵² *Supra* note 65.

¹⁵³ *Supra* note 79.

¹⁵⁴ *Supra* note 149.

¹⁵⁵ *Supra* note 65.

¹⁵⁶ *Supra* note 79.

QUESTIONS

IF I AM ON PUBLIC ASSISTANCE, CAN I BUY A HOUSE?

YES - There will be a lien placed on the property, but the house is still yours, and can be passed on to your children. If you already own a house and want to buy a new one, the lien can be transferred.

HOW EXPENSIVE A HOUSE CAN I BUY?

HIC will assist you in determining the price of house you can afford under this program.

I LIVE IN PUBLIC HOUSING NOW. WHAT ARE THE ADVANTAGES OF BUYING?

The house will be yours as long as you want it. As your income goes up, your monthly payments are adjusted accordingly and, of course, the money you pay into your house builds equity for you.

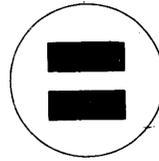
MY WIFE AND I LIVE ON OLD-AGE PENSION. CAN WE BUY?

Yes you can.

HOW DO I GO ABOUT BUYING MY HOUSE?

Call the Housing Information Center:

Telephone: SH 8-1147



A Free Service

HOUSING INFORMATION CENTER

Philadelphia Urban League
151 N. 52nd Street
Philadelphia, Pennsylvania 19139

Telephone:

SH 8-1147

... call anytime!

OFFICE HOURS

9 - 5 weekdays

Evenings and Weekends
by appointment.

A UNITED FUND AGENCY

OWN YOUR HOME



EXHIBIT J

NOW!

1968 HOUSING ACT - SECTION 235

HOME OWNERSHIP FOR LOWER INCOME FAMILIES

If your annual income is LESS than the amount shown on this chart for your family size, then you may be eligible to buy a house with government subsidy.

FAMILY SIZE	Adjusted Gross Annual Income *
1	\$4320
2	4860
3 or 4	5130
5 or 6	5400
7 or 8	5670
9 or more	5940

* **A DJUSTED GROSS ANNUAL I NCOME**
 Take your total yearly income (before deductions) and subtract \$300 for each minor child.
 This is the **AGAI**.

HOW THE PROGRAM WORKS

If you qualify (see above chart), the Housing Information Center will help you determine the price of house you can afford. You then select a house, in the area of your choice, from any FHA financed house for sale.

You will need about \$200 cash. Other settlement costs will be included in the mortgage.

Your monthly payments will be at least 20% of your "Adjusted Gross Monthly Income" (divide 60 into the AGAI*). The government will pay the balance of the monthly payments. This means that the interest rate on your mortgage may be as low as 1%.

SELECT YOUR OWN NEIGHBORHOOD

Any house for sale with FHA financing and costing less than \$17,500 is available under this program for families with 5 or more children, the mortgage may go as high as \$20,000.

FAMILIES WITH POOR CREDIT HISTORIES

A family with a faulty credit record may be able to buy under this program by special arrangement.

Ask the Housing Information Center for details.



they want. . . . Some counselees told me they were shown one or two houses and told, this is what you can buy under the 235 program.¹⁵⁷

According to a St. Louis counselor:

Some people just say they would like to live in a nice area. . . . When we asked some applicants if they would be willing to move to St. Charles¹⁵⁸ they said yes without even knowing where it is. . . . You have to take them by the hand.¹⁵⁹

Counselors also commented on the overt racial discrimination which minority buyers often face. A Denver counselor told Commission staff of a telephone call he had received from a white real estate broker who works in a predominantly white neighborhood in southeast Denver. The broker had told of a black family that had come to him looking for a house. The income and credit rating of the buyer had been good and, therefore, the broker had wanted to help him. He had asked the counselor, "Do you know of a black broker who would sell to him?" The counselor had suggested that the broker show the family houses himself but the broker refused to do so.¹⁶⁰

St. Louis counselors said that brokers in suburban St. Louis County would sell existing houses under the 235 program to white clients but not to black. One such real estate agency, according to an Urban League staff member, had turned away all black clients, saying the St. Louis County sellers did not want to sell under 235. But the same agency, she said, had shown houses throughout the county to white prospects. And a white buyer, who was referred to the Urban League by FHA for section 237 credit counseling, had purchased a house in St. Louis County under the 235 program from the same real estate agency.¹⁶¹

The principal concern of counselors was not the segregated buying patterns, but rather the quality of existing houses which the 235 buyers were purchasing. All of the counselors attempted to establish followup relationships with buyers. But these relationships showed such a tenuousness that the counselors were uneasy. They feared that more buyers than they actually had knowledge of were experiencing serious problems with their houses.

¹⁵⁷ *Supra* note 149.

¹⁵⁸ St. Charles is a town located in St. Charles County adjacent to and across the Missouri River from St. Louis County. It is connected to St. Louis County by the Mark Twain Expressway. St. Charles Hills, a predominantly white development located in St. Charles has new houses for sale under section 235.

¹⁵⁹ *Supra* note 65.

¹⁶⁰ *Supra* note 79.

¹⁶¹ *Supra* note 65.

A Philadelphia counselor told Commission staff that she had had many telephone calls from buyers she had counseled who had purchased and moved to existing houses and then encountered plumbing and electrical deficiencies. She said one buyer had moved into a house which did not have a furnace.

A St. Louis counselor reported the same situation was occurring in St. Louis. But she emphasized:

Real estate brokers are misinforming everyone, not just 235 buyers. The process for appraising and predicating is the same for 235 as for any other FHA program.¹⁶²

Another St. Louis counselor complained that the public is unconcerned about the quality of houses being purchased by inner-city buyers under nonsubsidized FHA programs. She said: "People get self-righteous about the 235 program because it is subsidized."¹⁶⁴

A Denver counselor told Commission staff that "Some of the 235 houses are falling apart the next day;" and asked: "Where are the watchdogs?" The counselor said that actually he gets very few complaints from 235 buyers but he suspects many buyers do not complain "because people don't like to admit they've been taken."¹⁶⁶

The counselors are faced with the following dilemma: The low-income minority families who they counsel experience racial discrimination and encounter outright rejection from many real estate brokers. If the counselor wishes to help these families become homeowners under the 235 program he generally must refer them to cooperative brokers who will sell to them. Since some of these cooperative brokers sell the 235 applicants deteriorated housing in ghetto neighborhoods, this frequently leaves the counselor with one alternative—to refer 235 applicants to real estate brokers who handle "changing" neighborhoods.

If the counseling services were defensive in responding to questions about segregated 235 buying patterns, they were even more defensive concerning questions about the referral of minority applicants to "changing" neighborhoods. According to many of them, houses in neighborhoods changing from white to minority areas were in better condition than

¹⁶² *Supra* note 149. This buyer was not participating in the 235 program but had purchased a house with an FHA section 221 mortgage. The counselor stressed that many low-income inner-city buyers, and not just 235 buyers, were purchasing inferior houses.

¹⁶³ *Supra* note 65. When an FHA appraiser finds structural defects in a house he is appraising, he is supposed to predicate the value upon repairs which the seller must make before the house is accepted for FHA insurance.

¹⁶⁴ *Id.*

¹⁶⁵ *Supra* note 79.

¹⁶⁶ *Id.*

houses in ghetto areas¹⁶⁷ and were, in fact, the best buys in the city. For example, a staff member of the Metropolitan Denver Fair Housing Center said:

Our aim is not necessarily integration. We want to get decent housing that people can afford. Park Hill has the best houses in town. It's Denver's showcase integrated neighborhood.¹⁶⁸

The Welfare Department and Section 235

In more than one-third of the Section 235 cases analyzed by Commission staff, purchasers were receiving public assistance. In St. Louis and Philadelphia, more than half of the 235 buyers were receiving public assistance, primarily Aid to Families with Dependent Children (AFDC).¹⁶⁹ A January 1969 report on welfare and housing by the Department of Health, Education, and Welfare states:

. . . it is estimated that at least one-half of all assistance recipients live in housing which is deteriorating or dilapidated, unsafe, unsanitary or overcrowded. . . . It is estimated that 60 percent of AFDC families are living in sub-standard, deteriorating, or overcrowded housing. State and local studies consistently report higher proportions of defective housing for AFDC families than for the other public assistance categories. Some reasons for this are that a higher proportion live in urban areas, families are larger, the proportion of nonwhites is higher and there is a high proportion of fatherless families who have difficulty in obtaining and maintaining adequate housing.¹⁷⁰

All of the welfare departments surveyed by Commission staff (St. Louis City and St. Louis County, Philadelphia, and Denver)¹⁷¹ approved of the 235 program as a housing resource for their clients. For example, an employee of the Philadelphia County Board of Assistance told Commission staff that they recommend the 235 program to welfare recipients because "it is a way for people to move to a better

¹⁶⁷ The Commission's survey of 235 houses revealed that this often is true. Buyers in "changing" neighborhoods such as Park Hill (Denver), Wynnefield and West Oak Lane (Philadelphia), Normandy School District, and University City (St. Louis) had the fewest complaints about the condition of their houses. See Exhibits K and L, pp. 70-71.

¹⁶⁸ *Supra* note 79. This same staff member indicated that the Fair Housing Center is not entirely in sympathy with a Park Hill Community group which concerns itself with zoning to "stabilize the neighborhood."

The average sales price of sample 235 houses located in the Park Hill area was nearly \$3,000 higher than the average sales price of existing houses purchased by Spanish surname families and nearly \$1,000 higher than the average sales price of existing houses purchased by whites.

¹⁶⁹ Over 60 percent of all 235 buyers in the sample who received public assistance were receiving aid for dependent children.

¹⁷⁰ HEW Report to the House Ways and Means Committee and the Senate Finance Committee, *The Role of Public Welfare in Housing*, 11 (January 1969).

¹⁷¹ In Arkansas, three of the 82 section 235 buyers surveyed were receiving social security in addition to other income. However, most public assistance recipients in Arkansas do not receive enough money to enable them to purchase a house under the 235 program. In August 1968, the average AFDC family in Arkansas received \$78.40 a month. *Id.*, table 6.

neighborhood."¹⁷² She said many of their 235 buyers had formerly lived in public housing and "they were afraid of the gangs. They wanted to get out of their old neighborhoods."¹⁷³

An employee of the Denver Department of Welfare said that his agency approved of the 235 program as a housing resource for welfare recipients because "the mortgage payments are lower than rent payments and the housing is always better."¹⁷⁴ He said, "Indeed, they [235 buyers] do improve their housing conditions and their neighborhood."¹⁷⁵ And an employee of the St. Louis County Welfare Department said that his department recommends the 235 program to families they think can benefit from it.¹⁷⁶

Although welfare departments saw the 235 program as a valuable housing resource for their clients, little was being done in a systematic way to assure that they were thoroughly familiar with the program and the benefits it offered. In Philadelphia and St. Louis, where the welfare departments are not responsible for finding shelter for welfare recipients, employees seemed least familiar with the operation of the 235 program.

A Philadelphia welfare employee said that her department did not keep track of 235 buyers on public assistance because: "the program is only a few months old."¹⁷⁷ The director of the St. Louis City Department of Welfare reported that the caseworkers are somewhat aware of the 235 programs—"resourceful workers" pick up pamphlets from the FHA office.¹⁷⁸ He told Commission staff that the program should be publicized, especially to the welfare department, and that HUD or FHA should have notified them about the program.¹⁷⁹

A broker/speculator held one briefing session to explain the 235 program to caseworkers employed by the St. Louis County Welfare Department but this was the only information on the program the county welfare department received. The assistant director of the department told Commission staff that the welfare department is the last to hear anything about an FHA program.¹⁸⁰

¹⁷² Interview-Community Relations Office, Philadelphia County Board of Assistance, July 14, 1970.

¹⁷³ *Id.*

¹⁷⁴ Interview-Denver Department of Welfare, Aug. 5, 1970.

¹⁷⁵ *Id.*

¹⁷⁶ Interview-St. Louis County Welfare Department, Aug. 26, 1970.

¹⁷⁷ *Supra* note 172.

¹⁷⁸ Interview—St. Louis City Department of Welfare, Aug. 24, 1970.

¹⁷⁹ *Id.*

¹⁸⁰ *Supra* note 176.

EXHIBIT K



**Section 235 House
Park Hill Area, Denver**



**Section 235 House
Predominantly Black Area
East Denver**



**Section 235 House
Park Hill Area, Denver**

EXHIBIT L



Section 235 House
West Oak Lane, Philadelphia



Section 235 House
All-Black Area
West Philadelphia



Section 235 House
Wynnefield, Philadelphia

The Welfare Department and Substandard 235 Housing

Although most welfare department employees interviewed by Commission staff indicated that they had heard that some defective houses were being purchased by 235 buyers, their sense of responsibility for the houses purchased by welfare recipients varied widely.

Philadelphia

The least concern was shown by an employee of the Philadelphia County Board of Assistance. When asked if her agency had received any complaints from Philadelphia welfare clients who had purchased 235 houses, the employee of the Community Relations Office replied:

The house is all right when they move in. FHA inspects the house and they have standards. If there is anything wrong afterward, that's their problem.¹⁸¹

Interestingly enough, the State of Pennsylvania, unlike Colorado and Missouri, has a financial stake in a 235 house purchased by a welfare recipient, in that the State records liens against property owned by welfare recipients.¹⁸² This means that if a Philadelphia 235 buyer were to sell his house, the welfare department could claim part or all of the money received from the sale, depending on the amount of public assistance received by the 235 buyer.¹⁸³

When Commission staff members inquired about the effect of the lien on Philadelphia 235 buyers receiving public assistance, they learned that many buyers were not aware of the claim on their newly acquired properties. An employee of the Philadelphia Urban League counseling staff said she never mentions the lien when counseling potential 235 buyers. She said telling them about the lien might discourage them and, "even if they never really own their house, they have the freedom of living in their own place without restrictive landlords and living in better houses in better neighborhoods."¹⁸⁴ She added that they are hopeful that the practice of recording

¹⁸¹ *Supra* note 172.

¹⁸² Pennsylvania is one of only seven States that provide for claims against the property of AFDC recipients. *Supra* note 170. This practice is now being challenged in the courts and on Feb. 11, 1971, the U.S. District Court of the Eastern District of Pennsylvania issued a temporary restraining order enjoining the Pennsylvania State Department of Welfare from recording liens on the property of AFDC recipients in the State of Pennsylvania. (Charleston V. Wohlgemath, C.A. No. 70-3479, U.S.D.C., E.D., Pa., Feb. 11, 1971).

¹⁸³ The Federal Government would receive its proportionate share of the moneys so recovered. *Supra* note 170. Therefore, in Philadelphia, the Federal Government is helping welfare recipients buy houses and, at the same time, is laying claim to the same houses.

¹⁸⁴ *Supra* note 149, July 17, 1970.

liens against the property of welfare recipients may be discontinued in the State of Pennsylvania.¹⁸⁵

St. Louis

The St. Louis City Department of Welfare, having no responsibility to find shelter for welfare recipients, did not concern itself with the location or condition of 235 houses.¹⁸⁶ Although the St. Louis County Welfare Department also has no shelter responsibilities, officials there did keep a record of recipients who purchased 235 houses. Employees of the county department noted that many welfare 235 buyers are mothers without husbands who are unfamiliar with homebuying or home maintenance. They reported that the welfare department does not furnish money for repairs and few buyers can afford them. In fact, they said, finding the \$200 down payment often is difficult. "Two hundred dollars is \$2,000 to welfare people."¹⁸⁷ One employee said that brokers give no consideration to the size of the family in relation to the number of bedrooms in a 235 house. Another said that FHA never reinspects after the seller has supposedly made repairs required by FHA appraisers. But although the St. Louis County Welfare Department employees were concerned about the plight of welfare 235 buyers, they did not feel that the welfare department could prevent 235 buyers from purchasing unwisely since "the caseworkers are women and they don't know what to look for when buying a house either."¹⁸⁸

Denver

The Denver Department of Welfare has no responsibility for finding shelter for recipients of public assistance. The agency maintains a housing and real estate property unit, headed by a former Denver real estate broker, which has taken an active role in helping welfare 235 buyers obtain decent housing.

The Denver Welfare Department does not refer potential 235 applicants to the local counseling service (MDFC) because, according to one staff member, "they get too many calls"¹⁸⁹ and applicants must wait a long time for a counseling appointment. Instead, the caseworkers explain the 235 program to welfare recipients, using an FHA checklist on the important aspects of homeownership. Then, like the counseling services, the caseworkers refer the potential 235 buyers to real estate brokers. "Some bro-

¹⁸⁵ *Id.*

¹⁸⁶ *Supra* note 178.

¹⁸⁷ *Supra* note 176.

¹⁸⁸ *Supra* note 174, Supervisor of Special Services.

ers," said the representative of the welfare department, "discourage our people from buying by telling them they don't qualify. People tell us and we simply refer them to another broker."¹⁹⁰

Under an agreement with the local FHA Insuring Office, mortgagees notify the welfare department when an applicant asks for a 235 mortgage. At this point the house has already been appraised by FHA. Upon notification by the mortgagee, the welfare department inspects the potential 235 house, checking such items as the hot water system, the plumbing, the wiring, the furnace, and the structure. If the house needs repairs, the welfare department has sometimes insisted that the owner or broker make them. In addition, the buyer is told by the department to get all repair guarantees by the seller in writing. If the house is in especially poor condition, the welfare department recommends buyers not to purchase the house. Although the department cannot keep recipients from buying the house, "most of the time they do listen to the department."¹⁹¹

The supervisor of special services at the Denver Department of Welfare told Commission staff that before the advent of the 235 program,¹⁹² welfare recipients used to buy on land contract,¹⁹³ and often found themselves in financial straits. He said that since Sections 235 and 221 have been in existence, few people have wanted to buy on land contract.¹⁹⁴

The Welfare Department and Racial Segregation

The welfare departments were relatively unconcerned with the racial composition of neighborhoods into which welfare 235 buyers were moving. An employee of the St. Louis County Welfare Department told Commission staff that the welfare 235 buyers are "being guided by real estate brokers into formerly white changing areas." According to the department employee, this steering is salutary in that it enables the welfare recipients to move into better houses in better neighborhoods.¹⁹⁵ Welfare clients are often in desperate need of decent housing. Therefore the welfare departments, even more than the

counseling services, consider integration an unrealistic luxury.

The Role of Neighborhood Groups

More half the 235 buyers in the total sample who purchased existing houses purchased them in racially changing neighborhoods. Most were minority buyers. Current residents of these neighborhoods have no role in producing the segregated 235 housing pattern. They are, however, directly affected by it.

