Building a Segregated City: How We All Worked Together

Robert A. Solomon

Yale Law School
BUILDING A SEGREGATED CITY: HOW WE ALL WORKED TOGETHER†

ROBERT A. SOLOMON*

I. INTRODUCTION

The story of American cities is usually told as the story of progressive waves of immigrants, establishing neighborhoods, and adding to the texture of the overall fabric of the city. Since World War II, however, the trend in cities has been one of shrinking population, increased minority (primarily African-American) population in the center city and a circle of wealthier, whiter suburbs on the fringes or outside the city. The modern American city is defined as much by who left as by who stayed. The result is a city which is often segregated, hampered by a weak tax and job base, and characterized by an older and less well-maintained housing stock than the suburbs.

While each city has its own unique history and texture, many of the trends leading to segregated, impoverished cities are common. These trends are based not only on population movements, but on federal, state and local policies that make the resulting segregated city all but inevitable. In this paper, I examine New Haven, Connecticut as a model, in the belief that the trends concerning segregation, housing policy and poverty are applicable throughout many, if not most, American cities.

New Haven is old enough to have been affected by both early and recent immigration. It is a city of neighborhoods serving as a microcosm for larger cities. It is surrounded by a ring of whiter, wealthier suburbs. It had and lost a strong industrial base. Most importantly, it has served as a laboratory for virtually every twentieth century social policy experiment, by both the public and private sector.

The purpose of this paper is to examine New Haven's history so that we

† Editor's Note: Due to the age of some newspaper articles appearing in this piece, some citations are incomplete. We have tried to provide the reader with as much information as available.

* Clinical Professor of Law and Supervising Attorney, Yale Law School. My heartfelt thanks to my research assistants, Rob Bonta, Robin Golden, Sara McLean, Suzanne Perry, Eric Wunderman and Jody Yetzer. Without their work, this article would still be an idea. My thanks to Frank Dineen, Robert Ellickson, Jonathan Glater, Cynthia Farrar, Kathleen A. Sullivan and Harry Wexler for their insights and comment.

265
can avoid repeating it. As a result of this study, I believe that we can identify some of our past (and continuing) errors:

1. Urban housing policy has overemphasized integration as a goal, at the expense of preserving neighborhoods regardless of race. Policy makers, including progressives doing their best to preserve cities, failed to perceive the possibility that a predominantly black neighborhood could be as stable as a white or integrated neighborhood. As a result, urban renewal became a means to raze deteriorating neighborhoods, we forced middle and upper class blacks to leave the city in order to find high quality housing and schools.

2. Urban policy has been determined by a top-down system, with little or no input from people who live in neighborhoods. A tenant's or homeowner's stake in the community has been seen as insufficient expertise to warrant involvement in the decision-making process. Historically, this exclusionary process has been largely cultural, with only white, male business and governmental leaders qualified to set policy. This is particularly true in low-income, predominantly black neighborhoods.

3. Mobility programs are potentially disastrous for shrinking cities. In many low-income neighborhoods, Section 8 subsidies support high-end rents. New vacancies created by mobility programs are unlikely to be filled at the same rent level and may remain vacant, resulting in an increase in abandoned buildings. To avoid this consequence, mobility programs must include provision for neighborhood revitalization.

4. Legal services rhetoric claims a philosophic foundation of representing community interests, but legal services providers have concentrated on individual rights, often at the expense of the community. Through a priority setting which largely excludes community, legal services providers have mirrored governmental policy makers in a top-down decision making process. The result is a caseload in which neighborhood concerns are irrelevant, with legal services attorneys "winning" cases for individuals while adversely affecting neighborhoods and the community at large.

For over 200 years, New Haven, has been the home of invention and experimentation; home of Eli Whitney and the cotton gin; Louie's Lunch and the hamburger; the Amistad Rebellion of 1839 and the Black Panther trials of the 1970s; Sally's Apizza, Pepe's Apizza and the world's best pizza; the first

1. Eli Whitney's workshop is maintained at the Eli Whitney Museum on Whitney Avenue in New Haven.
2. Louie's Lunch claims to be the site where the first hamburger was sold.
3. The Amistad was a slave ship that landed in New Haven after a rebellion by the slaves on board. The status of the passengers was litigated. The former slaves were victorious and declared free. A statue commemorating the Amistad Rebellion stands in front of New Haven City Hall. According to Susan Bickelhaup & Maureen Dezell, Living, BOSTON GLOBE, Jan. 10, 1997, at C2, Steven Spielberg is planning a movie about the Amistad Rebellion.
4. For a brief history of the Black Panther trials, see Richard Perez-Pena, Ex-Panthers Lose
organized telephone system;\textsuperscript{6} Yale University; and, at least temporarily, William Howard Taft, George Bush, Bill Clinton, Clarence Thomas and too many others to recount.