Neighborhood Resistance

In some areas, where the existence of the 235 program has been given wide publicity, residents of changing neighborhoods have organized to protest against the effect of the program in upsetting the racial stability of their areas.

In March 1970, members of a neighborhood association in the Skinker-DeBaliviere area¹⁹⁶ in St. Louis, Mo. met to discuss discriminatory real estate practices and the Section 235 program. A citizens' committee was formed to gather community support for a letter to be sent to FHA asking it to halt 235 purchases in the area, pending an investigation into the locational patterns of Section 235 buyers.¹⁹⁷

In June, after FHA had proven unresponsive to the community group, they filed suit in Federal district court naming Secretary Romney and the Director of the St. Louis FHA office as defendants. Alleging that FHA assisted real estate brokers who steered 235 buyers away from white areas and into "changing or integrated areas", the complainants asked the court for a temporary restraining order to halt additional commitments under Section 235 within the Skinker-DeBaliviere area. (See App. D)

After the suit was filed, FHA staff in Washington consulted with the community group and an informal agreement was reached to suspend 235 commitments in the Skinker-DeBaliviere area until the St. Louis HUD Area Office had instituted policies to eliminate these practices. The group then signed a stipulation to delay pleadings.¹⁹⁸

When Commission staff asked one neighborhood resident how he could be certain that HUD was holding to its agreement, he replied that residents were keeping track of all property sales in the area. He

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² Prior to 1968, welfare recipients in Denver were not permitted to buy property. This rule was changed to allow welfare recipients to take advantage of the new Federal programs for homeownership.

¹⁹³ A land contract is different from a mortgage in that the land contract buyer accrues no equity and in some cases, after making "mortgage payments" over many years, land contract buyers can be evicted after missing one month's payment.

¹⁹⁴ *Supra* note 174.

¹⁹⁵ *Supra* note 176.

¹⁹⁶ According to a resident of the area, interviewed Aug. 24, 1970, the Skinker-DeBaliviere area is approximately 60 to 65 percent black.

¹⁹⁷ "Residential Service Formed to Attract New Residents, Attack Housing Problems", *The Paper*, May 1970, St. Louis, Mo.

¹⁹⁸ Telephone conversation with John Roach, attorney for the plaintiffs, Aug. 21, 1970.

said: "Some gal out of Pruitt-Igo,¹⁹⁹ we'll know how she got there."²⁰⁰

In late 1970, pursuant to a motion by the defendant, the suit was dismissed. The community group does not intend to pursue the matter in view of the suspension of the 235 program as it relates to the sale of existing housing.²⁰¹ According to a lawyer for the complainants: "The program has been suspended; we're satisfied with that."²⁰²

Other residents of "changing" neighborhoods in St. Louis also were disturbed over the influx of section 235 buyers. A resident of the Walnut Park area²⁰³ was quoted by a newspaper reporter as saying:

A neighborhood can take only so many of these families, . . . and Walnut Park is getting more than it can absorb. Unless these buyers can keep those marginal houses up, the area will turn into another slum requiring millions of dollars for rehabilitation.²⁰⁴

One St. Louis resident, A. J. Wilson, former director of human resources in University City, a "changing" area, wrote U.S. Senator Thomas Eagleton requesting an investigation of the operation of the 235 program. In his letter, Mr. Wilson stated:

During my work for the City of University City it became very clear that the 235 loan program was being used most extensively by known real estate speculators for the purpose of selling property they were holding and with the effective intention to perpetuate segregation; racially and socioeconomically . . . It is clear that the 235 Loan Program is being used to subsidize the economic activity of speculators and real estate agents, who are steering black persons of lower economic status only to all black or integrated areas.²⁰⁵

In Denver, members of the Greater Park Hill Improvement Association²⁰⁶ were concerned over a "dispersed housing project" of the Denver Public Housing Authority.²⁰⁷ Under this program, the Den-

ver Public Housing Authority is using FHA-acquired properties to establish a rental-purchase program for public housing tenants in Denver.²⁰⁸ According to a Park Hill representative, many of these public housing tenants were being placed in the Park Hill area.²⁰⁹

When Commission staff members asked the Park Hill representative his opinion of the reason for the concentration, also, of black 235 buyers in the Park Hill area, he replied that black buyers are steered to the Park Hill area by brokers, but that white buyers are steered away from it. He spoke of a white buyer who had expressed interest in the Park Hill area and was advised by a broker: "You don't want to live there. That's where the colored people live."²¹⁰ The Park Hill representative said that some Denver real estate brokers cooperate in the stabilization of Park Hill²¹¹ but most "work against the Park Hill effort."²¹²

Residents of "changing" neighborhoods in both St. Louis and Denver maintained that their opposition to low-income housing programs was not based on racial or even economic discrimination. They said they feared that an overly large influx of low-income minority families into their already integrated neighborhoods would result in overcrowding of neighborhood schools,²¹³ overtaxed city services, and "red-lining" of the areas by local lending institutions.²¹⁴ The inevitable result, they claimed, would be resegregation.

The Predicament of the "Changing" Neighborhood

The Commission's survey of 235 houses revealed that, in most cases, the only attractive housing made available to minority families was located in "chang-

¹⁹⁹ Pruitt and Igo are public housing projects in St. Louis, Mo.

²⁰⁰ Interview-Resident of the Skinker-DeBaliviere area, St. Louis, Mo., Aug. 21, 1970.

²⁰¹ The suspension of the 235 program will be discussed in a later chapter.

²⁰² *Supra* note 198, Feb. 3, 1971.

²⁰³ Fifteen of the 79 houses in the St. Louis sample were located in the Walnut Park.

²⁰⁴ E. S. Evans, "Subsidized Home Sales Limited to Few Areas," St. Louis Post-Dispatch, June 1, 1970.

²⁰⁵ Letter from A. J. Wilson, Jr., executive director, St. Louis County Municipal League to Senator Thomas F. Eagleton, Aug. 5, 1970.

²⁰⁶ The Greater Park Hill Improvement Association is a coalition of two former organizations—The Park Hill Civic Association and the Park Hill Improvement Association. Their goal is to keep the Park Hill area integrated and maintain and improve community services. The area is now estimated to be 40 percent black.

²⁰⁷ Interview-Member of the Greater Park Hill Improvement Association, Denver, Aug. 4, 1970.

²⁰⁸ Interview-Leonard Chadwick, Denver Housing Authority, Aug. 6, 1970.

²⁰⁹ *Supra* Note 207.

²¹⁰ *Id.*

²¹¹ Commission staff interviewed a black Philadelphia broker who expressed concern for the racial stability of a "changing" area. He said he had never sold a house under 235 because he works in the Mt. Airy area and he feels a "responsibility to the neighborhood. If welfare mothers with a lot of children move into the area, all the whites will leave." He said he did not know 235 buyers could be moderate-income families. Philadelphia Broker Interview No. 5, July 18, 1970.

²¹² *Supra* note 207.

²¹³ According to the Skinker-DeBaliviere representative, housing patterns correspond with certain school patterns. The schools in St. Louis which bus out the largest number of students due to overcrowding are located in "changing" neighborhoods.

²¹⁴ According to the Park Hill representative, when Park Hill integrated, the middle management of a local savings and loan association issued a memo directing staff to discontinue mortgage lending in the Park Hill area.

ing” neighborhoods. The sole alternative which real estate brokers offered minority families was housing in ghetto areas, much of which was in poor physical condition. And many 235 buyers who have been trying to get out of similar ghettos neighborhoods which they consider unsafe, have chosen “changing” neighborhoods.

In some of these “changing” areas, residents have opposed the movement of 235 buyers into their neighborhoods. Disregarded by local counseling services, overwhelmed by the discriminatory separate housing market maintained by the housing and home finance industry, and ignored by FHA, they find themselves alone in attempting to stop the funneling of Section 235 buyers into their areas.

They maintain that they are not trying to preserve all-white neighborhoods since their neighborhoods are already integrated. They are also not opposed to racial integration since, if they were, they would move elsewhere. Rather, they are concerned with upgrading the quality of their neighborhood and its facilities. They see the influx of large numbers of lower-income minority families as a threat to these efforts, leading inevitably to neighborhood deterioration and resegregation.

Regardless of their motivation, however, the net result is that they are attempting to exclude lower-income minority families from their neighborhoods. The only feasible answer to their predicament lies in the establishment of a single open housing market and the termination of the separate and unequal housing markets that now exist, a task well beyond the powers of small neighborhood improvement organizations.

SUMMARY

Local community groups and agencies have been involved in the operation of the 235 program in their areas, primarily through the provision of voluntary counseling services. Local counseling services have disseminated information on the 235 program to potential buyers and welfare departments have encouraged welfare recipients to take advantage of 235 assistance. Both welfare departments and counseling services, however, have been handicapped by a lack of information from FHA, the originating agency.

With the exception of Denver, most of the local groups who were interviewed have taken little action to protect the potential 235 buyer from unscrupulous real estate brokers or sellers. And since the 235 program relies upon the real estate industry for its initiation, local agencies have been forced to seek out brokers and mortgage companies who would cooperate in the program. These same brokers have sometimes been those who are profiting from the 235 program at the expense of the lower-income buyer.

Local referral agencies, faced with the realities of a discriminatory housing market and needy buyers, have largely abandoned the goal of racial integration and concentrate instead on helping 235 applicants improve their housing conditions, even if in segregated or “changing” areas. Residents of “changing” areas, where much of this housing is located, sometimes oppose the 235 program fearing that the influx of low-income minority families into their neighborhoods will lead to the deterioration of their integrated neighborhoods and subsequent resegregation.

CHAPTER III

THE ROLE OF FHA

The Federal Housing Administration (FHA) was created in 1934 for the purpose of stimulating the private housing and home finance industry to provide the housing that the Nation needed. The means chosen to accomplish this was the facilitation of housing credit through insurance of mortgages made by private lenders. In the years following the establishment of FHA mortgage insurance programs, the agency became a major factor in the housing industry. Between 1935 and 1954, 3.76 million houses were provided with mortgages underwritten by FHA—nearly 23 percent of all new housing built during that period.²¹⁵

FHA, however, has not served all segments of the housing market equally well. Over the years, the agency acquired a deserved reputation for confining its service mostly to white, middle class, suburban home buyers. The National Commission on Urban Problems summarized FHA's failings in this area:

The main weakness of FHA from a social point of view has not been in what it has done, but in what it has failed to do—in its relative neglect of the inner cities and of the poor, and especially Negro poor. Believing firmly that the poor were bad credit risks and that the presence of Negroes tended to lower real estate values, FHA has generally regarded loans to such groups as 'economically unsound.' Until recently, therefore, FHA benefits have been confined almost exclusively to the middle class, and primarily only to the middle section of the middle class. The poor and those on the fringes of poverty have been almost completely excluded.²¹⁶

As an example of FHA's resistance to serving the poor, the Report of the National Commission on Urban Problems cited the Rent Supplement Program.²¹⁷ In 1967, 2 years after the enactment of the

Rent Supplement Program, only 921 units had been completed in 12 rent supplement projects. This low production was attributed by the National Commission to difficulties encountered or anticipated by rent supplement sponsors and the "hostile treatment at the hands of FHA."²¹⁸ According to the Report:

. . . the rank and file officials in district and local (FHA) offices were, in many cases, highly unsympathetic. They were accustomed to dealing with the conservative real estate and financial community. They did not feel at home in having business dealings with churches and philanthropists whom they tended to regard as soft and impractical. Nor did they welcome having the poor as their constituents. This was a social class whom they had never served and who seemed alien to their interests and associations.²¹⁹

Top FHA officials have recently made efforts to alter the discriminatory attitudes of local FHA staff. In 1967, the Deputy Assistant Secretary of FHA addressed a Washington Conference of FHA Directors and Chief Underwriters and told them that "FHA is unequivocally committed to equality in housing and employment."²²⁰ According to the Deputy Assistant Secretary:

We have not done well enough in providing housing for minority families. The conclusion is inescapable when you look at the record of a number of large urban centers and see that virtually no minority family housing has been provided through FHA. And these are urban centers with large concentrations of minority citizens.²²¹

In 1968, FHA was given an opportunity to overcome its image as an antipoor, antiminority Government agency. The 1968 Housing and Urban Development Act entrusted FHA with the administration of

rental made to owners of private housing projects financed under certain HUD programs or under State or local programs that provide loan insurance or tax abatements, if the projects are approved for rent supplement before completion of construction or rehabilitation. Tenants must meet certain qualifications.

²¹⁵ *Supra* note 215 at 150.

²¹⁶ *Id.*

²¹⁷ The Rent Supplement Program was enacted in 1965 (Housing and Urban Development Act of 1965, Pub. Law No. 89-117, 79 Stat. 451, Title I, as amended.) It provides for rent supplement payments of the difference between 25 percent of the tenants' income and fair market

²¹⁸ *Supra* note 215 at 150.

²¹⁹ *Id.*

²²⁰ Remarks of Philip J. Maloney, Deputy Assistant Secretary-Deputy FHA Commissioner, To the Washington Conference of FHA Directors and Chief Underwriters, Oct. 25, 1967.

²²¹ *Id.*

several new housing programs designed to assist low- and moderate-income families. Among them was the new homeownership program—Section 235.

FHA and the Section 235 Program

All FHA financed housing—subsidized as well as nonsubsidized—is marketed through private channels. Even when there is a default under an FHA mortgage and the agency acquires the property, it is managed and sold by private real estate brokers. In fact, the 235 program, like other FHA-insured housing programs, was designed not as a direct Federal lending or construction program but as a mechanism for encouraging the private housing and home finance to produce, finance, and make available housing for low- and moderate-income families. The success of the program depends on the willingness of private industry to participate. As former HUD Secretary Weaver said, when discussing the proposed housing legislation:

The Government can provide the financial incentive for this housing, but, unless the private builder, mortgage banker, contractor and industrialist are willing to participate, little can be accomplished.²²²

Thus, the decision to give the private housing and home finance industry primary responsibility for operating the 235 program, including publicizing the availability of 235 financing and soliciting potential 235 buyers, was very much in keeping with FHA tradition. Under Section 235, FHA has confined itself essentially to the same role it plays in all its single family insurance programs—approval or rejection of mortgage insurance applications submitted to FHA by approved mortgages.

Consequently, like the mortgagee, FHA's role in producing the housing pattern of 235 buyers is essentially a passive one. In fact, FHA disclaims responsibility for the segregated patterns that have developed by pointing to this passive role. To illustrate, when questioned by a reporter about the concentration of 235 buyers in "changing" neighborhoods, the Director of the St. Louis FHA Insuring Office said that "the law gave him no control over location of Section 235 housing. If the buyer and house meet qualifications, FHA must approve the subsidy contract."²²³ When questioned about the poor condition of some 235 houses, the Director of the St. Louis HUD Area Office told Commission staff to remember that "FHA isn't picking out the houses."²²⁴ Another

official explained: "The FHA appraisal is intended only to determine the value of the property for mortgage insurance purposes—to assure the money lender, not the property buyer."²²⁵ And the Assistant to the Director of the Philadelphia FHA Insuring Office referred commission staff to the local Urban League counseling service for information on the 235 program since, as he put it: "We don't deal with the buyer directly."²²⁶

Despite the fact that FHA disclaims any responsibility for the house which the 235 buyer decides to purchase, many real estate brokers use FHA's name in their advertising, giving buyers the impression that the agency is prepared to protect their interest. Although this practice is prohibited under FHA policy, advertisements such as the following frequently appear:

FHA-VA APPROVED HOMES²²⁷

Singles, Twins, Rows, Duplexes

DUPLEX—Stone & Brick, Convenient²²⁸

Corner location. FHA Approved.

FHA APPROVED²²⁹

2 bedroom brick
4118 N. Taylor
All new plumbing.

FHA APPROVED²³⁰

4969 Emerson : 6 room brick ; 3
large bedrooms. 1,400 sq. ft. gas
heat, fireplace. Agent xxx-xxxx

Perhaps the clearest illustration of FHA's view of its responsibility for the operation of the 235 program is found in a situation that occurred in Beecher, a suburban area outside of Flint, Michigan.

According to the superintendent of schools, before enactment of the 235 program, the Beecher School District had been a racially stable integrated area. Then FHA allowed builders constructing houses to be sold under the Section 235 program to concentrate these houses in the Beecher area. This has upset the racial balance in Beecher and led to the school becoming overcrowded and predominantly black. White families are beginning to move from the area. The superintendent of the Beecher School District

²²² "New HUD Head to Study Home Sales to the Poor," St. Louis Post Dispatch, Aug. 10, 1970. Pursuant to this policy, HUD prepared a standard letter to send to FHA-insured buyers who complained to FHA about the condition of their existing homes. See Exhibit M, p. 79.

²²³ Interview-Assistant to director, Philadelphia FHA Insuring Office, May 7, 1970.

²²⁷ *Supra* note 47.

²²⁸ *Id.*

²²⁹ *Supra* note 45.

²³⁰ *Id.*

²²² *Supra* note 134 at 12.

²²³ *Supra* note 204.

²²⁴ Interview-Director, HUD Area Office, St. Louis, Aug. 28, 1970.

6/15/66

EXHIBIT M

170-a

Exhibit 5913- 9

(Suggested Type Reply to Complainant - Purchaser
of Existing Construction Property)

Re: FHA Case Number

Dear Mr. Homeowner:

I am replying to your recent letter concerning the difficulty you are experiencing with your home.

FHA issues two basic types of commitments. One type is on proposed construction, where we can examine the plans and specifications and make compliance inspections to assure that the completed property meets FHA's minimum standards; and the builder is required to furnish the homeowner a warranty.

It is FHA's policy to offer every assistance within the limits of its authority where the construction faults can be associated with a stage of construction inspected by FHA.

The other type of commitment is issued on existing properties. In cases involving existing construction, FHA does not make compliance inspections such as are made in connection with proposed construction. We make an appraisal of the property to determine the desirability and utility of the site and physical improvements, in order to make an estimate of value, after taking into consideration both the defects and desirable characteristics of the property.

Since your property was purchased as an existing property in its "as is" condition without the benefit of a warranty, we regret to inform you that FHA cannot require the seller of your home to correct the items of deficiency reported in your letter.