New Haven is also a city of contrasts: a high number of subsidized housing units (over one-third of the total housing units)\textsuperscript{7} in the wealthiest state per capita in the country;\textsuperscript{8} an architecturally beautiful housing stock with over seven hundred abandoned buildings;\textsuperscript{9} a remarkably diverse population living in a severely segregated community, with architectural and artificial barriers separating people by race and class;\textsuperscript{10} a community integrated with its suburbs only during working hours,\textsuperscript{11} but separated at all other times by race, class and national origin;\textsuperscript{12} a community with exceptional health care facilities,\textsuperscript{13} but a high infant mortality rate\textsuperscript{14} and a high incidence of AIDS cases.\textsuperscript{15}

New Haven is also a community in which various federal, state, local and private actors, including some of our most innovative and creative thinkers, have chosen to test their ideas, from housing projects\textsuperscript{16} to urban renewal to interstate highways\textsuperscript{17} to legal services\textsuperscript{18} to needle exchange programs\textsuperscript{19} to vol-

\begin{footnotesize}
\begin{enumerate}
\item People from Chicago, Boston, Providence and New York will have to accept this. No other city has a serious claim. Sally's and Pepe's both claim to be the originator of the pizza.
\item In 1878, George W. McCoy founded the New Haven Telephone Co., serving, initially, twenty-two subscribers. He also published the first American telephone directory. By 1884, there were over 700 telephones in New Haven—only Boston, New York and Philadelphia had more. Floyd M. Shumway & Richard Hegel, \textit{New Haven in 1884}, 30 J. OF THE NEW HAVEN COLONY HIST. SOC'Y 25 (1983).
\item Robert C. Ellickson, Yale Law School, class materials, based on information from Judy Sklarz, City of New Haven.
\item \textit{STATE RANKINGS 1995: A STATISTICAL VIEW OF THE 50 UNITED STATES} 105 (Kathleen O'Leary Morgan et al. eds., 6th ed. 1995).
\item 1996 estimate by the Office of Housing and Neighborhood Development, City of New Haven, based on drive-by identification of vacant and boarded-up buildings.
\item \textit{Id.} at 38-41.
\item For a discussion of the ethnic population, see infra part I.B.
\item New Haven is home to Yale and St. Raphael Hospitals as well as several clinics and HMOs. For a sense of regional use of a New Haven medical facility, see Farrar et al., supra note 10, at 41.
\item \textit{Id.} at 27; \textit{United Illuminating: UI Energizes Project Mothercare With On-Street Electrical Service}, \textit{BUSINESS WIRE}, Nov. 30, 1994.
\item For a discussion on the history of public housing, see infra part IV.
\item Both I-91 and I-95 pass through New Haven, leading New Haven to advertise itself as "The Gateway to New England."
\item In 1963, the Ford Foundation included a legal services component as part of Community Progress, Inc., an umbrella social services agency. The legal services program, incorporated in 1964 as New Haven Legal Assistance Association, Inc., became one of the models for the federal
\end{enumerate}
\end{footnotesize}
untarily integrating city public schools with those of the suburbs (and then canceling the integration program). Not all of these ideas have worked.

There is a long history of racial discrimination in this country. We look at segregated cities as the result of this discrimination, with the residents of segregated, impoverished neighborhoods as the victims of intentional wrongdoing. A study of New Haven, however, shows a different scenario. In many instances, integrationists won the policy battle, implementing plans that were race-conscious—not to perpetuate segregation, but to provide improved housing, on occasion to promote integrated housing and equal opportunity, and to prevent whites from leaving the city. The result of these polices was a racially segregated, impoverished city. Many of the policymakers acted with good intentions and would be appalled at the notion that they promoted segregation.

How did this happen? In this paper, I argue that concentrating on race instead of class was a critical mistake. The development of the suburbs, bank investment in suburban mortgages, the interstate highway system, a rapidly expanding economy, suburban housing developers and the baby boom were forces beyond the control of city government. Trying to keep second and third generation whites from moving to the suburbs was trying to fight historical imperative. A policy which emphasized preserving traditional neighborhoods, concentrating on ownership and services, might have made some difference as to race and likely would have helped maintain a middle class, regardless of race. The progressive policy was not to preserve, however, but to tear down and renew.

While much of this paper details the flow of people, jobs, and housing over a 200 year period, the paper is motivated by an interest in tipping, as a process of examining when and why people leave a particular neighborhood. "Tipping" is a term in epidemiology which signifies that point at which an ordinary event spreads to epidemic proportions. For example, consider the flu. Flu is contagious. It spreads when people have close contact with other people carrying flu germs. If we know the number of people in contact with the flu and the percentage of the population which is likely to contract the flu from these contacts, we can determine the rate at which the flu will spread. Since the flu lasts from three to four days, when we subtract the number of people who recover each day, we know whether the flu is spreading, has stabilized, or is abating.

While the formula is straightforward, filling in the variables can be a

monumental task. For example, imagine the closed environment of a school during a flu outbreak. One communicable child attending school may come into contact with thirty other school children. If ten percent of those in contact with the flu contract the illness, three additional children will become ill each day. If they attend school while they are communicable, as the first child did, these three will come in contact with other children. Once the flu spreads across classroom lines, it is just a matter of days before the whole school is exposed, not to mention the children's parents and their coworkers, the coworkers' children, their children's classmates, etc. However, while the flu is spreading, the first child, who carried the flu to school, will recover and return to school, symptom-free, before the last member of his class feels the first symptoms. If the flu spreads faster than people recover, the flu will tip into epidemic proportions. The value of tipping as a tool is based on this mathematical certainty. If the variables are correct, an epidemiologist can predict the future course of the illness.