Very truly yours,

Director

was quoted as saying: "We had one of the model integrated school systems in Michigan and now it is being ruined."²³¹

Complaints from residents of the Beecher School District have led HUD to hold up further construction of federally subsidized low-income housing in the Beecher School District, pending further investigation. But when the FHA official responsible for the Flint area was questioned about the concentration of 235 housing in the Beecher School District, he was quoted as saying that the "impact of housing—any housing—on a community's schools is not my business, nor is racial balance."²³² He also noted that "the builder took the initiative in site selection."²³³

Although FHA's disclaimers of involvement may be questioned on many levels, the claim of noncontact with FHA buyers is true enough.²³⁴ The only official direct contact with buyers is through the FHA counseling service.

The FHA Counseling Service

In his 1969 testimony in Hearings on National Housing Goals, HUD Secretary Romney defended omission of a budget request for counseling funds under Sections 235 and 237 by submitting that 47 FHA offices were currently offering counseling services. However, there was no full-time counselor in any of the four FHA Insuring Offices surveyed as part of this study.

In Denver, counseling services are provided on a voluntary basis by five FHA employees, who perform this function in addition to their full-time duties. Actually, when prospective 235 buyers call the FHA office to inquire about the 235 program, they are referred to a broker.²³⁵ In Philadelphia, the FHA official who carries out the counseling functions also manages the Rent Supplement Program in the geographic area covered by the Insuring Office. When a potential 235 buyer calls the Philadelphia FHA counseling service for information, he is told to go to a broker in his area.²³⁶ While Commission staff was visiting the counseling office of the Philadelphia Insuring Office, such a call was received and the following advice was offered by an FHA employee:

²³¹ Peter Braestrip, "HUD's Biggest Housing Effort Runs Into Trouble in Michigan," Washington Post, Feb. 16, 1971.

²³² *Id.*

²³³ *Id.*

²³⁴ Few buyers interviewed by Commission staff had had any contact with FHA staff. One buyer thought that 235 was the real estate broker's program (Philadelphia Buyer Interview No. 8, July 17, 1970).

²³⁵ Interview-Denver FHA Insuring Office, Aug. 7, 1970.

²³⁶ Interview-Secretary to the Counselor, Philadelphia FHA Insuring Office, May 7, 1970.

You should talk to a real estate broker about that. . . Do you know what a real estate broker is? . . . Have you ever seen a plate glass window in your neighborhood with Real Estate written on it? . . . That's right, a real estate man. Just go and ask him and he has all the information. . . That's right, he'll be able to tell you everything you need to know.²³⁷

In St. Louis, one Section 235 buyer had learned of the 235 program when he went into the FHA counseling office to ask about rentals. He said, however, that he did not understand what the program was until he visited the Urban League counseling service.²³⁸ And an Urban League counselor in St. Louis told Commission staff: "I have no idea what the FHA counseling service does."²³⁹

The inadequate staffing of the FHA counseling service was matched by the lack of staff assigned to administer the section 235 program.

FHA Administration of Section 235

Mortgagees and real estate brokers frequently told Commission staff that FHA was negligent in informing them of changes in Section 235 program procedures. One reason for this undoubtedly is inadequate staffing for FHA. When Commission staff member asked to speak to the person in charge of the 235 program in the Insuring Offices, they were frequently referred to individuals who had various other duties assigned to them. In Denver, one individual had responsibility for Sections 236, 237, and the rent supplement program, as well as for 235, for the State of Colorado. Understandably, this FHA official claimed that he lacked the staff to do an adequate job.²⁴⁰ In Philadelphia, Commission staff was referred to supervisory loan specialist who also handled mortgage loan applications under other FHA programs. This staff member was unaware of the predominance of short-term 235 mortgages in Philadelphia²⁴¹ and said he had been curious about the type of house being sold under the program.²⁴²

Some FHA staff members expressed doubts about the 235 program similar to those expressed by members of the real estate industry.²⁴³ For example, one FHA staff member labeled the program "a give

²³⁷ *Id.*

²³⁸ *Supra* note 74.

²³⁹ *Supra* note 65.

²⁴⁰ *Supra* note 235.

²⁴¹ More than half of the 235 mortgages in the Philadelphia sample were for 20-year terms or less.

²⁴² Interview, Philadelphia FHA Insuring Office, July 14, 1970.

²⁴³ Many FHA staff members are recruited from or have connections with the real estate industry. For example, the director of the St. Louis FHA Insuring Office was formerly a prominent member of a local real estate firm.

away program” and claimed that many 235 buyers give false information about their incomes.²⁴⁴ Other FHA staff members predicted a high foreclosure rate for section 235 buyers, “considering the type of people participating in the program.”²⁴⁵ When, in fact, the foreclosure rate was not found to be high,²⁴⁶ one central office FHA staff member who had forecast many foreclosures under 235 decided that it was too soon to make a judgment about the section 235 foreclosure rate.²⁴⁷

Lack of staff and lack of enthusiasm are not the only complaints which have been made about FHA’s administration of the 235 program. Undoubtedly, the most common and widely publicized charge has been that FHA has insured substandard existing section 235 houses. This problem, however, must be viewed in the context of changes in FHA policy concerning inner-city housing. More than 70 percent of existing houses contained in the Commission section 235 sample were located in inner-city areas.

FHA and the Inner-City

As noted earlier, FHA has traditionally served the suburban homebuyer. During the past 5 years, FHA has made frequent, almost annual, efforts to change this policy. These efforts have often been unsuccessful, partly due to a lack of communication between the national office and local FHA insuring offices.

1965

FHA’s first tentative gestures toward inner-city housing came in 1965 when an FHA Commissioner Letter No. 38 was sent to all insuring office directors. The letter noted that: “In some instances, there has been hesitancy on the part of insuring offices to make FHA programs available in older neighborhoods,” and stated that: “Areas should not be excluded from FHA insured loans merely because they are old and located in the central part of the city.”²⁴⁸

1967

In 1967, Commission staff contacted an assistant

²⁴⁴ *Supra* note 83.

²⁴⁵ Interview-Property Management Section, Philadelphia Insuring Office, July 14, 1970.

²⁴⁶ As of August 1970, there had been one foreclosure and seven defaults under Section 235 in the State of Colorado (less than ½ of 1 percent). As of November 1970, there had been three foreclosures under Section 235 in the eastern half of Missouri (less than ½ of 1 percent). As of July 1970, there had been three foreclosures under Section 235 in the area serviced by the Philadelphia FHA Insuring Office (½ of 1 percent). As of September 1970, there had been five foreclosures and 11 assignments (abandoned properties assigned to HUD by the mortgagee) under section 235 in the State of Arkansas (1 percent). As of October 1970, the national foreclosure rate under the section 235 program was less than 1 percent (.8 percent).

²⁴⁷ Interview-National FHA office, Oct. 29, 1970.

²⁴⁸ FHA Commissioner Letter No. 38, Nov. 8, 1965, “Use of FHA Programs in Older, Inner-City Neighborhoods.”

to the then FHA Commissioner to determine how this directive was being carried out. He informed them that FHA had no means of checking on the implementation of Commissioner Letter No. 38 and that implementation depended largely on the individual preferences of FHA insuring office directors.²⁴⁹ In fact, most were ignoring the directive and continuing to exclude many inner-city areas. A 1967 spotcheck by Commission staff revealed that the inner-city areas FHA would not insure were commonly (1) areas of racial transition or (2) areas in which the economic life of the area seemed unstable by middle-class real estate standards. According to community leaders interviewed by Commission staff, refusal of FHA to insure in these areas had led to: (1) widespread land contract buying; (2) high interest-rate loans by unscrupulous lenders; and, sometimes; (3) physical removal of savings and loan associations from these areas.²⁵⁰

In July 1967, another FHA Commissioner Letter was issued to FHA staff. The letter reiterated the policies set forth in the earlier Commissioner Letter and directed that “FHA will not designate entire communities or areas as ineligible for participation in its mortgage insurance operations.”²⁵¹ (See App. E.)

Congressional Intervention

In 1966, Congress had taken note of the absence of FHA insurance in inner-city areas and specifically authorized FHA to insure mortgages in areas of rioting or threatened disorders by amending section 203 of the National Housing Act.²⁵² In 1968, Congress decided to take stronger action. The Housing and Urban Development Act of 1968 thus contains a Section (233(e)) authorizing the Secretary of HUD to insure mortgages on properties in older, declining urban areas.

Before the 1968 legislation was passed, one witness warned a congressional subcommittee that the new directive to insure in the central city was too vague and might be misinterpreted by FHA.²⁵³

Congress specified that properties insured under

²⁴⁹ Memorandum from director of Midwest Field Office, U.S. Commission on Civil Rights to Deputy Staff Director of Commission, Jan. 25, 1967.

²⁵⁰ Memorandum from director of Midwest Field Office, U.S. Commission on Civil Rights to Director of Federal Programs Division of Commission Mar. 13, 1967.

²⁵¹ The practice of designating entire communities or areas as ineligible for mortgage insurance or mortgage lending is commonly known as “redlining.”

²⁵² Section 203 is FHA’s basic home (one to four-family) mortgage program. Under this program, the applicant may be any person with sufficient resources to make the required down payment and meet the terms of the mortgage.

²⁵³ Statement of Thomas R. Byrne, Mayor of St. Paul, Minn., *Supra* note 134 at 790.

section 223(e) could be of "acceptable risk"²⁵⁴ and indicated an intent that FHA insure mortgages on properties which would formerly have been rejected by FHA because of their location. The report of the Senate Committee on Banking and Currency on the 1968 legislation clearly states that:

Under the amendment (Section 223(e)), FHA would be able to accept for insurance, mortgages on properties which may not because of the area in which they are located, be able to meet all of the normal eligibility requirements.²⁵⁵

1968

FHA, however, did not interpret Section 223(e) as authority to do away only with location criteria. Instead, FHA decided to lower its standards generally.²⁵⁶ FHA appraisers were told to keep in mind the fact that "acceptable housing is related to the people who are in need and the alternatives available to them."²⁵⁷

1969

According to an FHA circular issued nearly a year later, in 1969, FHA insuring offices responded to the new directive with some confusion.²⁵⁸ Consequently, FHA instructed the local offices to use 223(e) only for a property "which is found to be a location reject²⁵⁹ or produce an unreasonably short mortgage term due to location factors. . . ."²⁶⁰ In addition, FHA directed that a commitment to insure should be given only upon condition of "completion of repairs necessary to preserve the property and protect the health and safety of the occupants."²⁶¹

The circular did note, however, that FHA was not responsible for local housing code enforcement.²⁶²

1970

These new instructions also proved insufficient and abuses of the new central city policy were wide-

²⁵⁴ The ordinary FHA standard is the higher one of "economic soundness."

²⁵⁵ Report of the Senate Committee on Banking and Currency, S. Rep. No. 1123, May 15, 1968 at 14.

²⁵⁶ Notice, FHA 68-88, Subject: Valuation Instructions Implementing FHA 4400.2—Relaxation of Mortgage Insurance Requirements Pursuant to Section 223(e), Aug. 2, 1968. The notice stated that: "The principle of acceptable risk will be adequately served when proper values are found for the properties involved, not in issuance of rejections." Properties were to be rejected only "where a property has so deteriorated or is subject to such hazards, noxious odors, grossly offensive sights or excessive noises that the livability of the property or the health and safety of its occupants are seriously affected."

²⁵⁷ *Id.*

²⁵⁸ FHA Circular No. 4400.26, "Use of Section 223(e), May 19, 1969."

²⁵⁹ FHA rejects a property for FHA insurance for any of three reasons, (1) Location, (2) structural defects, or (3) inability to gain access to the property to perform an inspection. (Interview-FHA Review Appraiser, Washington, D.C., Mar. 11, 1970.)

²⁶⁰ *Supra* note 258.

²⁶¹ *Id.*

²⁶² *Id.*

spread. A year later, in July 1970, FHA issued a circular containing the following statement:

Unfortunately the liberalized FHA procedure applied in these (central city) cases has all too often resulted in insurance of mortgages the physical security for which is far below the stated objectives of the FHA Minimum Property Standards. . . . In addition there is some evidence that the liberalized policy applicable to blighted areas has generated laxness with respect to appraisal inspections in the case of properties located elsewhere.²⁶³

The circular instructed appraisers not to interpret Section 223(e) so as "to permit waiver of the requirement that the property in question meet the stated objectives of the FHA Minimum Property Standards."²⁶⁴ It instructed appraisers to make a careful inspection of the building and premises and to "list as conditions to mortgage insurance any repairs, alterations, or replacements necessary to bring the property up to the minimum standards."²⁶⁵

FHA and Existing Section 235 Housing

The 1968 congressional directive to FHA to cease "redlining" inner-city areas was contained in the same legislation—the Housing and Urban Development Act of 1968—which established the Section 235 program.²⁶⁶ The fact that the new program (235 and the new policy (inner-city insurance, Section 223(e)) were established at the same time has had significant impact on the public impression of the 235 program, in that abuses under Section 223(e) have often been associated exclusively with the new homeownership program.

The Commission first became aware of the low quality of some FHA-insured 235 housing in the course of preparing for a January 1970 hearing on suburban development in the St. Louis, Mo. area. Commission staff found that: "Much of the existing housing which is being purchased under section 235 in the St. Louis metropolitan area is old, segregated and sometimes not expected to outlive its mortgage."²⁶⁷ In addition, Commission staff found that speculators were selling existing 235 houses.²⁶⁸

The staff first assumed that FHA was using low standards when appraising houses to be sold under

²⁶³ FHA Circular 441.24, "Appraisal of Existing Dwellings-Policy Change," July 31, 1970.

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ In 1967, 8 percent of all existing homes purchased with FHA insured mortgages were "in blighted central city areas." In 1969, 17 percent of existing FHA insured homes were "in blighted central city areas." *Id.*

²⁶⁷ "Hearing in St. Louis, Mo., Before the U.S. Commission on Civil Rights," staff report, exhibit 21, at 560 (1970).

²⁶⁸ *Id.* at 559.

the 235 program than it used when appraising houses to be sold under nonsubsidized FHA homeownership programs. This, however, proved not to be the case. As FHA staff explained, an unsold house does not become a 235 house until a buyer is found.²⁶⁹ Prior to that time, applications by builders or sellers for conditional commitments²⁷⁰ are filed under one of the regular nonsubsidized FHA programs, such as 221(d)(2) or 203.²⁷¹ As a congressional report noted: "Under normal procedures, the FHA appraiser is unaware of the particular program, whether it be 203(b), 235 existing or whatever, for which he is appraising the house."²⁷² In fact, there is no such thing as a 235 mortgage for single family housing. The 235 program is concerned only with the amount and terms of the subsidy for lower-income buyers, not with the standards for appraising houses for purposes of FHA insurance. The mortgage for a 235 house is insured under a nonsubsidized FHA program, such as 203 or 221(d)(2) and the appraisal standards are identical to those used when the purchaser receives no subsidy.

It could be argued, of course, that many appraisers are aware of the fact that certain sellers or speculators are "specializing" in Section 235 buyers and that, in these cases, they deliberately lower their appraisal standards. However, given the unreliability of Section 235 funding and the confusion among brokers as to which buyers qualify for 235 assistance, it is difficult for an appraiser to be sure that a house he is appraising will definitely be sold with a Section 235 mortgage. For example, a supervisory loan specialist in the Philadelphia insuring office told Commission staff: "When the money first ran out, a lot of 235 applications were converted to 221(d)(2) applications."²⁷³ There was no requirement to reappraise these houses.²⁷⁴

There is ample evidence to indicate that the poor quality of some existing 235 houses is a result of a general lowering of FHA appraisal standards in cen-

tral city areas and not a result of the Section 235 program.²⁷⁵ For example, local Urban League counseling services reported many complaints from lower-income FHA buyers who were not receiving subsidies.²⁷⁶ Lawyers representing the poor in St. Louis and Detroit told Commission staff that many clients had purchased defective houses under FHA programs other than 235.²⁷⁷ And an investigation of FHA appraisal practices in Philadelphia, conducted by the Select Committee on Crime of the House of Representatives in April and May of 1970, turned up 20 cases of substandard houses insured under FHA programs, only one-fourth of which involved section 235 buyers.²⁷⁸

Nevertheless, public attention has focused exclusively on abuses in the 235 program. FHA programs and procedures are complicated and highly technical—the variety of numbers used to identify particular programs adds to the complexity—and it is not surprising that many have confused the 235 program with other FHA insurance programs.²⁷⁹

Some of the criticism of the operation of the 235 program has led to congressional action to protect 235 buyers. The Housing and Urban Development Act of 1970 authorizes the Secretary of HUD to make expenditures to correct or to compensate the owner for structural or other defects which seriously affect the use and livableness of a house insured under section 235 which was more than 1 year old

²⁷⁵ On Nov. 24, 1970, Assistant Secretary-Commissioner Eugene Gullede wrote to Senator Eagleton explaining that substandard properties purchased by St. Louis 235 buyers "have resulted from a general relaxation of the appraisal and repair standards applied to older properties in declining neighborhoods which was adopted about 5 years ago." It should be noted that 235 buyers are at a disadvantage compared to regular buyers because of the issue of closing costs, intermittent funding, and lack of information about their rights under the 235 program.

²⁷⁶ *Supra* note 149.

²⁷⁷ Interview: Richard Baron, St. Louis Legal Aid society, Aug. 25, 1970, and telephone conversation with Joel Kellman, Michigan Legal Services Program, February 1970.

²⁷⁸ Interview: Julian Granger, former staff member, Select Committee on Crime, House of Representatives, Nov. 10, 1970.

²⁷⁹ For example, one newspaper reporter wrote a column entitled "Plan on Housing by HUD a Flop." The article described the homeownership subsidy offered under 235 and then stated: "The only trouble is that it hasn't worked. Maybe it can't. The programs, primarily under sections 221 and 235 of the Federal Housing Act, have helped slum landlords and speculators to turn tidy profits on some of their riskiest holdings." The column did not mention that 221 is a nonsubsidized program separate from 235. (Washington Post, December 1970). In addition, a local Washington, D.C., television station carried a news story on an FHA-insured house located in Washington. The house, which was in poor physical condition, was shown and the buyer was interviewed concerning the defects found in the house. Then the buyer's lawyer was questioned about the abuses of the section 235 program. In fact, the buyer had purchased her house with a section 221(d)(2) mortgage and was not receiving a Government subsidy.

²⁶⁹ Interview-Review Appraiser, Washington, D.C., Nov. 17, 1970; Interview-Assistant to Chief Appraiser, Philadelphia FHA Insuring Office, July 14, 1970; Interview-Little Rock FHA Insuring Office, Sept. 14, 1970; Interview-Denver FHA Insuring Office, Aug. 7, 1970.