While tipping in epidemiology informs public policy in disease-management issues as diverse as vaccinations, needle exchange programs, quarantines and hospital protocols, there is a question as to the value of tipping as an analytical, as opposed to a descriptive, tool in other areas. The "broken window syndrome," i.e. the effect an un repaired broken window (or a deteriorated house or an unkempt vacant lot) has on a neighborhood, is a variant on tipping, but is descriptive and ignores the mathematical certainty of a tipping formula based on accurate data. We will get back to tipping shortly. First, to place tipping into context, it is important to get a sense of the changing demographics of New Haven and comparable cities.

A. Population

According to the 1790 census, at that time New Haven had a population of 4,487, less than 15% of the New Haven county population of 30,830 and less than 2% of Connecticut's population of 237,946. Those numbers were to change dramatically, particularly from 1880 onwards. Aided by large scale immigration, New Haven's population increased by 38% between 1880 and 1890, 25% between 1890 and 1900, 23% between 1900 and 1910 and 22% between 1910 and 1920. By 1920, New Haven's population was 162,537, with a suburban population of 43,134. New Haven dominated its county, containing 39% of the county population and almost 13% of the state population.

In 1920, the census showed for the first time that more than half of the American population lived in urban areas. New Haven peaked, however, in 1920 as the center of a metropolitan area. Between 1920 and 1950, New Ha-
ven's population increased by only 1% while the suburban population increased by 33%, the county by 31% and the state by 57%. After 1950, New Haven underwent massive urban renewal, community disintegration and white flight. From 1950 to 1980, New Haven's population dropped to 126,109, a decrease of over 23%. After a modest increase to 130,474 in 1990, New Haven faced further shrinkage, with current population estimates as low as 120,000, a number comparable to the 1905 population. At the same time, New Haven's suburban population increased by over 231%, New Haven county by 47% and Connecticut by 64%. By 1990, New Haven had roughly half the population of its suburbs. New Haven's population represented 16% of the county and, for the first time since 1830, less than 4% of the State.

B. Ethnic Populations: How White Europeans Came to New Haven (But Only for an Extended Visit)

Discussing eating in unfamiliar cities, Calvin Trillin writes:

When an Italian restaurant is suggested, for instance, I always say, 'Who controls the city council here?' I suppose a good Italian restaurant could exist in a city that doesn't have enough Italians to constitute at least a powerful minority in city politics, but a man in town for only two or three meals has to go with the percentages. 24

By Trillin's standard, a visitor to 1996 New Haven, a city famous for its Italian restaurants, would be safer eating Italian food in the suburbs. For while the early history of New Haven is dominated by 19th and early 20th century immigration from Europe, the history of the latter half of the 20th century is dominated by the emigration of those same ethnic white Europeans.

In 1850, over 18% of New Haven's white residents were foreign-born, compared to 14% in New Haven county, 10% in Connecticut, and less than 10% in the United States. Seventy-four percent of New Haven's foreign-born population was Irish, with English and German immigrants representing an additional 17%. By 1870, the percentage of foreign-born residents increased to 28% in New Haven city, 25% in New Haven county, and 21% in Connecticut, compared to 14% in the United States as a whole. English, Scottish, Irish, Welsh and German immigrants constituted 94% of New Haven's foreign-born population. There were ten Italians in New Haven in 187025 and approximately 500 by 1880.26 The 1880 census shows Irish, German, Scottish and English immigrants representing 91% of foreign-born white residents.

These numbers began to change dramatically with the 1900 census. Although the percentage of foreign-born residents in the United States dipped to under 14%, the percent in New Haven increased to 29% and in New Haven

25. Shumway & Hegel, supra note 6, at 44.
26. Id.
BUILDING A SEGREGATED CITY

County to 33%. Moreover, while 34% of the city's 30,802 residents were Irish, 15% German, and 9% English/Scottish or Welsh, 17% were Italian, and 10% Russian. The Italian immigration, started in 1872 by J.B. Sargent in order to provide workers at his hardware factory, had increased dramatically. The Russian immigrants, who were largely Jews escaping from pogroms, settled in the Oak Street neighborhood. Jews began to inhabit the Oak Street area in the 1850s; successive waves of Jewish immigrants followed them.

Within ten years, the number of Italian-born residents rose to 13,159, which constituted 31% of all foreign-born White residents of New Haven. The Russian-born population increased to 7,980, 19% of the total.

The Irish population, which was almost 10,000 in 1880, reached a height of slightly over 10,000 in 1900, decreasing in every census thereafter. By 1950, the Irish-born population was 2,730, showing a marked reduction in Irish immigration from the potato famine years. By 1990, only 8.7% of New Haven city residents identified themselves as being of Irish ancestry. However, in the suburbs immediately surrounding New Haven, a higher, remarkably consistent percentage of the population identifies itself as Irish. If Woodbridge (9.8%) is excluded, the range is from a low of 13.9% in Orange to a high of 18.8% in Madison.

In 1920, of the 48,689 foreign-born white citizens in New Haven city, 15,064 (31%) were Italian-born and 8,080 (17%) were Russian-born, a total of 48%. Jews continued to populate the Oak Street and surrounding Hill neighborhood. With sixty-nine storekeepers on Oak Street, the neighborhood was "a shopper's mecca for the entire city and outlying communities."