²⁷⁰ If a seller or builder wishes to sell to an FHA buyer, he must apply for an FHA appraisal of the house in question. When such an appraisal has been made and the house has been accepted, FHA issues a conditional commitment to insure dependent upon an eligible purchaser's being found.

²⁷¹ FHA Handbook No. 441.1, Assisted Properties, Programs Under Which Applications May be Originated, 2, October 1968.

²⁷² House Banking and Currency Committee, "Investigation and Hearing of Abuses in Federal Low- and Moderate-Income Housing Programs, Staff Report and Recommendations." 91st Congress, second sess., at 6 (1970).

²⁷³ *Supra* note 242.

²⁷⁴ An FHA appraisal is good for 6 months. If a buyer is not found before 6 months have passed, the house must be reappraised.

at the time of the FHA insurance commitment.²⁸⁰ This protection, however, does not extend to lower-income buyers who have purchased existing houses with major defects under nonsubsidized FHA programs.

Public criticism has also led to the temporary suspension of the sale of existing houses under the Section 235 program.²⁸¹ This action was taken by Secretary Romney on January 14, 1971 after a meeting with FHA 235 field personnel from the five HUD regions east of the Mississippi. As this Commission pointed out in a January 20, 1971 letter to the Secretary, because minority 235 buyers have been restricted largely to existing housing in inner-cities, the burden of the suspension, limited to existing housing, falls with disproportionate severity on them.²⁸²

Prior to January 14, Secretary Romney had responded to criticism of the 235 program by asserting that abuses could be corrected through administrative action.²⁸³ One such action was a new requirement that speculators certify the cost of acquisition and improvements of properties to be sold with FHA insurance.²⁸⁴ Another was a requirement that FHA Architectural Section inspectors make inspections of completed repairs required by FHA appraisers for properties to be insured by FHA.²⁸⁵ A third was yet another Circular seeking

²⁸⁰ Housing and Urban Development Act of 1970, Pub. L. 91-609, H.R. 19436, sec. 104: Compensation for Defects in section 235 Existing Housing. Section 235 buyers wishing compensation must request the Secretary's assistance not later than 1 year after insurance of the mortgage, or in the case of those purchasing before the 1970 act was passed, not later than 1 year after the enactment of the 1970 act. The housing defect must be one that a proper inspection could reasonably be expected to disclose. Local legal service agencies did much of the work leading to this protective action, in particular the National Housing and Development Law Project of the Berkeley School of Law. David Bryson, an attorney for the Berkeley project, contacted legal aid societies in Seattle, Wash.; Oakland and Sacramento, Calif.; Kansas City, Kans. and Mo.; Flint, Mich.; and Austin, Tex. to exchange information on the condition of housing being sold to section 235 buyers. This information was forwarded to Senator Allan Cranston of California and served as a basis for enactment of section 104.

²⁸¹ On Feb. 5, 1971, this suspension was lifted in selected areas "where deficiencies either do not exist or have been largely corrected." These areas are Maine, Rhode Island, New Mexico, Iowa, Nebraska, Montana, North Dakota, South Dakota, Utah, Wyoming, Idaho, Puerto Rico, and the geographical areas covered by insuring offices in Albany, Hempstead, and New York City, N.Y.; Tampa, Fla.; Memphis, Tenn.; Shreveport, La.; Tulsa, Okla.; and Houston and Lubbock, Tex. (Housing and Urban Affairs Daily, Feb. 8, 1971, at 84.) In the first week of April 1971, Secretary Romney announced the restoration of the program in seven additional insuring office areas: Wilmington, Del.; Baltimore, Md.; Reno, Nev.; Honolulu, Hawaii; Pittsburgh, Pa.; Sacramento and Santa Ana, Calif. (Id., Apr. 5, 1971, at 7.)

²⁸² Letter from Rev. Theodore M. Hesburgh, Chairman, U.S. Commission on Civil Rights, to George Romney, Secretary of HUD, Jan. 20, 1971.

²⁸³ Letter from Secretary Romney to the Honorable Wright Patman, Sept. 3, 1970.

²⁸⁴ HUD Circular, HPMC-FHA 4035.8, December 30, 1970. (See app. F.)

²⁸⁵ Letter to All Approved Mortgages from Assistant Secretary-Commissioner Eugene Cullledge, Subject: Property Repair Inspections and Certifications for Existing Properties, Dec. 30, 1970.

to clarify Section 223(e),²⁸⁶ the Section which authorizes FHA to insure mortgages on properties in older declining urban areas.

FHA and Racial Discrimination

Most FHA insuring office personnel interviewed by Commission staff expressed surprise that anyone should be interested in documenting the segregated buying patterns of minority and white 235 buyers. To them, this segregated pattern was both obvious and inevitable. For example, the Assistant to the Director of the Philadelphia FHA Insuring Office told Commission staff that, although his office keeps no racial data,²⁸⁷ he knew that at least 75 percent of Philadelphia 235 buyers were minority families since at least 75 percent of the 235 houses were located in minority areas.²⁸⁸ And the Assistant Director for Single Family Housing in the Little Rock FHA Insuring Office described in detail the segregated pattern of 235 housing in that area.²⁸⁹ This was confirmed by Commission staff in its survey of the sample of 82 Little Rock 235 buyers.

When Commission staff raised questions concerning the segregated 235 buying pattern, FHA staff members tended to give the same explanations for the pattern and reflect the same views as the private housing and home finance industry.

For example, one FHA staff member said:

Most black families going to the suburbs want high priced houses. A black family is unlikely to leave their neighborhood to live in a poor house—when he moves out, he wants to show that he's made it.²⁹⁰

Another FHA staff member expressed the view that the segregated pattern resulted from "a basic reluctance on the part of black people to move to white areas."²⁹¹

An FHA official in the national office told Commission staff he had received a letter from a black family complaining of being unable to purchase an existing house in the city because of unavailability of Section

²⁸⁶ HUD Circular, HPMC-FHA 4035.9, Dec. 31, 1970, Subject: Identification of Areas Ineligible for FHA Mortgage Insurance. This Circular states that "section 223(e) is not intended as a complete abandonment of location eligibility criteria." It prohibits FHA insurance in "actual blocks . . . in which it is obvious that FHA insurance would be a disservice to purchasers in encouraging them to enter areas which have hope for improvement in the foreseeable future," but it emphasizes that this is not meant as a return to the former policy of redlining entire communities and neighborhoods. (See app. G)

²⁸⁷ In February 1970 FHA began collecting racial and ethnic data participation in its programs.

²⁸⁸ *Supra* note 226.

²⁸⁹ *Supra* note 83.

²⁹⁰ *Supra* note 235.

²⁹¹ *Supra* note 145, Sept. 14, 1970.

tion 235 funds. The letter, he claimed, was proof that the black family doesn't want to leave the inner-city.²⁹²

One FHA staff member, however, conceded that racial discrimination played a role in producing the segregated 235 buyer pattern. He told Commission staff that the new 235 developments were segregated and he "assumed" the brokers were steering black buyers to black areas and white buyers to white areas.²⁹³ When questioned as to FHA's responsibility to prevent such steering, the FHA staff member said that FHA "has no right to interfere without a complaint."²⁹⁴

Appraisal Practices and Race

Although FHA staff disclaimed any responsibility for the segregated buyer patterns and asserted that the racial composition of the neighborhood played no part in their appraisals, in some offices FHA appraisers continued to take note of this factor. In Philadelphia, Commission staff was able to identify racially changing neighborhoods by examining FHA case files (See pt. II, ch. I). FHA appraisers had noted on some of the underwriting reports that the houses being appraised were located in areas where a "change in occupancy" was taking place. When Commission staff questioned FHA personnel about the use of the "change in occupancy" notation various answers, often contradictory, were received. In the Philadelphia FHA Office, the Assistant to the Chief Appraiser told Commission staff that he was not sure what appraisers had in mind when they checked the "change in occupancy" block. He said it might mean that people of a lower economic class were moving in. He conceded, however, that it might have racial connotations.²⁹⁵ A staff member of the Denver FHA Insuring Office told Commission staff that a "change in occupancy" meant a change in land usage from single family to multifamily dwellings.²⁹⁶ The St. Louis FHA Insuring Office furnished Commission staff with a copy of the Valuation Instructions for appraisers which defined a "change in occupancy" as a change in "income and social characteristics of the occupants other than those well es-

tablished in the neighborhood."²⁹⁷ In Little Rock, however, an FHA staff member said that "change in occupancy" was used to indicate that "an area was in transition from one race to another."²⁹⁸ He said that the "change in occupancy" block is not used very often by appraisers now since "so many areas in Little Rock are in transition."²⁹⁹ He said that the reason for taking note of racial transition was to be sure that unreasonably high prices were not charged for houses in transitional neighborhoods.³⁰⁰

FHA and Affirmative Action

FHA staff, although frequently aware of the racial residential patterns developing as a result of the 235 program, disclaimed responsibility for them. No FHA office visited by Commission staff had taken any affirmative action to assure that the 235 program was opening up new housing opportunities for minority families.³⁰¹ On the contrary, even after the St. Louis FHA Office had discovered that a builder had discriminated in the sale of new Section 235 housing, its staff persisted in refusing to give the privately operated local counseling service information on builder reservations for new Section 235 housing.³⁰²

When Commission staff discussed the possibility of affirmative action with FHA personnel, one standard answer was given: Washington had not issued any instructions. The Director of the HUD Area Office in Little Rock expressed dismay at the 235 buyer pattern discovered in the Little Rock metropolitan area. He said it was likely that the same pattern was occurring throughout the State of Arkansas. He told Commission staff that he would be willing to inform local groups in the black community about the availability of new housing under the 235 program, that he would be willing to make information regarding builder reservations available to the general public, that he would be willing to require affirmative equal opportunity advertising by Section 235 builders, and that he would be willing to call in builders constructing houses under the 235 program and speak to them about their equal oppor-

²⁹² *Supra* note 247.

²⁹³ *Supra* note 83.

²⁹⁴ *Id.*

²⁹⁵ Interview, Assistant to the Chief Appraiser, Philadelphia FHA Insuring Office, July 14, 1970. This appraiser also told Commission staff about a risk rating system which he said was in use when he began working for the Philadelphia office in 1960, but which has since been discontinued. Under this system, FHA appraisers assigned points to neighborhoods of houses they were appraising, with a white homogeneous neighborhood receiving the most points.

²⁹⁶ *Supra* note 235.

²⁹⁷ FHA Form No. 2800-3, Revised 5/68, *Valuation Instructions for Appraisers*.

²⁹⁸ *Supra* note 83.

²⁹⁹ *Id.*

³⁰⁰ *Id.*

³⁰¹ The only instance bordering on affirmative action discovered by Commission staff was in Little Rock. The Director of the HUD Area Office had taken steps to inform black builders of the availability of Section 235 assistance.

³⁰² *Supra* note 65, Aug. 27, 1971.

tunity responsibilities. "But," he asked, "would Washington and the Regional Office back me up?"³⁰³

HUD: National Policy Regarding Affirmative Action

There are indications that FHA central office staff in Washington has been aware of the discriminatory housing patterns of 235 buyers for some time. In June 1970, an article in a local Washington paper quoted the then director of the 235 program (Chief, Homeownership Assistance Branch) as saying that the 235 program may be encouraging racial discrimination.

"Preliminary reports indicate that most Negro families using the subsidies are buying older homes in inner city areas," says Charles B. Davis, the Program's director. "Whites, on the other hand, appear to be using subsidies to buy new homes in suburbs," he said . . . Davis said some builders promote homes designed for the subsidy program in such a way as to attract only whites to suburban areas. Often, he said, builders initially place nondescript newspaper ads that will catch the attention of white readers. "These families then tell their friends in the neighborhood or at the plant of the terrific buys and soon you have an all-white development," Davis said.³⁰⁴

In spite of FHA's awareness of the discriminatory operation of the 235 program, no directions have been issued to local insuring offices to prevent discrimination in the sale of Section 235 assisted housing.

The Assistant Secretary for Equal Opportunity at the Department of Housing and Urban Development has responsibility for assuring that HUD programs operate in a nondiscriminatory manner. The Equal Opportunity Office, however, has carried out this responsibility primarily by responding to complaints, rather than by developing policies of affirmative action for the program areas.³⁰⁵

For example, when the Equal Opportunity Office received an advertising complaint regarding a Denver 235 builder (See pt. III, ch. I) it responded by investigating and conciliating that particular complaint. However, no steps have as yet been taken by the Office to assure that other 235 builders are not using similar ads. In fact, Commission staff found that another 235 builder in the four-city sample (See pt. III, ch. I, Little Rock section) was using

the same ad. Since this builder had acquired the advertising copy at a conference of homebuilder it is likely that the same ad is in use by other builders of Section 235 housing. This situation illustrates the lack of systematic attention HUD pays to the problem of discrimination in the department's programs.³

HUD recently has begun collecting racial and ethnic data on participation in all its housing programs. These data could be of significant help in developing affirmative action programs both to assure against discrimination and to prevent the creation or perpetuation of segregated patterns in housing provided under HUD programs. Through evaluation of these data, HUD could determine the effect its programs are having on racial and ethnic concentrations and, where appropriate, could conduct immediate onsite investigations into the reasons for these concentrations and could take appropriate remedial action.

Whether such concentrations result from practices of overt discrimination or from practices which while not deliberately discriminatory, have the effect of creating or perpetuating segregation, HUD is legally obligated to take action and not remain passive. Under Title III of the Civil Rights Act of 1968, HUD is directed to "administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policy of Fair Housing." Under a recent United States Court of Appeals decision, HUD has an affirmative obligation under that statutory provision to prevent such concentrations. (*Shannon vs. HUD, NO. 1837* (3d. Cir. Dec. 30, 1970.)) In short, neither HUD nor its constituent agency, FHA, may legally maintain a passive role in the face of segregated housing under its programs, but must become active instrumentalities to prevent such patterns from developing. Nonetheless, HUD has not yet taken steps to assume the affirmative role.

³⁰³ It should be noted that in April 1970, the Assistant Secretary of Equal Opportunity at HUD announced that guidelines and new administrative procedures were being developed to assure that HUD programs would be administered to encourage equal housing opportunities for all citizens. (Aug. 26, 1970, Secretary Romney quoted President Nixon as saying: "terms of an open society, what matters is mobility: the right and the ability of each person to decide for himself where and how he wants to live whether as part of an ethnic enclave or as part of the larger society—or, many do, share the life of both." Secretary Romney testified that, in pursuance of this policy, a joint HUD-Department of Justice Task Force was developing new site and tenant selection policies for FHA-assisted programs to "avoid further concentrations of federally assisted housing in large institutional settings or in areas of minority racial concentrations." Hearings Before the Senate Select Committee on Equal Educational Opportunity, 93rd Cong., second session, Pt. 5, at 2756 and 2759 (1970). However, as of March 1971, no such new policies have been adopted.

³⁰³ *Supra* note 145.

³⁰⁴ U.S. Subsidies Seen Promoting Housing Bias, *The Washington Star*, June 1, 1970.

³⁰⁵ See U.S. Commission on Civil Rights, *The Federal Civil Rights Enforcement Effort* (1970).

Summary

FHA's past reputation has been that of an anti-poor, anti-inner-city, anti-minority agency. One year before the 235 program was established FHA officials had been severely criticized by the National Commission on Urban Problems for the agency's operation of a low-income housing program (rent supplements). Nonetheless, when the Section 235 low-income homeownership program was enacted, FHA took no special steps to insure its successful operation. The 235 program, like all FHA programs, has been largely entrusted to the private housing and home finance industry. When complaints have been received regarding the location and quality of section 235 houses, local FHA officials have justified inaction on grounds that such factors were not their responsibility. The only direct contact FHA had with FHA buyers, including Section 235 buyers, has been through an understaffed counseling service which has referred the buyers back to the real estate industry. FHA personnel charged with the administration of the 235 program also have been understaffed and sometimes have expressed reservations and doubts about the validity and worth of the program similar to those of the private housing and home finance industry.

FHA did not begin insuring inner-city properties in large quantity until directed to do so by Congress in 1968. Some of the inner-city residents thus offered their first opportunity to obtain the benefits of FHA-insured mortgages have been 235 buyers. When FHA began insuring inner-city properties, officials lowered their appraisal standards and, in fact, have insured properties with serious physical defects. Some of these properties have been purchased by 235 buyers. Others have been purchased under other nonsubsidized FHA programs. Nonetheless, as the public has become aware of the fact that substandard housing has been sold with FHA mortgage insurance, this has been attributed to the existence of the 235 program rather than to the lax appraisal policies of FHA. Similarly, Congress has provided for compensation for Section 235 purchasers of substandard housing, but no provision has been made for compensating nonsubsidized purchasers.

FHA has responded to public criticism of its appraisal policies by instituting certain reforms, such as requiring speculators to certify cost of acquisitions and improvements and requiring inspections of completed repairs. Nevertheless, Secretary Romney temporarily suspended the existing housing aspect of the Section 235 program, thus depriving potential 235 buyers, who reside in the large metropolitan areas with no new 235 construction, of the opportunity to receive Section 235 assistance. Further, as this Commission pointed out in its January 20, 1971 letter to the Secretary, the burden of the suspension, limited to existing housing, has fallen with disproportionate severity on minority families.

FHA's denial of responsibility for the location and quality of Section 235 housing has been matched by its denial of responsibility for racial segregation resulting from the operation of the 235 program. For example, when FHA staff members have received complaints regarding the steering of 235 buyers by real estate brokers, they have replied that selection of the housing is not their responsibility. Some FHA staff members have viewed segregated 235 buyer patterns as inevitable. Others have conceded that these patterns may result from discriminatory practices but have disclaimed responsibility to interfere without a complaint.

Officially, FHA officials have taken little note of racial residential patterns under the 235 program, but, unofficially, many FHA staff members have expressed awareness of the segregated and unequal 235 buying pattern. No local FHA insuring office, however, has been willing to undertake affirmative action to prevent such a pattern from occurring in the absence of specific directives from Washington. No such directives have been forthcoming. FHA staff members in Washington also have been aware of the discriminatory 235 buyer patterns but have allowed them to continue without instituting corrective or preventive measures.

Despite HUD's legal obligation to assume an affirmative role in preventing discrimination and assuring against the creation or perpetuation of segregated housing patterns, the agency continues to play a passive role.

PART IV

FINDINGS AND RECOMMENDATIONS

FINDINGS

General

1. Although the Section 235 program of homeownership for lower-income families has produced an impressive volume of housing—30 percent of all new houses that sold for less than \$25,000 during 1970 were purchased under the 235 program—all areas of the country have not shared equally in the program's benefits. Because of such factors as high construction costs in relation to the maximum mortgage limits permitted under the program, only 6 percent of all 235 housing has been provided in the Northeastern region of the country.