In every post-1920 census, with the exception of the 1950 post-war census, the numbers of foreign-born residents steadily decreased, from 40,544 in 1930 to 10,633 in 1990. While the absolute numbers of Italian and Russian immigrants decreased as well, their percentage among the foreign-born community remained high, at 36% and 15% in 1930 and 38% and 16% in 1950.

By 1990, New Haven's white ethnic populations had moved to the suburbs. New Haven, at 14.6%, had a lower percentage of Italian-Americans than any of its immediate suburbs, particularly East Haven (41.3%), North Haven (31%), Hamden (25.4%) and West Haven (26.4%). The Italian migration, however, was not just to the north and east, but to the south and west as well, as Woodbridge (17%) and Orange (24.3%) had Italian-American populations substantially larger than any other ethnic group. Italian-Americans represented 33.7% of the 1990 suburban population, more than twice that of the city.

The absence of Italians from the center city is even more dramatic when

27. Id.
28. Silverman, Oak Street, New Haven-A Portrait from the Past, in JEWS IN NEW HAVEN, 116 (Jewish Historical Society of New Haven, Inc.).
29. Id. at 118.
New Haven's East Shore is considered. The eastern-most part of the city, bordering on East Haven, is almost exclusively white. A large Italian population, particularly in Morris Cove, is separated from most of New Haven by New Haven Harbor, and is more like neighboring East Haven (41.3% Italian) than the rest of New Haven.

While the numbers are smaller with Irish-American, German-American, English-American, and Polish-American populations, the trend is the same, with suburban white European populations at least twice as high as New Haven city (with the exception of Polish-Americans at 4.2% in the city and 7.9% in the suburbs). As a group, Italian-Americans, Irish-Americans, German-Americans, English-Americans and Polish-Americans represent over 92% of the suburbs, but only 40% of the city.

Not surprisingly, New Haven's black and Hispanic populations increased as the white population decreased. The black population of New Haven increased from 4,573 in 1920 to 9,605 in 1950 to 47,157 in 1990. The black percentage of the population increased from under 3% in 1920 to over 36% in 1990. The Hispanic population, which was reported in the 1930's census as one person of Mexican origin and was unreported for 1940 through 1960, rose from 4,916 in 1970 to 17,243 in 1990. By 1990, the combined black and Hispanic population exceeded 46%, up from 6% in 1950. These percentages increase dramatically if the largely white East Shore (three census tracts on the eastern edge of the city) and Westville (two census tracts on the western edge) are excluded. The eastern census tracts in 1990 contained 18,000 whites and 1,967 blacks. (The census tract surrounded by New Haven Harbor on one side and East Haven on the other had 5,159 whites and 15 blacks). The Westville section of the city contained 6,055 whites and 689 blacks. By carving off these eastern and western sections, the black population jumps from 36% to 42% of the remaining more central city, while the combined black and Hispanic population exceeds 50%.

C. Work

As early as 1820, workers in New Haven were more likely to be involved in manufacturing than in agriculture and commerce combined. Although the 1820 census included only 1,152 workers, 710 identified their occupation as manufacturing, 321 as commerce, and 121 as agriculture. Twenty years later, the emphasis on manufacturing was even more dramatic, with 1,653 workers of a total of 2,307 identifying their occupation as manufacturing. By 1870, the census identified almost 18,000 workers, with less than half (47.6%) engaged in manufacturing, 30% engaged in the new category "professional and service" (which included barbers, domestic workers and actors) and 20.5% engaged in

30. This number includes 3% of the population which is both Black and Hispanic for census purposes.
trade and transportation. While the total number of workers exceeded 24,000 by 1880, and 45,000 by 1900, the percentages remained fairly constant. (The 1900 census separated domestic and personal service from professional for the first time, with domestic and personal services representing 23.1% of the work force and professionals representing 5.2%.) With a burgeoning World War I industry and an increased population, the 1920s census showed that manufacturing was flourishing, representing more than half of a work force exceeding 63,000 people.

The gun industry dominated the city. The Winchester Repeating Arms Co., which had been situated in New Haven since 1855, was by far the largest employer. Winchester was best known for manufacturing the Winchester Rifle, “the gun that won the West.” During World War I, Winchester employed over 22,000 people, more than two-thirds of those working in manufacturing in all of New Haven. Although there are no precise records, by some estimates, as many as 26,000 people worked at Winchester by the end of the war. At its height, Winchester was a town unto itself, with a company-owned bank, bowling alley and other entertainment spots. Winchester employment rolls fell dramatically after World War I. The surrounding Newhallville neighborhood, which was largely dependent on Winchester, suffered dramatically.

While it is difficult to track manufacturing jobs after 1920 due to changes in census categories, by 1940 the service industry (including clerical, domestic service, manager, professional and service categories) exceeded 40% of the work force for the first time. With "sales" added into the mix, by 1950 these categories exceeded 45%. By 1990, services represented 45.5% of the work force. When transportation (3.4%), communication and utilities (3.2% collectively), finance, insurance and real estate (5.9% collectively) and public administration (4.3%) are added in, the total of the service industries exceeded 60%, with manufacturing representing only 16.4%. The 1990 total work force of 58,000 was almost 15% lower than the 1950 high of over 67,000.