2. The program has been of substantial help to minority group families by enabling them to obtain decent housing and to enjoy the benefits, both material and psychological, of homeownership.

a. In each of the four metropolitan areas investigated by Commission staff, Philadelphia, Little Rock, St. Louis, and Denver, minority families were participating in the program in larger proportions than their representation in the population.

b. Despite some instances, particularly with respect to existing housing, in which poor quality housing was sold to minority purchasers under the program and in which speculators profited at their expense, most of the 235 housing was of good quality, superior to that in which the buyers had previously lived. Further, the same abuses have occurred in connection with other, nonsubsidized Federal housing programs operating in the central city.

3. Because of restrictive zoning laws and other land use controls, such as minimum lot size requirements, builders who seek to construct new 235 houses in suburban parts of metropolitan areas have often been prevented from doing so.

4. The traditional pattern of separate and unequal housing markets for white and nonwhite families

is being repeated in the operation of the 235 program.

a. In Little Rock and Denver, where a substantial amount of new housing was being produced at the time of Commission staff investigations, most of the new housing was being located in suburban parts of the metropolitan areas and nearly all was being purchased by Anglo families. By contrast, in all four metropolitan areas most of the existing housing under the program was located in ghetto areas or "changing" neighborhoods in the central city and nearly all was being purchased by minority families.

b. In other metropolitan areas, to the extent minority 235 buyers were purchasing new housing, it was located largely in subdivisions reserved exclusively for minority families.

c. Minority 235 buyers have tended to purchase housing that is older and less expensive than the housing purchased by their majority counterparts and have tended to receive less in the way of assistance payments under the program.

The Private Housing and Home Finance Industry

5. Members of the private housing and home finance industry have played a key role in the development of the patterns of separate and unequal housing under the 235 program.

a. Some real estate brokers have been reluctant to participate in the 235 program because, unlike other programs, under 235 sellers, whom the broker usually represents, must pay closing costs.*

b. Many brokers who do participate in the program lack sufficient information concerning its operation to advise prospective 235 buyers ade-

*Closing costs are the costs involved in conveying property title from buyer to seller and include such items as fees for preparation of the abstract, examination of title, preparation of deed, and taxes on the property exchange.

quately. Others provide only such information as is necessary to complete the sale.

c. Brokers have steered minority buyers to existing housing in the central city, frequently offering prospective purchasers little if any choice.

d. Builders of new housing in suburban areas have followed advertising policies that tend to exclude minority group purchasers. Some builders have declined to advertise at all, while others have used ads which depict only white people, as a signal that the subdivision is intended for all-white occupancy.

e. There also has been evidence of overt discrimination by some builders in the sale of new suburban 235 housing.

f. Mortgage lenders, while they play a more passive role in the 235 process, continue to make funds available for 235 mortgages and provide information to brokers and builders, well aware of the segregated housing pattern that results.

Community Groups

6. Some community groups, involved in the 235 program through the provision of voluntary counseling services to 235 homeseekers, lack sufficient information concerning the operation of the program and the location of houses available for 235 purchase to counsel prospective 235 buyers adequately.

7. In the face of the urgent housing needs of the families seeking their counsel, many of these groups have come to accept the dual housing market as a reality to which they must adjust.

Neighborhood Improvement Groups

8. Some neighborhood improvement groups, made up of families living in racially integrated neighborhoods, view the influx of minority 235 buyers as a threat to their communities and have protested against the provision of 235 housing in their neighborhoods.

Welfare Departments

9. Welfare department officials, who provide counseling service to the many 235 buyers who are public assistance recipients, also tend to view residential integration as an unrealistic luxury and accept the inevitability of segregated housing under the 235 program.

Federal Housing Administration (FHA)

10. FHA, charged by Congress with responsibility for administering the 235 program, has played

a passive role, permitting abuses and the perpetuation of segregated housing under the program.

a. FHA's policy of deducting \$300 from family income for each minor child for purposes of determining the price of housing the family can afford has the effect of restricting the range of housing choice for large families and reducing the amount of subsidy they may receive.

b. FHA disclaims any responsibility for the quality of housing sold to 235 buyers, maintaining that its relationship is with the mortgage lender not the buyer.

c. No full-time FHA housing counselors were in evidence in any of the four metropolitan areas surveyed by the Commission. In some FHA office the only counseling offered by FHA officials was to advise prospective 235 buyers to consult a real estate broker.

d. FHA officials are aware of the segregated housing pattern that has developed under the 235 program but, despite the agency's legal obligation to prevent it, FHA has failed to adopt even minimal steps to fulfill this obligation. FHA and HUD's Office of Equal Opportunity rely mainly on the processing of complaints as the mechanism for discovering and eliminating discriminator practices. The central office in Washington has failed to provide local FHA offices with instructions for affirmative action and local FHA officials have failed to take such action on their own initiative.

e. Unless FHA abandons its passive role, the pattern of separate and unequal 235 housing for minority families is unlikely to change.

RECOMMENDATIONS

1. The Department of Housing and Urban Development should establish offices, readily accessible to neighborhoods with a high proportion of lower-income households, throughout metropolitan areas to advise lower-income families and organizations representing their interests concerning housing available under the following lower-income housing programs: low-rent public housing, Rent Supplements, Section 235, and 221(d)(3). The function of these offices should be to provide such information as the following:

a. Which programs are being operated in the particular metropolitan area.

b. The location of the housing being provided under each program and the identity of the builder or sponsor.

c. The price or rental range of housing in each subdivision or project.

d. The qualifications necessary for eligibility to obtain housing in each such subdivision or project.

e. An analysis of each individual family's needs and resources and advice as to the kind of program and housing that would best meet its needs.

f. Advice as to the nature and amount of the subsidy available in each program for which the family is eligible, so as to assure that the family will be in a position to obtain the full benefit of the assistance that exists.

g. Advice on the rights and responsibilities of home ownership, including equity rights, income tax advantages, and physical upkeep of the property.

h. A description of the procedures and steps that the family must follow to obtain the housing.

i. Advice on their rights in the event families should encounter racial, ethnic, or economic discrimination on the part of builders or sponsors.

j. In those areas where there are families which have difficulty communicating in English, the neighborhood offices should provide staff members who are fluent in languages other than English.

The existence of these neighborhood offices should be made known throughout the community by means of advertising in the various news media (with particular attention to news media directed to minorities) and through meetings and conferences with various neighborhood and community groups. Systematic meetings and conferences should also be held with brokers, builders, and mortgage lenders, to assure that they are well informed about the various programs that are available and about the rights of prospective buyers or renters and the qualifications necessary for eligibility. Congress should appropriate sufficient funds to enable these neighborhood offices to operate with maximum effectiveness.

2. The Department of Housing and Urban Development should establish training programs for community groups which wish to undertake counseling services of their own, to assure that these groups are in a position to advise lower-income home seekers accurately and comprehensively concerning the housing programs available to them and their rights and responsibilities under these programs. After such training, HUD should certify community groups it has found capable of providing such counseling and should contract with them for this purpose. FHA should make available to these groups all information concerning the location and operation of lower-income programs to enable them to carry out their counseling services with full effectiveness. Congress should appropriate funds in sufficient amounts to enable HUD to conduct such training

programs and to reimburse these community groups for the services they provide.

Discussion

One of the serious impediments to the successful operation of the 235 program and other federally assisted programs that serve lower-income families has been the lack of information concerning this operation and the rights and responsibilities of those who seek to participate in them. These programs are extremely complex and technical, and often overlap in terms of the income range of the families they serve. Eligible families often lack basic information concerning housing available to them under these programs.

Currently, FHA plays a passive role in the operation of the program. The agency does not provide adequate advice and counsel to enable these families to gain full benefits under the programs. To the extent counsel is provided, it is usually given by private real estate brokers, who, themselves, often do not have sufficient knowledge to advise eligible families competently. Brokers also tend to limit the information they provide to such families to that which is necessary to complete the real estate transaction and, as a result, families often fail to derive the full benefits intended for them.

A number of community groups have attempted to fill the need for counseling on a voluntary basis. These groups also tend to lack the information or the training necessary to advise lower-income families fully and accurately. Further, in some cases, FHA has declined to provide them with necessary information concerning the location and number of planned 235 housing. Although there is provision under existing law for such counseling by HUD or by community groups under contract with HUD, Congress has failed to appropriate funds to implement these provisions.

3. The Department of Housing and Urban Development should make use of the racial and ethnic data it now collects on participation in its various housing programs to determine the effect the programs are having on racial and ethnic concentrations. Where the Department finds that housing provided under its programs is having the effect of intensifying such racial or ethnic concentrations in any area, immediate onsite investigation should take place to determine the reasons for these concentrations.

a. Where overt practices of discrimination are found, such as refusal by builders to sell to minority purchasers or racial steering by brokers, appropriate sanctions should be imposed,

including disqualification of discriminatory builders and notification to FHA-approved mortgagees that they may no longer deal with the discriminatory brokers under FHA programs.

b. Where it is found that such concentrations result from policies and practices which have the effect of creating or perpetuating segregation, such as site selection by builders or sponsors, HUD should take remedial action to prevent these concentrations. Such action should include the refusal to approve additional applications for housing under its programs which will further intensify such concentrations and the utilization of uniform site selection criteria which will serve to avoid such concentrations in the future.

Discussion

Until recently, HUD maintained no uniform policy regarding the collection of racial and ethnic data on participation in its programs. The Department now has undertaken to collect such data. These data can be of special use to the Department in uncovering and eliminating discriminatory practices by members of the private housing and home finance industry. The Commission's study of the 235 program found evidence that discrimination, in subtle as well as overt forms, is, in fact, practiced and largely goes unchecked. Use of racial and ethnic data for purposes of ending such discrimination would enable HUD to carry out its responsibilities under the Executive order on equal opportunity in housing, Title VI of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968, with greater effectiveness.

Where patterns of racial or ethnic concentration under HUD programs result from policies and practices which, even if not deliberately discriminatory, have the effect of creating or perpetuating such patterns, HUD should be obligated to take effective remedial action. Under Section 808(e) (5), the Secretary of HUD is directed by Congress to "administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of [Fair Housing]." Under a recent United States Court of Appeals decision, HUD has an affirmative obligation under that statutory provision to prevent such concentrations. (*Shannon vs. HUD*, No. 18397 (3d Cir. Dec. 30, 1970.)) In short, neither HUD nor its constituent agency, FHA, may legally maintain a passive role in the face of segregated housing under its programs, but must become active instruments to prevent such patterns from developing.

4. Congress should enact legislation to authorize the overriding of local zoning laws and other land use

controls to permit the provision of low-cost housing in jurisdictions that do not have a proportional share of such housing.

Discussion

Many suburban jurisdictions maintain laws, such as minimum lot size requirements, which have the effect of excluding low-cost housing and keeping out lower-income families. In a number of cases that have come to the Commission's attention, builders anxious to construct new 235 housing in suburban parts of metropolitan areas have been prevented from doing so because of such laws. In 1970, legislation was introduced to authorize the overriding of such laws specifically to permit the free operation of Federal lower-income housing programs. Legislation of this sort extending to all low-cost housing should be enacted by the Congress.

5. Congress should amend Section 235(b) (2) concerning cost limits for 235 housing to authorize the Secretary to make such exceptions to these cost limits as are necessary to assure that the program can operate in all parts of the country.

Discussion

Although the 235 program has produced an impressive amount of housing since its establishment, not all regions of the country have shared equally in the benefits of the program. In the Northeastern region of the country, which contains a substantial portion of the Nation's population, only 6 percent of the 235 units have been provided. By contrast, nearly half of all 235 houses has been located in Southern and border States. One major reason for this disparity has been the high cost of producing housing, even of modest design, in the Northeastern portion of the country. If the program is to benefit lower-income families on an equitable basis and not have the effect of discriminating against families because of the geographical area in which they happen to live, some flexibility must be provided in the statutory cost limits to enable the program to operate everywhere.

6. The Federal Housing Administration should pay closing costs on behalf of 235 buyers of existing housing to eliminate the competitive disadvantage under which the 235 program operates in relation to other programs.

Discussion

Many real estate brokers have expressed reluctance to sell existing houses under the 235 program

because 235 buyers are not allowed to pay closing costs. What this means is that closing costs must be paid by the seller, whom the broker represents. In nonsubsidized FHA programs, such as 221(d)(2) and 203, buyers usually pay closing costs, as they do in conventionally financed real estate transactions. As a result, the 235 program is at a competitive disadvantage and brokers tend to sell under 235 only when they are unable to find another buyer. This leads to the sale of poor quality existing housing to 235 buyers. In view of the fact that 235 buyers frequently cannot afford the additional expense of closing costs, if this competitive disadvantage is to be removed, FHA must pay them.

7. FHA should reconsider its policy of deducting from family income \$300 for each minor child for purposes of determining the price of 235 housing which the family can afford.

Discussion

Under Section 235(1) of the Housing and Urban Development Act of 1970, \$300 is deducted for each minor child in determining family income for purposes of *eligibility* for participation in the program. This provision has the salutary effect of enabling large families in urgent need of housing, who otherwise might be over-income, to participate in the program. Under current FHA policy, \$300 for each minor child is also deducted from family income for purposes of determining the price of the house the family can afford. This often severely restricts the range of housing choice for large families and reduces the amount of subsidy they may receive, in relation to families with the same income but with fewer children. Although the Commission agrees that some adjustment in income must be made on the basis of the number of children the family has to assure that the family does not involve itself in continuing financial obligations which it cannot hope to meet, it is necessary for FHA to reconsider this policy to assure that it is sufficiently flexible to avoid the result of precluding large families—those whose

housing need is most urgent—from obtaining full benefits under the program.

8. Congress should amend Section 104 of the Housing and Urban Development Act of 1970, to authorize the Secretary to compensate owners of housing provided under FHA homeownership programs such as 221(d)(2) and 203 for structural or other defects which seriously affect the use and livability of the house, under the same conditions as now apply with respect to housing purchased under the 235 program. Further, FHA should re-evaluate its appraisal techniques and standards and the lines of communication between local and national offices.

Discussion

In the course of its investigations, the Commission found instances in which poor quality housing, particularly existing housing in the central city, was purchased under FHA programs as a result of lax FHA appraisal practices. The Commission found that this problem was not limited to housing sold under the 235 program, but extended to other, nonsubsidized FHA programs such as 221(d)(2) and 203. Poor communication between the central office and local offices regarding the standard to be used in appraising central city housing is a major factor in this situation.

Congress provided, in Section 104 of the Housing and Urban Development Act of 1970, for compensation in cases where there were structural or other serious defects in such houses, but limited such compensation to owners of houses purchased under the 235 program. Therefore, owners of houses purchased under other FHA programs which have the same defects may not be compensated. There is no basis for this difference in treatment.

Further, by authorizing Federal compensation in the event of serious defects, Congress has provided an incentive to FHA to assure that the houses it approves for insurance under its programs are in sound condition. This incentive should not be limited to the 235 program alone, but should be extended to all other FHA homeownership programs.

APPENDIX A

FHA insuring offices-ranked by section 235 insurance excluding mortgages in "blighted" areas as of:

<i>August 31, 1970</i>	<i>December 31, 1970</i>
<p>1. Atlanta, Ga.:</p> <p style="padding-left: 20px;">Existing houses----- 1,455</p> <p style="padding-left: 20px;">New houses (62 percent)----- 2,476</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 3,931</p> <hr style="border: 0.5px solid black;"/> <p>2. Columbia, S.C.:</p> <p style="padding-left: 20px;">Existing houses----- 1,122</p> <p style="padding-left: 20px;">New houses (69 percent)----- 2,561</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 3,683</p> <hr style="border: 0.5px solid black;"/> <p>3. Seattle, Wash.:</p> <p style="padding-left: 20px;">Existing houses----- 1,489</p> <p style="padding-left: 20px;">New houses (51 percent)----- 1,568</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 3,057</p> <hr style="border: 0.5px solid black;"/> <p>4. San Antonio, Tex.:</p> <p style="padding-left: 20px;">Existing houses----- 1,430</p> <p style="padding-left: 20px;">New houses (51 percent)----- 1,502</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 2,932</p> <hr style="border: 0.5px solid black;"/> <p>5. New Orleans, La.:</p> <p style="padding-left: 20px;">Existing houses----- 580</p> <p style="padding-left: 20px;">New houses (78 percent)----- 2,127</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 2,707</p> <hr style="border: 0.5px solid black;"/> <p>6. Birmingham, Ala.:</p> <p style="padding-left: 20px;">Existing houses----- 718</p> <p style="padding-left: 20px;">New houses (72 percent)----- 1,897</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 2,615</p> <hr style="border: 0.5px solid black;"/> <p>7. Detroit, Mich.:</p> <p style="padding-left: 20px;">Existing houses----- 1,052</p> <p style="padding-left: 20px;">New houses (58 percent)----- 1,480</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 2,532</p> <hr style="border: 0.5px solid black;"/> <p>8. Denver, Colo.:</p> <p style="padding-left: 20px;">Existing houses----- 931</p> <p style="padding-left: 20px;">New houses (62 percent)----- 1,565</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 2,496</p> <hr style="border: 0.5px solid black;"/>	<p>1. Atlanta, Ga.:</p> <p style="padding-left: 20px;">Existing houses----- 1,792</p> <p style="padding-left: 20px;">New houses (72 percent)----- 4,769</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 6,561</p> <hr style="border: 0.5px solid black;"/> <p>2. Columbia, S.C.:</p> <p style="padding-left: 20px;">Existing houses----- 1,704</p> <p style="padding-left: 20px;">New houses (70 percent)----- 4,051</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 5,755</p> <hr style="border: 0.5px solid black;"/> <p>3. Seattle, Wash.:</p> <p style="padding-left: 20px;">Existing houses----- 2,220</p> <p style="padding-left: 20px;">New houses (53 percent)----- 2,504</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 4,724</p> <hr style="border: 0.5px solid black;"/> <p>4. Birmingham, Ala.:</p> <p style="padding-left: 20px;">Existing houses----- 993</p> <p style="padding-left: 20px;">New houses (77 percent)----- 3,323</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 4,316</p> <hr style="border: 0.5px solid black;"/> <p>5. San Antonio, Tex.:</p> <p style="padding-left: 20px;">Existing houses----- 1,788</p> <p style="padding-left: 20px;">New houses (57 percent)----- 2,378</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 4,166</p> <hr style="border: 0.5px solid black;"/> <p>6. New Orleans, La.:</p> <p style="padding-left: 20px;">Existing houses----- 744</p> <p style="padding-left: 20px;">New houses (81 percent)----- 3,160</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 3,904</p> <hr style="border: 0.5px solid black;"/> <p>7. Dallas, Tex.:</p> <p style="padding-left: 20px;">Existing houses----- 578</p> <p style="padding-left: 20px;">New houses (84 percent)----- 3,110</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 3,688</p> <hr style="border: 0.5px solid black;"/> <p>8. Detroit, Mich.:</p> <p style="padding-left: 20px;">Existing houses----- 1,170</p> <p style="padding-left: 20px;">New houses (68 percent)----- 2,501</p> <hr style="border: 0.5px solid black;"/> <p style="padding-left: 20px;">Total ----- 3,671</p> <hr style="border: 0.5px solid black;"/>

9. Tampa, Fla.:	
Existing houses.....	397
New houses (81 percent).....	1,749
Total	<u>2,146</u>
10. Jackson, Miss.:	
Existing houses.....	523
New houses (75 percent).....	1,587
Total	<u>2,110</u>
11. Sacramento, Calif.:	
Existing houses.....	769
New houses (61 percent).....	1,224
Total	<u>1,993</u>
12. Dallas, Tex.:	
Existing houses.....	440
New houses (75 percent).....	1,355
Total	<u>1,795</u>
13. Portland, Oreg.:	
Existing houses.....	389
New houses (77 percent).....	1,330
Total	<u>1,719</u>
14. Des Moines, Iowa:	
Existing houses.....	482
New houses (70 percent).....	1,135
Total	<u>1,617</u>
15. Knoxville, Tenn.:	
Existing houses.....	372
New houses (76 percent).....	1,237
Total	<u>1,609</u>
16. Indianapolis, Ind.:	
Existing houses.....	498
New houses (66 percent).....	1,005
Total	<u>1,503</u>
17. Jacksonville, Fla.:	
Existing houses.....	408
New houses (72 percent).....	1,095
Total	<u>1,503</u>
18. Chicago, Ill.:	
Existing houses.....	528
New houses (63 percent).....	922
Total	<u>1,450</u>
19. Greensboro, N.C.:	
Existing houses.....	534
New houses (63 percent).....	915
Total	<u>1,449</u>

9. Tampa, Fla.:	
Existing houses.....	501
New houses (86 percent).....	3,152
Total	<u>3,653</u>
10. Jackson, Miss.:	
Existing houses.....	797
New houses (78 percent).....	2,840
Total	<u>3,637</u>
11. Denver, Colo.:	
Existing houses.....	1,121
New houses (68 percent).....	2,369
Total	<u>3,490</u>
12. Knoxville, Tenn.:	
Existing houses.....	413
New houses (86 percent).....	2,602
Total	<u>3,015</u>
13. Sacramento, Calif.:	
Existing houses.....	881
New houses (70 percent).....	2,094
Total	<u>2,975</u>
14. Chicago, Ill.:	
Existing houses.....	624
New houses (75 percent).....	1,905
Total	<u>2,529</u>
15. Portland, Oreg.:	
Existing houses.....	458
New houses (82 percent).....	2,043
Total	<u>2,501</u>
16. Greensboro, N.C.:	
Existing houses.....	784
New houses (68 percent).....	1,649
Total	<u>2,433</u>
17. Louisville, Ky.:	
Existing houses.....	404
New houses (83 percent).....	1,970
Total	<u>2,374</u>
18. Des Moines, Iowa:	
Existing houses.....	539
New houses (77 percent).....	1,797
Total	<u>2,336</u>
19. Salt Lake City, Utah:	
Existing houses.....	297
New houses (87 percent).....	2,035
Total	<u>2,332</u>

20. Salt Lake City, Utah:	
Existing houses.....	270
New houses (82 percent).....	1,084
Total	<u>1,354</u>
21. Louisville, Ky.:	
Existing houses.....	344
New houses (74 percent).....	1,001
Total	<u>1,345</u>
22. Shreveport, La.:	
Existing houses.....	278
New houses (79 percent).....	1,056
Total	<u>1,334</u>
23. Oklahoma City, Okla.:	
Existing houses.....	419
New houses (67 percent).....	860
Total	<u>1,279</u>
24. Little Rock, Ark.:	
Existing houses.....	234
New houses (80 percent).....	987
Total	<u>1,221</u>
25. Omaha, Nebr.:	
Existing houses.....	568
New houses (53 percent).....	646
Total	<u>1,214</u>
26. Milwaukee, Wis.:	
Existing houses.....	396
New houses (66 percent).....	794
Total	<u>1,190</u>
27. Grand Rapids, Mich.:	
Existing houses.....	547
New houses (53 percent).....	637
Total	<u>1,184</u>
28. Albuquerque, N.Mex.:	
Existing houses.....	614
New houses (46 percent).....	539
Total	<u>1,153</u>
29. Reno, Nev.:	
Existing houses.....	239
New houses (79 percent).....	909
Total	<u>1,148</u>
30. Columbus, Ohio:	
Existing houses.....	446
New houses (60 percent).....	676
Total	<u>1,122</u>

20. Indianapolis, Ind.:	
Existing houses.....	632
New houses (73 percent).....	1,690
Total	<u>2,322</u>
21. Jacksonville, Fla.:	
Existing houses.....	460
New houses (80 percent).....	1,802
Total	<u>2,262</u>
22. Shreveport, La.:	
Existing houses.....	332
New houses (85 percent).....	1,918
Total	<u>2,250</u>
23. Columbus, Ohio:	
Existing houses.....	536
New houses (73 percent).....	1,436
Total	<u>1,972</u>
24. Milwaukee, Wis.:	
Existing houses.....	484
New houses (75 percent).....	1,445
Total	<u>1,929</u>
25. Oklahoma City, Okla.:	
Existing houses.....	522
New houses (73 percent).....	1,390
Total	<u>1,912</u>
26. Grand Rapids, Mich.:	
Existing houses.....	631
New houses (67 percent).....	1,281
Total	<u>1,912</u>
27. Little Rock, Ark.:	
Existing houses.....	280
New houses (85 percent).....	1,620
Total	<u>1,900</u>
28. Reno, Nev.:	
Existing houses.....	270
New houses (85 percent).....	1,520
Total	<u>1,790</u>
29. San Francisco, Calif.:	
Existing houses.....	880
New houses (50 percent).....	870
Total	<u>1,750</u>
30. Omaha, Nebr.:	
Existing houses.....	610
New houses (65 percent).....	1,130
Total	<u>1,740</u>

31. San Francisco, Calif.:	
Existing houses.....	646
New houses (42 percent).....	473
Total	<u>1,119</u>
32. Springfield, Ill.:	
Existing houses.....	130
New houses (86 percent).....	845
Total	<u>975</u>
33. Topeka, Kans.:	
Existing houses.....	500
New houses (47 percent).....	452
Total	<u>952</u>
34. Memphis, Tenn.:	
Existing houses.....	244
New houses (74 percent).....	705
Total	<u>949</u>
35. Phoenix, Ariz.:	
Existing houses.....	438
New houses (53 percent).....	502
Total	<u>940</u>
36. Spokane, Wash.:	
Existing houses.....	381
New houses (55 percent).....	484
Total	<u>865</u>
37. Fort Worth, Tex.:	
Existing houses.....	248
New houses (71 percent).....	615
Total	<u>863</u>
38. Santa Ana, Calif.:	
Existing houses.....	490
New houses (41 percent).....	350
Total	<u>840</u>
39. Los Angeles, Calif.:	
Existing houses.....	474
New houses (40 percent).....	318
Total	<u>792</u>
40. Kansas City, Mo.:	
Existing houses.....	474
New houses (37 percent).....	280
Total	<u>754</u>
41. Tulsa, Okla.:	
Existing houses.....	179
New houses (76 percent).....	568
Total	<u>747</u>

31. Albuquerque, N. Mex.:	
Existing houses.....	721
New houses (57 percent).....	947
Total	<u>1,668</u>
32. Springfield, Ill.:	
Existing houses.....	149
New houses (91 percent).....	1,442
Total	<u>1,591</u>
33. Fort Worth, Tex.:	
Existing houses.....	302
New houses (80 percent).....	1,255
Total	<u>1,577</u>
34. Memphis, Tenn.:	
Existing houses.....	293
New houses (81 percent).....	1,240
Total	<u>1,533</u>
35. Phoenix, Ariz.:	
Existing houses.....	635
New houses (55 percent).....	761
Total	<u>1,396</u>
36. San Juan, P.R.:	
Existing houses.....	12
New houses (99 percent).....	1,358
Total	<u>1,370</u>
37. Tulsa, Okla.:	
Existing houses.....	254
New houses (80 percent).....	1,022
Total	<u>1,276</u>
38. Spokane, Wash.:	
Existing houses.....	438
New houses (66 percent).....	836
Total	<u>1,274</u>
39. Topeka, Kans.:	
Existing houses.....	546
New houses (56 percent).....	695
Total	<u>1,241</u>
40. Santa Ana, Calif.:	
Existing houses.....	635
New houses (47 percent).....	574
Total	<u>1,209</u>
41. Cincinnati, Ohio:	
Existing houses.....	583
New houses (50 percent).....	587
Total	<u>1,170</u>

42. Lubbock, Tex.:		42. San Diego, Calif.:	
Existing houses.....	133	Existing houses.....	429
New houses (81 percent).....	584	New houses (63 percent).....	733
Total	717	Total	1,162
	<u> </u>		<u> </u>
43. Cincinnati, Ohio:		43. Los Angeles, Calif.:	
Existing houses.....	430	Existing houses.....	595
New houses (36 percent).....	247	New houses (47 percent).....	531
Total	677	Total	1,126
	<u> </u>		<u> </u>
44. Richmond, Va.:		44. Pittsburgh, Pa.:	
Existing houses.....	292	Existing houses.....	328
New houses (53 percent).....	335	New houses (70 percent).....	752
Total	627	Total	1,080
	<u> </u>		<u> </u>
45. San Juan, P.R.:		45. Richmond, Va.:	
Existing houses.....	3	Existing houses.....	362
New houses (99 percent).....	612	New houses (66 percent).....	708
Total	615	Total	1,070
	<u> </u>		<u> </u>
46. San Diego, Calif.:		46. Lubbock, Tex.:	
Existing houses.....	354	Existing houses.....	211
New houses (43 percent).....	270	New houses (80 percent).....	857
Total	624	Total	1,068
	<u> </u>		<u> </u>
47. Cleveland, Ohio:		47. Cleveland, Ohio:	
Existing houses.....	500	Existing houses.....	678
New houses (18 percent).....	110	New houses (35 percent).....	371
Total	610	Total	1,049
	<u> </u>		<u> </u>
48. Minneapolis, Minn.:		48. Minneapolis, Minn.:	
Existing houses.....	551	Existing houses.....	750
New houses (8 percent).....	53	New houses (27 percent).....	284
Total	604	Total	1,034
	<u> </u>		<u> </u>
49. Philadelphia, Pa.:		49. Kansas City, Mo.:	
Existing houses.....	587	Existing houses.....	548
New houses (.3 percent).....	2	New houses (46 percent).....	468
Total	589	Total	1,016
	<u> </u>		<u> </u>
50. St. Louis, Mo.:		50. Miami, Fla.:	
Existing houses.....	452	Existing houses.....	138
New houses (18 percent).....	106	New houses (85 percent).....	748
Total	558	Total	886
	<u> </u>		<u> </u>
51. Newark, N.J.:		51. Philadelphia, Pa.:	
Existing houses.....	519	Existing houses.....	79
New houses (.3 percent).....	2	New houses (1 percent).....	1
Total	521	Total	80
	<u> </u>		<u> </u>
52. Boston, Mass.:		52. Newark, N.J.:	
Existing houses.....	306	Existing houses.....	79
New houses (38 percent).....	191	New houses (.2 percent).....	
Total	497	Total	79
	<u> </u>		<u> </u>

53. Pittsburgh, Pa.:	
Existing houses.....	278
New houses (43 percent).....	210
Total	<u>488</u>
54. Buffalo, N.Y.:	
Existing houses.....	155
New houses (64 percent).....	287
Total	<u>442</u>
55. D.C.:	
Existing houses.....	359
New houses (17 percent).....	76
Total	<u>435</u>
56. Houston, Tex.:	
Existing houses.....	243
New houses (36 percent).....	155
Total	<u>398</u>
57. Miami, Fla.:	
Existing houses.....	105
New houses (72 percent).....	281
Total	<u>386</u>
58. Sioux Falls, S. Dak.:	
Existing houses.....	164
New houses (52 percent).....	179
Total	<u>343</u>
59. Charleston, W. Va.:	
Existing houses.....	151
New houses (55 percent).....	188
Total	<u>339</u>
60. Helena, Mont.:	
Existing houses.....	165
New houses (48 percent).....	156
Total	<u>321</u>
61. Camden, N.J.:	
Existing houses.....	177
New houses (43 percent).....	135
Total	<u>312</u>
62. Boise, Idaho:	
Existing houses.....	90
New houses (70 percent).....	220
Total	<u>310</u>
63. Manchester, N.H.:	
Existing houses.....	75
New houses (66 percent).....	146
Total	<u>221</u>

53. Boston, Mass.:	
Existing houses.....	383
New houses (50 percent).....	379
Total	<u>762</u>
54. St. Louis, Mo.:	
Existing houses.....	503
New houses (32 percent).....	238
Total	<u>741</u>
55. Buffalo, N.Y.:	
Existing houses.....	188
New houses (74 percent).....	548
Total	<u>736</u>
56. Houston, Tex.:	
Existing houses.....	282
New houses (56 percent).....	354
Total	<u>636</u>
57. D.C.:	
Existing houses.....	458
New houses (19 percent).....	107
Total	<u>565</u>
58. Camden, N.J.:	
Existing houses.....	222
New houses (58 percent).....	310
Total	<u>532</u>
59. Boise, Idaho:	
Existing houses.....	101
New houses (81 percent).....	428
Total	<u>529</u>
60. Helena, Mont.:	
Existing houses.....	188
New houses (63 percent).....	327
Total	<u>515</u>
61. Sioux Falls, S. Dak.:	
Existing houses.....	175
New houses (65 percent).....	330
Total	<u>505</u>
62. Charleston, W. Va.:	
Existing houses.....	157
New houses (62 percent).....	257
Total	<u>414</u>
63. Manchester, N.H.:	
Existing houses.....	98
New houses (74 percent).....	272
Total	<u>370</u>

64. Hartford, Conn.:		64. Hartford, Conn.:	
Existing houses.....	199	Existing houses.....	25
New house (.5 percent).....	1	New houses (15 percent).....	4
Total	200	Total	29
65. Bangor, Maine:		65. Casper, Wyo.:	
Existing houses.....	66	Existing houses.....	4
New houses (51 percent).....	70	New houses (80 percent).....	18
Total	136	Total	22
66. Casper, Wyo.:		66. Bangor, Maine:	
Existing houses.....	42	Existing houses.....	7
New houses (68 percent).....	92	New houses (62 percent).....	12
Total	134	Total	19
67. Albany, N.Y.:		67. Baltimore, Md.:	
Existing houses.....	42	Existing houses.....	4
New houses (61 percent).....	68	New houses (76 percent).....	12
Total	110	Total	16
68. Providence, R.I.:		68. Providence, R.I.:	
Existing houses.....	100	Existing houses.....	15
New houses (3 percent).....	4	New houses (16 percent).....	2
Total	104	Total	17
69. Baltimore, Md.:		69. Albany, N.Y.:	
Existing houses.....	30	Existing houses.....	6
New houses (71 percent).....	74	New houses (66 percent).....	9
Total	104	Total	15
70. Fargo, N.D.:		70. Fargo, N. Dak.:	
Existing houses.....	43	Existing houses.....	1
New houses (34 percent).....	23	New houses (61 percent).....	1
Total	66	Total	2
71. Burlington, Vt.:		71. Burlington, Vt.:	
Existing houses.....	29	Existing houses.....	1
New houses (48 percent).....	27	New houses (64 percent).....	1
Total	56	Total	2
72. Anchorage, Alaska:		72. Honolulu, Hawaii:	
Existing houses.....	29	Existing houses.....	0
New houses (47 percent).....	26	New houses (97 percent).....	0
Total	55	Total	0
73. Wilmington, Del.:		73. Wilmington, Del.:	
Existing houses.....	46	Existing houses.....	0
New houses (8 percent).....	4	New houses (15 percent).....	0
Total	50	Total	0
74. Honolulu, Hawaii:		74. Anchorage, Alaska:	
Existing houses.....	0	Existing houses.....	0
New houses (100 percent).....	4	New houses (58 percent).....	0
Total	4	Total	0
75. Hempstead, N.Y.:		75. Hempstead, N.Y.:	
Existing houses.....	3	Existing houses.....	0
New houses (0 percent).....	0	New houses (25 percent).....	0
Total	3	Total	0
76. New York, N.Y.:		76. New York, N.Y.:	
Existing houses.....	0	Existing houses.....	0
New houses.....	0	New houses.....	0
Total	0	Total	0

APPENDIX B

FHA insuring offices—ranked by section 335 insurance—mortgages in “blighted” areas.