D. Schools

While education is beyond the scope of this paper, it is important to note that the percentage of minorities in New Haven's public schools is twice as high as the general population. According to the Connecticut Department of

32. Id.
33. Id.
35. Id.
Education, during the 1995-1996 school year, New Haven's public schools were 13.39% white and 86.61% minority. These numbers were reversed in the surrounding suburbs, with West Haven at 64.81% white and 35.19% minority, Woodbridge at 91.53% white and 8.47% minority, Hamden at 72.73% white and 27.27% minority, North Haven at 91.52% white and 8.48% minority and East Haven at 93.70% white and 6.30% minority. Thus, the public schools tipped, earlier and more dramatically than the population as a whole. One element of school tipping is New Haven's extensive private school network, from pre-schools through secondary schools. The private school system has allowed white families to leave the public schools while continuing to reside in the city. One common scenario is for newly hired Yale faculty to reside in the city, while sending their children to private schools.

II. MORE ON TIPPING

Thomas Schelling, expanding on his earlier discussion of micromotives (more or less, the small events that lead us to do what we do, with large societal consequences), applied a tipping analysis to describe "white flight." White flight is the phenomenon that occurs when white residents leave a neighborhood or a school, often in large numbers, in response to an influx of minorities into the neighborhood. Schelling noted that the entrance of a few members of a minority often caused other members of the formerly homogeneous community to leave, thus creating vacancies which could be filled by additional minorities, until the neighborhood had "tipped." Schelling argued that each person has a tipping point. The neighborhood tipping point is a factor of the cumulative tipping points of the neighborhood residents. Tipping became so commonly identified with white flight that one commentator defined tipping as "a sociological term that describes the tendency of White families to abandon residential areas once the Black population exceeds a certain critical 'tipping point' resulting in a neighborhood that is overwhelmingly black." Others have applied a tipping analysis to white flight from schools or even to increases and decreases in crime rates.

"White flight" exemplifies the difficulty of extending tipping beyond epidemiology. Tipping implies mathematical certainty. Even assuming a certain

36. Mike Swift & Robert A. Frahm, The Suburbs Are Not as White as When Lawsuit Was Filed, HARTFORD COURANT, July 10, 1996, at A12. These numbers were similar to Bridgeport (11.73% white and 88.27% minority) and Hartford (4.97% white and 95.03% minority). Id.
38. THOMAS SCHELLING, MICROMOTIVES AND MACROBEHAVIOR (1978).
39. Id.
42. Gladwell, supra note 21.
degree of inaccuracy in the data of any given public health concern, the goal of tipping analysis is to create a formulaic resolution which attempts to predict, not merely describe. The departure of a homogeneous group from a particular neighborhood is difficult to reduce to mathematical certainty. Group departure is often psychological, based on a belief system of real and false memories, realistic and unrealistic future expectations and fear of change. Schelling noted that tipping points are personal and individual tipping points can vary dramatically.\footnote{43} 

The difficulty of assessment can be seen in a variety of areas. In housing, three expert witnesses in United States v. Starrett City Associates,\footnote{44} a housing discrimination case, testified, respectively, that tipping occurs (1) between 10% and 20% minority population, (2) at 40% black population and (3) at more than 33% minority population. In education, one commentator has asserted that tipping in schools "has typically been estimated to occur when the population of blacks is between 25 and 50 percent, complicated by reassignment of whites, perceived disruptions of busing and educational quality, the strength of white prejudice, the economics of 'fleeing,' media coverage and official support for desegregation."\footnote{45} In epidemiology, tipping is caused by objective facts. In housing and education, tipping is caused by subjective opinion. It is not so much that a neighborhood is tipping, but that the neighborhood's residents believe it is tipping or will tip.

In the most pragmatic market sense, a property owner who believes his $100,000 asset will soon be worth $75,000 will sell before the market drops to the low point, even if that means settling for a price between $75,000 and $100,000. Since that sale helps establish the new market for similar property, other property owners feel increased pressure to protect their investment. As people leave and new, often more diverse, people move into the neighborhood, other pressures mount. Sometimes these pressures can be summed up as "the neighborhood is changing and it's time to move." Substituting "tipping" for "changing" does not affect the concept.

In some neighborhoods, the economic and psychological push results in tipping and mass departure at an early stage; other neighborhoods are more resilient to change. Thus, tipping could occur with a 10% racial change in some neighborhoods, but not until 50% in others. Hence, there is great difficulty in predicting when a neighborhood is likely to tip, as opposed to noting past hoc, that the neighborhood has tipped. In a recent magazine article, Malcolm

\footnote{43. Schelling, supra note 37.}
\footnote{44. 840 F. 2d 1096 (2d Cir. 1988). See also Lisa J. LaPlace, The Legality of Integration Maintenance Quotas: Fair Housing or Forced Housing? 55 BROOK. L. REV. 197 (1989); Schelling, supra note 37.