<p>1. Detroit, Mich.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">665</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">259</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">924</td> </tr> </table>	Existing houses.....	665	New houses.....	259	Total	924	<p>11. Newark, N.J.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">190</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">0</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">190</td> </tr> </table>	Existing houses.....	190	New houses.....	0	Total	190
Existing houses.....	665												
New houses.....	259												
Total	924												
Existing houses.....	190												
New houses.....	0												
Total	190												
<p>2. Milwaukee, Wis.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">668</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">16</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">684</td> </tr> </table>	Existing houses.....	668	New houses.....	16	Total	684	<p>12. Chicago, Ill.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">142</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">47</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">189</td> </tr> </table>	Existing houses.....	142	New houses.....	47	Total	189
Existing houses.....	668												
New houses.....	16												
Total	684												
Existing houses.....	142												
New houses.....	47												
Total	189												
<p>3. Atlanta, Ga.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">165</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">134</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">299</td> </tr> </table>	Existing houses.....	165	New houses.....	134	Total	299	<p>13. Memphis, Tenn.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">59</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">130</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">189</td> </tr> </table>	Existing houses.....	59	New houses.....	130	Total	189
Existing houses.....	165												
New houses.....	134												
Total	299												
Existing houses.....	59												
New houses.....	130												
Total	189												
<p>4. Cincinnati, Ohio:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">285</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">7</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">292</td> </tr> </table>	Existing houses.....	285	New houses.....	7	Total	292	<p>14. Columbus, Ohio:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">151</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">29</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">180</td> </tr> </table>	Existing houses.....	151	New houses.....	29	Total	180
Existing houses.....	285												
New houses.....	7												
Total	292												
Existing houses.....	151												
New houses.....	29												
Total	180												
<p>5. Dallas, Tex.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">193</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">93</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">286</td> </tr> </table>	Existing houses.....	193	New houses.....	93	Total	286	<p>15. Salt Lake City, Utah:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">94</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">85</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">179</td> </tr> </table>	Existing houses.....	94	New houses.....	85	Total	179
Existing houses.....	193												
New houses.....	93												
Total	286												
Existing houses.....	94												
New houses.....	85												
Total	179												
<p>6. St. Louis, Mo.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">235</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">14</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">249</td> </tr> </table>	Existing houses.....	235	New houses.....	14	Total	249	<p>16. Camden, N.J.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">175</td> </tr> <tr> <td>New house.....</td> <td style="text-align: right;">1</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">176</td> </tr> </table>	Existing houses.....	175	New house.....	1	Total	176
Existing houses.....	235												
New houses.....	14												
Total	249												
Existing houses.....	175												
New house.....	1												
Total	176												
<p>7. Columbia, S.C.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">30</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">210</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">240</td> </tr> </table>	Existing houses.....	30	New houses.....	210	Total	240	<p>17. Kansas City, Mo.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">162</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">10</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">172</td> </tr> </table>	Existing houses.....	162	New houses.....	10	Total	172
Existing houses.....	30												
New houses.....	210												
Total	240												
Existing houses.....	162												
New houses.....	10												
Total	172												
<p>8. Indianapolis, Ind.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">72</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">162</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">234</td> </tr> </table>	Existing houses.....	72	New houses.....	162	Total	234	<p>18. San Francisco, Calif.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">126</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">36</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">162</td> </tr> </table>	Existing houses.....	126	New houses.....	36	Total	162
Existing houses.....	72												
New houses.....	162												
Total	234												
Existing houses.....	126												
New houses.....	36												
Total	162												
<p>9. Cleveland, Ohio:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">198</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">5</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">203</td> </tr> </table>	Existing houses.....	198	New houses.....	5	Total	203	<p>19. Des Moines, Iowa:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">50</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">86</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">136</td> </tr> </table>	Existing houses.....	50	New houses.....	86	Total	136
Existing houses.....	198												
New houses.....	5												
Total	203												
Existing houses.....	50												
New houses.....	86												
Total	136												
<p>10. D.C.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">200</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">0</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">200</td> </tr> </table>	Existing houses.....	200	New houses.....	0	Total	200	<p>20. Birmingham, Ala.:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Existing houses.....</td> <td style="text-align: right;">23</td> </tr> <tr> <td>New houses.....</td> <td style="text-align: right;">104</td> </tr> <tr> <td style="border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">127</td> </tr> </table>	Existing houses.....	23	New houses.....	104	Total	127
Existing houses.....	200												
New houses.....	0												
Total	200												
Existing houses.....	23												
New houses.....	104												
Total	127												

21. Phoenix, Ariz.:		52. Denver, Colo.:	
Existing houses.....	70	Existing houses.....	6
New houses.....	34	New houses.....	
Total	<u>104</u>	Total	<u>6</u>
22. Knoxville, Tenn.:		53. Springfield, Ill.:	
Existing houses.....	68	Existing houses.....	4
New houses.....	35	New houses.....	
Total	<u>103</u>	Total	<u>5</u>
23. Santa Ana, Calif.:		54. Grand Rapids, Mich.:	
Existing houses.....	98	Existing houses.....	4
New houses.....	3	New houses.....	1
Total	<u>101</u>	Total	<u>5</u>
24. Jacksonville, Fla.:		55. Hartford, Conn.:	
Existing houses.....	14	Existing houses.....	5
New houses.....	87	New houses.....	
Total	<u>101</u>	Total	<u>5</u>
25. Spokane, Wash.:		56. Pittsburgh, Pa.:	
Existing houses.....	77	Existing houses.....	5
New houses.....	14	New houses.....	
Total	<u>91</u>	Total	<u>5</u>
26. Little Rock, Ark.:		57. Omaha, Nebr.:	
Existing houses.....	8	Existing houses.....	4
New houses.....	80	New houses.....	
Total	<u>88</u>	Total	<u>4</u>
27. Minneapolis, Minn.:		58. Philadelphia, Pa.:	
Existing houses.....	58	Existing houses.....	4
New houses.....	28	New houses.....	
Total	<u>86</u>	Total	<u>4</u>
28. Tampa, Fla.:		59. Shreveport, La.:	
Existing houses.....	21	Existing houses.....	
New houses.....	63	New houses.....	
Total	<u>84</u>	Total	
29. Los Angeles, Calif.:		40. Richmond, Va.:	
Existing houses.....	74	Existing houses.....	
New houses.....	6	New houses.....	
Total	<u>80</u>	Total	
30. Seattle, Wash.:		41. Houston, Tex.:	
Existing houses.....	70	Existing houses.....	
New houses.....	7	New houses.....	
Total	<u>77</u>	Total	
31. New Orleans, La.:		42. Sioux Falls, S. Dak.:	
Existing houses.....	50	Existing houses.....	
New houses.....	17	New houses.....	
Total	<u>67</u>	Total	

43. Greensboro, N.C.:		54. Miami, Fla.:	
Existing houses.....	14	Existing houses.....	7
New houses.....	8	New houses.....	3
Total	<u>22</u>	Total	<u>10</u>
44. Albany, N.Y.:		55. San Diego, Calif.:	
Existing houses.....	21	Existing houses.....	10
New houses.....	0	New houses.....	0
Total	<u>21</u>	Total	<u>10</u>
45. Sacramento, Calif.:		56. Fargo, N. Dak.:	
Existing houses.....	16	Existing house.....	1
New houses.....	4	New houses.....	9
Total	<u>20</u>	Total	<u>10</u>
46. San Antonio, Tex.:		57. Jackson, Miss.:	
Existing houses.....	17	Existing houses.....	2
New houses.....	2	New houses.....	6
Total	<u>19</u>	Total	<u>8</u>
47. Topeka, Kans.:		58. Bangor, Maine:	
Existing houses.....	12	Existing houses.....	6
New houses.....	7	New houses.....	0
Total	<u>19</u>	Total	<u>6</u>
48. Boston, Mass.:		59. Boise, Idaho:	
Existing houses.....	16	Existing houses.....	0
New houses.....	1	New houses.....	6
Total	<u>17</u>	Total	<u>6</u>
49. Albuquerque, N. Mex.:		60. Tulsa, Okla.:	
Existing houses.....	14	Existing house.....	1
New houses.....	2	New houses.....	3
Total	<u>16</u>	Total	<u>4</u>
50. Louisville, Ky.:		61. Portland, Oreg.:	
Existing houses.....	13	Existing houses.....	0
New houses.....	2	New houses.....	3
Total	<u>15</u>	Total	<u>3</u>
51. Providence, R.I.:		62. Reno, Nev.:	
Existing houses.....	11	Existing houses.....	3
New house.....	1	New houses.....	0
Total	<u>12</u>	Total	<u>3</u>
52. Fort Worth, Tex.:		63. Buffalo, N.Y.:	
Existing houses.....	9	Existing house.....	1
New houses.....	2	New houses.....	0
Total	<u>11</u>	Total	<u>1</u>
53. Oklahoma City, Okla.:		64. Manchester, N.H.:	
Existing houses.....	8	Existing house.....	1
New houses.....	2	New houses.....	0
Total	<u>10</u>	Total	<u>1</u>

APPENDIX C

235 INCOME LIMITS OF FOUR METROPOLITAN AREAS

EXCEPTION LIMITS 90 PERCENT OF 221(d)(3)

	SMSA	3 & 4	4 & 6
St. Louis.....		\$8,100	\$9,300
Philadelphia.....		7,650	8,800
Denver.....		7,300	8,300
Little Rock.....		6,050	6,900

REGULAR LIMITS 135 PERCENT OF PUBLIC HOUSING

	Area	4 persons	5 persons
St. Louis:			
Average.....		\$6,615	\$7,600
City.....		6,750	8,600
County.....		6,480	6,700
Denver:			
Average.....		6,480	6,900
Denver.....		6,480	7,100
Adams.....		6,480	6,800
Arapahoe.....		6,480	6,800
Jefferson.....		6,480	6,800
Little Rock:			
Average.....		6,210	6,600
City and county same.....			
Philadelphia:			
Average.....		5,895	6,200
Chester City.....		6,480	6,800
Montgomery.....		6,480	6,800
Chester.....		6,075	6,400
Delaware.....		5,670	5,900
Bucks.....		5,535	5,900
Philadelphia.....		5,130	5,400

IN THE DISTRICT COURT OF THE UNITED STATES

APPENDIX D

FOR THE EASTERN DISTRICT OF MISSOURI

EASTERN DIVISION

VIRGIL WRIGHT, ANNA BUSCH, LOIS WHITE,)
BETTY NEWSHAM, MARY JANE HALL, WILLIS)
LLOYD, NORMAN HIRSCH, SARAH WHITEHEAD,)
MURRAY O'MALLEY, RICHARD DOWE, BURKE MEES,)
L. SIMINGTON CURTIS, JANE and PRENTICE)
DAIVS, RUTH DAVENPORT, WILLIAM BROWN,)
MICHAEL and BETTY MCGRATH,)

Plaintiffs,)

vs.)

GEORGE ROMNEY, SECRETARY, DEPARTMENT OF)
HOUSING & URBAN DEVELOPMENT)
and)
MICHAEL GALLI, DIRECTOR, FEDERAL HOUSING)
ADMINISTRATION)

Serve: Federal Housing Administration)
315 North Seventh Street)
St. Louis, Missouri 63101)
Daniel Bartlett, U.S. District)
Attorney for the Eastern Division)
of the Eastern District of Missouri)

Defendants.)

Cause No. 70c 291(3)

Division _____

C O M P L A I N T

For their complaint Plaintiffs state:

1. Plaintiffs are individuals and owners of single-family residences residing in the City of St. Louis in an area bounded by DeSalviere Avenue, Forest Park Boulevard, Skinker Boulevard and Delmar Boulevard, all in the State of Missouri.

2. Defendant, George Romney, is Secretary of Housing

and Urban Development and as such is charged with the administration of Title 42, Section 3601 et seq USCA (Title 8 of the Civil Rights Act, of 1968) and Title 12, Section 1715Z USCA (Section 235 of the Housing and Urban Development Act of 1968).

3. Defendant, Michael Galli, is the Director of the St. Louis office of the Federal Housing Administration and as such is charged as the Secretary's delegate with respect to the administration of the provisions of Section 235 and specifically the approval of mortgagors and properties for insurance under said Section in the City of St. Louis and St. Louis County and specifically in the area in which Plaintiffs reside.

4. This claim for relief arises under Title 42, Section 3603(c) USCA and Title 12, Section 1715Z USCA in that Defendants have aided and abetted through their acquiescence in the actions of real estate dealers who have selected for financing under Section 1715Z(h)(3) certain single family houses concentrated primarily in so-called "integrated" areas of the City of St. Louis and St. Louis County and specifically in the area in which Plaintiffs reside and have channeled persons eligible for mortgage assistance under said law who are Negro into certain areas including the area in which Plaintiffs live to the exclusion of other areas

and that Defendants have failed to administer the said program consistent with maintenance of long term values and the economic and social stability of neighborhoods established as herein-after set forth. This Court has jurisdiction under Title 28, Section 1331 USCA in that the matters and things herein alleged involve a substantial federal question, and under Title 28, Section 1346(2) USCA, in that the matters and things herein alleged involve actions by officials of the United States in excess of their authority and in violation of the dictates and policies of certain acts of Congress including those mentioned hereinbefore.

5. Plaintiffs live in an area which is racially mixed and has been for many years. They and other residents of the area have worked for a substantial period of time to build an integrated and stable community composed of persons of all economic groups and races. In their efforts they have been met by general hostility on the part of real estate dealers and at times in the past by the Federal Housing Administration in that potential Caucasian buyers have been channeled away from said neighborhood into areas reserved as all white neighborhoods and Negro buyers were channeled into their area and into certain other areas designated by certain real estate dealers to become all black areas.

6. There has arisen as a result of the activities of said real estate dealers, financing institutions and others, a pattern of segregated housing in the St. Louis metropolitan area. The area in which Plaintiffs live is one of the few areas in the City of St. Louis or St. Louis county in which large numbers of both black and white people live as a result of efforts by the Plaintiffs and others living in the area to promote the area as an integrated living environment.

7. Included in the Housing and Urban Development Act of 1968 is the Section 235 program under which federal mortgage assistance is extended to poor persons and to persons otherwise not eligible as credit risks for insurance under various federal housing administration mortgage insurance programs. As a result of the pattern of discrimination as it has existed against Negro people a large number of persons eligible for housing under said program are black and poor.

8. Plaintiffs believe and therefore aver that the mortgages approved under the 235 program for homes not newly constructed (Title 12, Section 1715Z(h)(3) for potential Negro householders have been largely concentrated in so-called changing or integrated areas although a substantial supply of housing in the same price range has been available in other places in the metropolitan area which have been reserved by said real

estate dealers for all-white occupancy.

9. Plaintiffs are aware of a large number of homes being sold in their area under the provisions of Title 12, Section 1715Z(h)(3) and have noted a tendency on the part of real estate dealers to concentrate large numbers of poor, black persons in their neighborhood far above the concentration to be expected were such housing opportunities extended to such persons throughout the metropolitan area.

10. Plaintiffs have communicated with Defendant Galli and Defendant Romney with respect to this policy on the part of the Federal Housing Administration in the City of St. Louis and St. Louis County and have received no information other than a verbal representation on the part of employees in Mr. Galli's office and statements by Mr. Galli reported in the public press that he has no responsibility with respect to the selection of mortgagors or dwellings under the provisions of said Title and Section and to the extent that there are concentrations of this type of housing in certain neighborhoods it is a matter completely and entirely beyond his control and responsibility under the law.

11. Plaintiffs believe and therefore aver that the pattern of concentration of poor families provided subsidized housing under said Title and Section will and have contributed

to instability and racial change in the area in which they live and results in a channeling of persons into certain areas of the City and County as a result of their race all in violation of the policies and provisions of Title 42, Section 3600 et seq USCA and in derogation of the duty said Defendants Romney and Galli have to administer the Section 235 provisions of the consistent with neighborhood stability, racial integration and the preservation of long-term housing values in neighborhoods in which the Federal Housing Administration provides insurance.

12. The acts and omissions of Defendants have caused and unless enjoined will continue to cause irreparable injury to the Plaintiffs and other persons similarly situated impossible to fully calculate in dollars, including overcrowding of the neighborhood's school and recreational facilities with large numbers of children, lowering of property values, and Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs pray this honorable court to make and enter its temporary restraining order restraining Defendants Romney and Galli from issuing additional commitments for mortgage assistance under Section 235 within the area bounded by DeSalivier Delmar, Skinker and Forest Park and in such other areas as the court shall find have been similarly overloaded with such housing, to require said Defendants to publish all details concerning

the number of commitments granted under said program during the time of their administration in St. Louis, whether the mortgagors were Caucasian or Negro and location of said property and to make and enter a final order judgment and decree requiring said Defendants to demonstrate to the court that said commitments will be issued in a manner consistent with achieving the maximum racial, social and economic integration in St. Louis and St. Louis County and that commitments will be made to persons regardless of race in all areas of St. Louis and St. Louis County and will not be concentrated in certain neighborhoods and will be made uniformly available in areas in which housing is available in the price range and consistent with the provisions of said act

to enjoin said Defendants from administering the said act in such a way as to concentrate recipients of Section 235 mortgage assistance in any one particular area and specifically in the area in which Plaintiffs live and to enjoin the issuance of any further 235 commitments in such area and to grant Plaintiffs their costs herein and to enter such other and further order as are deemed meet and just the premises considered.

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Attorneys for Plaintiffs

APPENDIX E

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FEDERAL HOUSING ADMINISTRATION		Series and Series No.	
TO: ALL ASSISTANT COMMISSIONERS, WASHINGTON DIVISION HEADS, INSURING OFFICE DIRECTORS, HUD REGIONAL ADMINISTRATORS, AND THE DIRECTOR, REGIONAL SUPPORT STAFF		COMMISSIONER LETTER NO. 63	
		Control No. FW-474	Date July 31, 1967
SUBJECT: PROHIBITION OF ARBITRARY EXCLUSIONS OF COMMUNITIES AND NEIGHBORHOODS AND THE WAIVER OF ECONOMIC SOUNDNESS IN RIOT OR RIOT THREATENED AREAS			

The purpose of this letter is to call to your attention the fact that the FHA will not designate entire communities or areas as ineligible for participation in its mortgage insurance operations. Instead, eligibility is established in response to an application and its compliance with prescribed eligibility standards and criteria. This is done on a case-by-case basis and places major emphasis on the eligibility of the property being examined. This policy permits use of all mortgage insurance programs in any area provided the individual transaction meets the eligibility requirements.

In some instances there has been hesitancy on the part of insuring offices to make FHA programs available in older neighborhoods. An automatic exclusion of a community or neighborhood merely because it is old can result in the shutting off of capital investments in these areas. Likewise, limiting FHA participation to one program, for example, Section 221(d)(2), can mark an area as one in which FHA lacks confidence. Real estate brokers and mortgage lenders, when they have knowledge of arbitrary exclusions by FHA, tend to hold back on conventional financing. The non-availability of mortgage funds accelerates decline and increases the costs and problems of financing real estate. It forces the use of second and third mortgages and other means of financing which increase the home owner's risk and housing expense.

FHA's mortgage insurance activities in older areas must not be confined to urban renewal areas or limited to one or two programs. There are many older neighborhoods and areas where FHA can and should make all of its mortgage insurance programs available on an individual case basis. Your attention and the attention of your staff is again directed to Commissioner Letter No. 38 dated November 8, 1965, and to the general policies and guides set forth therein. Also, your attention is directed to the letter to All Approved Mortgagees, No. 66-22, dated November 9, 1966. That letter announced an amendment to the National Housing Act relaxing the economic soundness requirement for Section 203(b) if the dwelling

is located in an area in which rioting or other civil disorders have occurred or are threatened. To be eligible for commitment and for mortgage insurance the transaction must meet all other Section 203(b) eligibility criteria.