Gladwell described the marked drop in reported crimes in New York City in terms of tipping.\textsuperscript{46} Gladwell's article, while fascinating, suggested only that crime in New York may have tipped for the better, with no attempt to identify the tipping point or to predict future behavior. Gladwell notes the difficulty of identifying the tipping point even in epidemiological cases like AIDS.\textsuperscript{47}

As Schelling notes, tipping has been applied to "occupations, clubs, fraternities, medical schools, colleges, public beaches, tennis courts, restaurants, night clubs, and public parks."\textsuperscript{48} Each of these applications is limited to explaining the point at which people leave (tipping out) or join (tipping in). Yet, although Schelling describes micromotives and tipping as a principle governing everyday life, from watering lawns to traffic jams, most applications are limited to the question of integration. To the extent that policy makers have looked at tipping, it has generally been with the purpose of preventing white flight, often with disastrous results. A few of New Haven's disasters will be discussed later in this paper.

As John O. Calmore wrote, "Integrationists, black and white, traditionally have focused on an individualized equality of opportunity... Integrationists have never really accepted community enrichment as an appropriate prelude to broad-scale integration."\textsuperscript{49} Calmore argues that we would be better off trying to achieve "spacial equality,"\textsuperscript{50} in which we redirect resources to improve the quality of life in the black community. Calmore suggests that integration has not worked because of white resistance beyond a certain point, a view consistent with Shelling's micromotive tipping analysis. Furthermore, blacks who are accepted into white neighborhoods undergo tremendous stress and suffer a loss of community connection.\textsuperscript{51}

A policy which places a premium on spacial equality would differ dramatically from New Haven's history, in which whole neighborhoods were razed with the primary goal of encouraging white people to remain in New Haven instead of moving to the suburbs.

We need to get beyond race as the sole tipping factor. Schelling demonstrates how small stimuli or narrow preference can magnify into major consequence. We need to ask how we can apply a tipping analysis to improve neighborhoods. In terms of the "broken window syndrome," we need to figure

\textsuperscript{46} Gladwell, \textit{supra} note 21, at 37. Gladwell cites Jonathan Crane's 1991 study in the \textit{American Journal of Sociology} for the proposition that social problems spread like epidemics: "at the five-percent tipping point neighborhoods go from relatively functional to wildly dysfunctional virtually overnight." \textit{Id.}

\textsuperscript{47} \textit{Id.}

\textsuperscript{48} Schelling, \textit{supra} note 37, at 101.


\textsuperscript{50} \textit{Id. See also} Gary Peller, \textit{Race Consciousness}, 1990 DUKE L. J. 758 (1990).

\textsuperscript{51} \textit{Id.}
out how many windows have to be repaired before a neighborhood will start to improve and tip for the better.

These difficulties are magnified when one attempts to apply a tipping formula to housing issues other than white flight, such as blight. While the spread of blight may be analogous to the spread of disease, there are few empirical housing studies comparable to an epidemiological study. This lack of empirical data, especially during the "epidemic," hinders our efforts in developing an effective housing policy.

The ongoing efforts in New Haven to combat blight are instructive in this regard. During 1994, Mayor John DeStefano directed the city's housing office to identify and remediate blighted housing units. For this purpose, blight was defined as unoccupied and deteriorated units. The housing office identified over 600 units and took corrective action. A year later, when the Mayor asked how many blighted units were left in New Haven, the answer was over 600. These were, however, not the same units.\footnote{2}

An ad hoc committee of city and Yale professionals, including representatives from the fields of architecture, management, law, planning and sociology, met over a period of months to develop an anti-blight strategy. The committee, although it had access to the city apparatus, was unable to answer the questions of whether blight was moving in a particular direction, was haphazard within certain neighborhoods or whether there were indications of blight that would allow blighted units to be identified at an earlier stage.\footnote{3}

Whether such information would be useful in formulating housing policy remains to be seen. It is one thing to identify neighborhoods that have tipped and another to predict future trends. However, even a post-tipping recognition can be critical in informing housing policy. In the mid-1980s, the federal government funded an "In-Fill Program" in New Haven and other cities. Under the In-Fill Program, private developers built two and three-unit, owner-occupied housing on isolated vacant parcels by literally "filling-in" empty spaces in blocks. The dominant public policy driving the In-fill Program was home ownership. Many of the parcels were odd-shaped; most of the neighborhoods were in poor condition. Many of the units developed as in-fill housing have since deteriorated, consistent with current belief that a bad neighborhood will affect a good building more readily than the other way around. The key determinant in building in-fill housing, however, was the existence of the vacant lot and a belief that home-ownership was a sufficient factor in transforming a neighborhood. If the city and federal governments had applied a tipping analysis, they would not have built new housing on some of those blocks.

Recently, I represented a grandmother in an action against her landlord,

\footnote{2}{Discussion with Victoria Bok, Director, New Haven Office of Housing and Neighborhood Development, at the Yale Law School Housing and Community Development Clinic (1995).}
\footnote{3}{The author participated in these meetings.}
based on her grandson's lead poisoning from peeling and chipping paint in their rental apartment. Near the end of the case, we arranged to meet at her new, lead-safe apartment in New Haven, a few days before Christmas, 1995.

When I arrived at my client's home, I was dismayed to see how badly the surrounding block had deteriorated. Four or five buildings in the immediate vicinity were boarded up. Although the block consisted of two and three-family attractively-designed buildings, all were in a state of disrepair. The porch of my client's building looked like it might collapse. A car on the street appeared abandoned. Several street lights were not working and the street had a desolate look.

The bell to my client's apartment did not work and she could not hear my knocking. Since the front door did not close properly, I was able to walk in and climb the stairs to my client's second floor apartment. The hall was fairly dark, lit only by an exposed bulb at the top of the stairs. I knocked on my client's door, she opened it and I entered a different world.

Inside, the living room was dominated by a decorated Christmas tree, with presents underneath. The apartment was completely furnished and immaculate. We sat at the kitchen table, filling out forms. Just as I had felt unwelcomed and uncomfortable outside of the apartment, I felt welcomed and comfortable inside.

Almost two years have passed and I still wonder, as I did that night, about my client, her apartment, her block, her neighborhood and her city. How should the housing conditions, so easily observable inside and outside the apartment, inform our housing policy? The neighborhood had tipped. Barring major redevelopment, it is unlikely that this block will change in the near future, other than by demolishing one or more buildings. Given New Haven's status as a shrinking city, this particular block is not likely to be a candidate for the expenditure of public or private funds.

Yet, this conclusion troubled me. I felt as though there should be a way to factor my client and her efforts into our housing policy. If one believes, as I do, that successful neighborhoods start with and depend on committed residents, to what degree should we base development decisions on the existence of such people? Is one person enough? Stated another way, should we redevelop my client's block around my client or should we give her the opportunity to move to a more stable neighborhood? Should we focus on these issues in granting demand-side tenant subsidies like Section 8? How about supply-side owner subsidies like tax credits? Should Legal Services programs prioritize eviction defenses based on whether a neighborhood has tipped and in which direction? These are some of the questions I have been thinking about since December 1995.

III. PLANNING

New Haven, the first planned community in the United States, was de-
signed by John Brockett in 1638. The original city plan of nine squares with a green in the center was based on the Temple of Solomon. The nine squares was only the first of many plans. In December 1910, the New Haven Civic Improvement Commission, by architect Cass Gilbert and landscape architect Frederick Law Olmsted, reported their vision of New Haven. The New Haven Civic Improvement Committee, which was appointed by the Mayor, included, in addition to the Mayor, a member of the Board of Alderman (New Haven's legislature) and nine other citizens. The Committee met for the first time on July 1, 1907, at which time Gilbert and Olmsted were retained. It was not until October 7, however, that the Mayor appointed Sylvester Z. Poli to the committee, "in order that our Italo-American citizens might be represented," The report itself noted that planning, as a form of socialism, was controversial. The planners justified their work based on the current rate of growth in the city and a need for a rational urban development.

The report noted that New Haven was growing very rapidly and predicted a population of 400,000 by 1950 and that "the end of the 20th century would find the New Haven Green the center of a metropolitan population of about 1.5 million, substantially the situation of the Boston Common today." The report predicted that the composition of the population would change, as recent immigrants from southern and eastern Europe, with their higher birth rate, "would soon overtake the older sources of foreign population." The report warned of the danger to "people of old New England stock" who still controlled the city:

If they want New Haven to be a fit and worthy place for their descendants it behooves them to establish conditions about the lives of all the people that will make the best fellow-citizens of them and their children. The racial habits and traditions . . . of the newer elements of the population are such that a laissez-faire policy applicable to New England Yankees is not going to apply to them.

The report foresaw transportation as a critical element in future growth, with separate discussions of the railroad, the harbor, main thoroughfares, street car lines and parkways (referring to park-like approaches to parks), as well as amenities like parks, playgrounds, rural parks, reservations, street landscaping and even poles, wires and advertising signs. The report is quite detailed, with specific recommendations for roads and neighborhoods, including a downtown

56. CASS GILBERT & FREDICK LAW OLMSTED, REPORT OF THE NEW HAVEN CIVIC IMPROVEMENT COMMISSION (1910).
57. Id.
58. Id.
59. Id.
60. Id.
subway beneath Temple Street, a prohibition of buildings, statues and gardens on the New Haven Green, construction of a public comfort station and a bandstand and limitation on the height of buildings around the Green.\textsuperscript{61}

The report does not discuss how to house a tripling of the population by 1950, other than to note that housing, along with transportation and sanitation, had to be controlled in order to conserve the "natural advantages" of climate, situation, and surroundings.\textsuperscript{62}

In 1923, Technical Advisory Corporation, a consulting firm, prepared a plan calling for the development of recreation areas along the east side of the harbor and new industrial areas in the western part of the city. Traffic was already a problem in New Haven and the plan called for a large number of new thoroughfares.\textsuperscript{63} The plan had "no noticeable effect" on development.\textsuperscript{64}

In 1941, the City retained Maynard Meyer and Maurice Rotival to develop a master plan. The plan, which became known as the Rotival Plan ("Plan"), had several goals:

1. Protect capital investment in the central business area;
2. Provide a suitable industrial area which could be expanded without destroying New Haven's natural beauty;
3. Redevelop the harbor and the waterfront as a major port, while reclaiming some part of the area for recreational use; and
4. Rehabilitate blighted areas of the city.\textsuperscript{65}

The planners noted that the natural center of the city was the New Haven Green, with an orientation towards the harbor and that, while the railroad was fully developed, the highways and streets were not. Their plan called for developing New Haven as a primary traffic distribution center for the state.