The intent of the amendment to Section 203 which substitutes the acceptable risk determination for economic soundness is to offer insured mortgage financing to credit worthy individuals who are the innocent victims of their surroundings: -- a neighborhood where riots have occurred or are threatened. The amendment makes it possible for responsible citizens to remain in an area and to form a stable nucleus of home owners. It encourages eligible purchasers to move into the area because favorable mortgage terms are available. Denial of Section 203 financing in these areas when property and borrower are an acceptable risk is a restrictive financial practice that hinders the free flow of credit for home purchasers.

Waiver of the economic soundness requirement by statute; and the policies and instructions in the two cited letters are a firm basis for using all FHA programs in a community; provided the individual transaction meets the eligibility requirements for that program. This means that if the particular unit meets minimum property standards and the mortgagor qualifies, the mortgage is insurable under 203(b) even though the neighborhood would not permit a finding of economic soundness. A memorandum should be put in the file supporting the finding.

Please see that all members of your staff are familiar with FHA policy concerning the use of all programs in a community or neighborhood. Also any arbitrary and area-wide exclusions as to a particular program that are in effect are to be rescinded. The foregoing does not preclude the continued designation of well defined areas as ineligible for mortgage insurance when definite hazards and nuisances exists; for example, areas subject to flooding or subsidence, areas adversely affected by airports, and areas in transition from residential to commercial or industrial usage.

Effective upon receipt of this letter each insuring office will tabulate by case number and property address all Section 203(b) conditional commitments issued on an "acceptable risk" basis by reason of the property's location in an area where rioting or other civil disorders have occurred or are threatened. This listing will be maintained in the valuation section and will be made when the commitment is released. Each Friday a copy of the listing will be attached to the copies of Weekly Report of Operations, Form 2498, submitted to the Regional Operations Commissioner and to the Research and Statistics Division. In any week in which there are no 203(b) "acceptable risk" commitments, a footnote statement to that effect shall be made on Form 2498.

APPENDIX F
U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CIRCULAR

HPMC-FHA 4035.8

December 30, 1970

- I. REQUIRED IDENTIFICATION OF OWNERSHIP
WHERE SELLER IS NOT THE OWNER
OCCUPANT, EXISTING PROPERTIES
- II. USE OF MODIFIED COST APPROACH ON EXISTING

SUBJECT: PROPERTIES IN AREAS DOMINATED BY SPECULATOR ACTIVITY

PURPOSE. IDENTIFICATION OF OWNERSHIP. The increasing number of applications for mortgage insurance being received involving inner-city and other problem areas dominated by speculators has made it necessary to provide these additional instructions.

Sellers who are not owner occupants must be identified in order to disclose straw parties and speculator activity. The application Form 2800 will be revised at its next printing. In the meantime, the following instructions with respect to identification of ownership must be implemented immediately.

MODIFIED COST APPROACH. The directives in this Circular concerning the modified cost approach supplement the outstanding appraisal instructions in Section 14, Volume VII, FHA Manual and are intended to facilitate more realistic appraisals of properties located in areas of extensive speculator activity. It must be emphasized that in appraising income properties the market approach is the most reliable indicator of value and must be utilized as the principal approach. In areas where speculators constitute the principal means by which properties are marketed and FHA is the principal source of financing, this additional approach to value will help to prevent unreasonable disparities between net sellers' prices plus typical costs and FHA values with the attendant implications of excessive speculator profits. This modification of the cost approach, which will be implemented immediately in the areas affected, will provide another limit upon value to supplement the market approach. The information concerning ownership, acquisition prices, repairs and other costs should be an invaluable source of data to implement this approach.

A speculator is one whose motive in purchasing a property is to resell as soon as possible at a profit. He may or may not make repairs and may purchase on a contract for deed or he may buy outright.

When speculators predominate in the buying, repairing and selling of older existing dwellings, there frequently is inadequate market data available for market comparison purposes that does not involve, or is unaffected by, such speculative transactions. In such neighborhoods, this modified cost approach is mandatory.

Distribution: 0-1, 0-2, 0-3,
F-1, F-2, F-3,
R-5, W-3-1

I. INSTRUCTIONS FOR THE IDENTIFICATION OF OWNERSHIP

- A. Effective immediately, all mortgagees will be notified that where the seller of the property is not the occupant, the application must show the name and address of the owner and the date the property was acquired. If the date is less than two years prior to the date of application or if the field office for any pertinent reason deems such information essential on any particular application, the total itemized cost of acquisition and an itemization of the cost of any improvements made to the property by such seller must be furnished with the application. Falsification or other fraudulent information will be considered cause for prosecution.
- B. Valuation Clerks must be instructed to carefully review all applications during initial review prior to assignment to ascertain the need for the required information in A. above. If the property is shown on the application to be vacant or tenant occupied, the application will be returned to the mortgagee as a fee earned reject.

The information provided will be transmitted to the processing appraiser together with the application.

- C. The director of each field office will issue a letter to all mortgagees in his jurisdiction reciting the requirements in Paragraph A. above.

II. MODIFIED COST APPROACH

- A. Delineation of Areas and Benchmarks: The neighborhoods in which this modified cost approach is to be used must be designated and delineated by the Chief Appraiser in each field office and will be limited to those areas dominated by speculator activity.
 - 1. The first step in this approach is to collect sales data of net prices received by sellers selling to speculators (reflecting the As Is Value (before repairs)) using the market approach. Benchmark appraisals will be established in accordance with Paragraph 71418.3 to justify the appraiser's As Is Value. The benchmark comparison must be made on Form 2019 for each type of property typical in the locality. The data can be collected from the usual sources of market data including courthouse records, mortgagees, contractors, brokers and speculators dealing in this kind of property.

The benchmarks will be coded for identification purposes and the code number identified on the 2800 used in appraising the subject.

-
- B. Data: The next step is to collect data relating to the following four items described below. Verification and comparison of substantial amounts of this data is necessary to assure its validity. This data will be assembled by the office and provided the fee and staff appraisers working in the areas designated. It must be updated as needed to assure its reliability.
1. Expenses incurred in connection with the As Is Purchase from the original owner (recording charges, transfer taxes and any other expenses of purchase).
 2. Interim Financing Expense (interest on borrowed money necessary to carry the property until resale) expressed as a percentage which will be applied to the As Is Value.
 3. Expenses incurred in connection with holding the property awaiting sale and closing (such as taxes, insurance, water and heating costs, grass-cutting, etc.) This may or may not be an element of expense, particularly if in the typical transaction the sale is consummated early or the speculator rents the property during the sale period.
 4. Typical broker's commission charged (percentage) on properties of this type.
- C. Repairs: The cost of repairs proposed or required to make the subject property acceptable must be estimated in the usual manner.
- D. Method:
1. Determine the As Is Value from the benchmarks provided. Enter the As Is Value in Box 31 on the 2800-3 (see example). The Benchmark 2019 utilized will be identified by code number next to the As Is Value.
 2. Enter expense of As Is Purchase (B-1 above).
 3. Calculate the interim financing expense (B-2 above).
 4. Add holding costs (if any)(B-3).
 5. Add repairs proposed or required to bring the subject property up to a condition acceptable to HUD and the market (from Box 33).
-

6. Next, total the As Is Value, the expense of As Is Purchase, the interim mortgage expense and the repairs.
7. Multiply this total by a reasonable overhead and profit allowance. A reasonable profit is one which is required in order to attract legitimate enterprises to engage in the purchase, repair or rehabilitation, and resale of older properties in the locality. The profit allowance must be such that it will discourage the "speculator" or "suede shoe" operator. The purpose is to exclude from FHA insured properties the possibility of exorbitant profits at the purchaser's expense.
8. Compute the Broker's commission on the sum of the above.
9. The result is the modified replacement cost.

This total is then entered in Block 32, Total Replacement Cost. This amount is an upper limit of value for the property and will also be entered in Box 36, "Appraisal Summary" as "Cost".

EXAMPLE OF MODIFIED COST APPROACH

(1) As Is Value	\$ 6,200.
(2) Expense of As Is Purchase	.75.
(3) Interim Financing Expense (9%, 3 months on \$6,200)	140.
(4) Holding Costs	(None)
(5) Repairs	<u>1,800.</u>
(6) TOTAL	\$ 8,215.
(7) Overhead and Profit 125% x \$8,215 =	10,268.
(8) Broker's Commission (5%) = (\$10,268 ÷ 95% = \$10,808 - \$10,268 = \$540)	<u>540.</u>
(9) Modified Replacement Cost	\$10,808

1. FHA MORTGAGEE NO.		FHA UNDERWRITING REPORT				2. FHA CASE NO.	
3. NEIGHBORHOOD CODE A1. <input type="checkbox"/> 2. <input type="checkbox"/> 4. <input type="checkbox"/> A1. <input type="checkbox"/> 2. <input type="checkbox"/> 4. <input type="checkbox"/> A1. <input type="checkbox"/> 2. <input type="checkbox"/> 4. <input type="checkbox"/>		4. A PROPERTY ADDRESS					
MORTGAGE TO BE INSURED UNDER <input type="checkbox"/> SEC. 203(b) <input type="checkbox"/> SEC. _____		3		LEGAL-LOT BLK. TR./SUBD.			
5. MORTGAGEE		6. ESTIMATE OF VALUE AND CLOSING COSTS VALUE OF PROPERTY \$ Closing Costs \$ TOTAL (For Mortgage Insurance Purposes) \$			7. MONTHLY EXPENSE ESTIMATE Fire Ins. \$ Taxes \$ Main. & Repairs \$ Heat & Utilities \$		
10. COMMITMENT TERMS MAX. MORT. AMT. \$ NO. MOS. MAX. INTEREST %		8. APPROVED FOR COMMITMENT			9. COMMITMENT Issued: 19 Expires: 19		
11. <input type="checkbox"/> EXISTING <input type="checkbox"/> PROPOSED							
12. A EXISTING HOUSE 4. <input type="checkbox"/> Mon. & Yr. Completed <input type="checkbox"/> Never Occup. <input type="checkbox"/> Vacant Occupied by <input type="checkbox"/> Owner <input type="checkbox"/> Tenant at \$ Per Mo. <input type="checkbox"/> Furn. <input type="checkbox"/> Unfurn.		Name of Occupant (for person to call if unoccupied)		Tel. No.		Key Incl. <input type="checkbox"/> (If unfurnished)	
13. A PROPOSED SUBSTAN. REHAB. UNDER CONSTR. 1-3		Builder's Name & Address including ZIP Code				Tel. No. Model Identification	
14. DESCRIPTION		Plans: <input type="checkbox"/> First Subm. Prob. Repeat Cases <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Prev. Proc. as FHA Case No.					
A1. <input type="checkbox"/> Detached 2. <input type="checkbox"/> Wood shingle 3. <input type="checkbox"/> Asb. shingle 4. <input type="checkbox"/> Fiber board		A. <input type="checkbox"/> Stories 7. <input type="checkbox"/> Split Foyer 8. <input type="checkbox"/> Bi-Level 9. <input type="checkbox"/> Split Level		A. <input type="checkbox"/> Bedrooms <input type="checkbox"/> Store Rm <input type="checkbox"/> Util. Rm.		Mineral Rights Reserved <input type="checkbox"/> No <input type="checkbox"/> Yes (Explain)	
A1. <input type="checkbox"/> Frame 2. <input type="checkbox"/> Masonry 3. <input type="checkbox"/> Concrete		5. <input type="checkbox"/> Brick or stone 6. <input type="checkbox"/> Stuc. or c. blk. 7. <input type="checkbox"/> Aluminum		A. <input type="checkbox"/> No. rms. A. <input type="checkbox"/> Baths		A1. <input type="checkbox"/> Cent. Air Cond. 2. <input type="checkbox"/> Wall Air Cond.	
Factory Fabricated A1. <input type="checkbox"/> Yes 2. <input type="checkbox"/> No		8. <input type="checkbox"/> Asph. siding 4. <input type="checkbox"/> Craw Space		A. <input type="checkbox"/> Full Basement 2. <input type="checkbox"/> % Basement 3. <input type="checkbox"/> Slab on Gr.		A. <input type="checkbox"/> No cars A. <input type="checkbox"/> Built-in 2. <input type="checkbox"/> Attached 3. <input type="checkbox"/> Detached	
EXTRA FEATURES		1. <input type="checkbox"/> Fireplace 2. <input type="checkbox"/> Rec. room 4. <input type="checkbox"/> Sw. Pool		A1. <input type="checkbox"/> Enclosed Porch 2. <input type="checkbox"/> Breeway 4. <input type="checkbox"/> Fence		A1. <input type="checkbox"/> Garage 9. <input type="checkbox"/> Carport	
15. SPEC. ASSESS. Prepayable \$ Non-Prepay. \$		16. A LOT X 1. <input type="checkbox"/> Irr. 2. <input type="checkbox"/> Acres Sq. Ft.		17. GENERAL LOCATION:		A1. <input type="checkbox"/> Auto. 2. <input type="checkbox"/> Dryer 4. <input type="checkbox"/>	
18. ANN. REST. TAXES \$		19. ANN. FIRE INS \$		20. A SALE PRICE \$		Mo. Yr.	
21. EQUIPMENT IN VALUE: 1. <input type="checkbox"/> Range or Counter cook unit & oven 2. <input type="checkbox"/> Refrig. 4. <input type="checkbox"/> Dishwasher		30. COST DATA: 2800-3 for 2014-d <input type="checkbox"/> Integ. <input type="checkbox"/> 2014		31. BLDG. DESC/VARS.		Net variations \$	
22. A LOC. CODE		23. BASIC CASE		24. SUB FILE NO.		Basic cost \$	
25. REPAIR LIFE <input type="checkbox"/> ECON. <input type="checkbox"/> PHYS. YRS.		26. CONDITION AS APPRAISED A1. <input type="checkbox"/> Excellent 2. <input type="checkbox"/> Good 3. <input type="checkbox"/> Fair 4. <input type="checkbox"/> Poor		27. NEIGHBORHOOD DATA		Gar./Carport \$	
28. A Location <input type="checkbox"/> Acceptable <input type="checkbox"/> Reject <input type="checkbox"/> 223e		29. IMPROVED		32. REPL. COST		Parches/Terraces \$	
Property <input type="checkbox"/> Acceptable <input type="checkbox"/> Reject		A LIVING AREA Sq. Ft.		33. COST OF REPAIRS IMPROVEMENT Prop. \$		Walks/Drives \$	
34. COMPARABLE PROPERTIES		35. CAP. INCOME: Mon. Rent \$ - Excess exp. \$ = \$ X Rent multiplier of = CAP. INCOME \$		36. APPRAISAL SUMMARY: Capitalized Income \$ Cost \$ 10,808. Market & \$		Ldsp./Pltg./Fin. Gr. \$	
SUBJECT PROPERTY		37. LEASE: ANN. ORD. RENT \$ CAP. AT % = A \$ Val. of Leased Fee. Val. of Leasehold Est. \$		38. (1) Remarks (2) Spec. Cond. (3) Rej. Reasons (4) Neigh. Charac. (5) Land excl. From Val. (6) Items Excl. From Repl. Cost.		Other on-site imp. \$	
(1)		(2)		(3)		On-site imp. unadj. (Total) \$	
(2)		(3)		(4)		2511 Comb. % x whmp. % = %	
(3)		(4)		(5)		On-site imp. adj. \$	
						Misc. Allow Costs \$	
						Mktg. Expense \$	
						Repl. Cost \$ 10,808	
						39. INSPECTIONS: <input type="checkbox"/> Repair <input type="checkbox"/> Proposed Construction <input type="checkbox"/> Mortgagee's Certificate <input type="checkbox"/> Appr. Arch. Proc. Date <input type="checkbox"/> Reject	
						Review	
						<input type="checkbox"/> Commit. Staff Val. <input type="checkbox"/> Other	
						Review Date	

FHA FORM NO. 2800-3 Rev 1/70 NOTE TO PROCESSOR: INK IN RED CARBON BEFORE COMPLETION OF ITEMS 27 THRU 39. FHA COPY-FILE IN CASE BINDER

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CIRCULAR

HPMC-FHA 4035.9

December 31, 1970

**SUBJECT: IDENTIFICATION OF AREAS INELIGIBLE FOR
FHA MORTGAGE INSURANCE**

PURPOSE: To provide guidelines and procedures to be followed in implementing criteria for identification of areas ineligible for FHA Mortgage Insurance. Recent surveys indicate that some field offices are accepting properties for mortgage insurance under Section 223(e) regardless of the degree of blight or deterioration in an area. Section 223(e) is not intended as a complete abandonment of location eligibility criteria. An area must be capable of continued existence and be reasonably viable to be acceptable. (See FHA Circular 4400.26.)

INELIGIBLE AREAS: When an appraiser receives an application for an appraisal and it develops that the property is located in an area that has deterioration or blight to the extent that rejection is proper, the application should be rejected and brought to the attention of the Chief Appraiser. In rejecting the application, the office shall specify the adverse conditions in the location that render the property ineligible. The Chief Appraiser will inspect the location and prepare documentation including a description of the extent of the deterioration and photos of the area involved. Care must be exercised to limit rejection only to the actual blocks which are affected and in which it is obvious that FHA Insurance would be a disservice to purchasers in encouraging them to enter areas which have no hope for improvement in the foreseeable future.

The documented file for each area must be approved by and contain the concurrence of the Assistant Director, Single Family Mortgage Insurance and the Area Office Director or the Director and Chief Underwriter of the Insuring Office.

The Valuation Clerk performing the initial review function should review the completed reject folder and set up an appropriate card file or maps for future reference, logging of cases, etc. The original copy of the completed reject folder is to be retained in the Valuation Section Data File.

If a proposal is made to institute a program of rehabilitation of sufficient properties in the area to reverse its preponderately deteriorated character, the eligibility of the location should be reinstated.

REVISION OF PREVIOUS INSTRUCTIONS: Prior instructions in Commissioner Letter 63, July 31, 1967, and related issuances prohibiting the arbitrary designation of entire communities and neighborhoods as ineligible for FHA mortgage insurance remain in full force and effect. The intent of this Circular is to eliminate only those specific locations on a block or street basis which are so deteriorated or devastated as to present a serious hazard to prospective occupants. This Circular specifically does not permit any arbitrary delineation of reject areas. Commissioner Letter 63 is amended to the extent that maps pinpointing specific reject locations are permitted subject to the file documentation recited above, and the paragraph requiring tabulation of "acceptable risk" commitments is rescinded.



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