\textbf{The Rotival Plan} included several specific proposals:

1. Center city—Meyer and Rotival recommended a reorganization of downtown, confirming the traditional center at the New Haven Green, but opening toward the Harbor, with a coordinated scheme of buildings, streets and covered parking spaces, centered on a reorganization of the retail center to the southwest of the Green, toward Oak Street. South of the retail center, the Plan recommended the establishment of a wholesale and market center. In order to connect the existing hospital and medical center with Yale University, the Plan recommended introducing new industrial and commercial labs. In order to serve the transportation needs of the reorganized center city, the Plan

\begin{itemize}
\item \textsuperscript{61} Id.
\item \textsuperscript{62} Id.
\item \textsuperscript{63} SHERMAN HASBROUCK, EVOLUTION OF COMPREHENSIVE PLANNING IN NEW HAVEN, CITY PLAN DEPARTMENT FOR THE COMMUNITY RENEWAL PROGRAM OF NEW HAVEN, CONNECTICUT 4 (1963).
\item \textsuperscript{64} Id.
\item \textsuperscript{65} CITY PLAN COMM', NEW HAVEN, CONNECTICUT: AN OUTLINE OF MASTER PLAN PRINCIPLES 1-2 (1943).
\end{itemize}
sought the creation of a transportation center near the current railroad to serve rail, auto, bus and airplane traffic.  

2. Thoroughfares—Interstate traffic should be routed near but not through the center of the city, with a general passenger traffic route approaching the city along the coastline and within view of the sea (the line of the current I-95). Truck and passenger routes approaching the city should be separated, with secondary traffic lines connecting to main interregional parkways. Trucks routes should be connected to industrial, wholesale and transportation areas, with residential streets revised to connect to the main traffic areas.  

3. Harbor—There should be direct access to the harbor from the center of the city. The harbor should be reestablished as a port of commerce with transportation facilities and an industrial area, with the rest of the waterfront used for recreation. The east side of the harbor, which was the least densely populated area, would be the best site for the port.  

4. Industry—While the planners believed the New Haven economy was dependent on industry, they stressed that this industry could be regional rather than in the city proper, with the city still accruing the economic advantages. Their plan was dependent on their vision of New Haven as a transportation center. They suggested the establishment of an area near the harbor for industries that were dependent on harbor accessibility, with consolidation of all industries in the city into a few areas, allowing for further industrial expansion along the main railroad lines north of the city.  

5. Neighborhoods—The Plan recommended arranging residential neighborhoods into homogeneous units of detached houses, row houses, apartment houses, or a combination, each with its own grade school, community center and recreational facilities. Neighborhoods should be separated from each other by buffer strips of trees and shrubs or main transportation lines. Through traffic should be eliminated to provide for "safe and quiet" neighborhoods. Each neighborhood should be accessible to an adequate shopping center.  

The Rotival Plan had little effect, which Rotival attributed to the fact that he and the city planner were both drafted.  

The Housing Act of 1949 established federally-assisted urban renewal programs and the Interstate Highway Program. New Haven responded in 1953 with a "short approach plan." This plan proposed building a turnpike

---

66. Id. at 7.  
67. Id. at 9.  
68. Id. at 10.  
69. Id. at 10-11.  
70. Id. at 11.  
73. For an outline of master plan principles, see id. at 7.
across the Harbor at a location close to where I-95 was ultimately built, as well as proposing the route of I-91 through the western part of Wooster Square. Rotival and City Planning Director Norris Andreus integrated these changes into their earlier plan. The planners suggested that the turnpike be routed northward through Wooster Square to East Rock and then branching, one branch northward to the Merritt Parkway and the other westward, then branching again, one branching eastward along the coast (I-95) and the other branching northeasterly as a new freeway to Hartford (I-91). While it took several years, both I-95 and I-91 were built, along lines similar to Rotival's recommendations, with a critical change: the I-91 route was changed to create an artificial loop, which had the effect of running along the western side of Farnam Courts, thus isolating a large low-income housing project from downtown and the wealthier, whiter Wooster Square (traditionally an Italian neighborhood, where the world's best pizza restaurants are located) and East Rock (predominately identified with Yale, and widely known in 1997 as the "graduate student ghetto"). The effect was to align Farnam Courts more with Fair Haven (to the east) than with Wooster Square and downtown.

After two unsuccessful challenges, Richard C. Lee was elected Mayor of New Haven in 1953, taking office on January 1, 1954, beginning a sixteen-year reign that would change the face of New Haven. Lee's tenure has been the subject of numerous books and articles, making modern New Haven one of the most studied cities in the country. For Lee's views on planning and development, we can look to his own words and those of his planner and his development administrator, Maurice Rotival and Edward Logue.

After one year as mayor, Lee wrote that when he became mayor, "[a]s far as I could see we had no future at all—unless, somehow, something big, something new, something comprehensive could be done and done quickly." Lee consulted with Maurice Rotival, the same planner who had in 1941 proposed routing a future express highway system through New Haven.

Lee wanted a program that emphasized rebuilding the city. He saw this as a private function. The public function was "to show the way, to help the community help itself, and to cooperate fully and completely with public self-help all along the line." Lee appointed a fifteen-member Citizens Action Commission (C.A.C.) chaired by Carl G. Freese, the president of Connecticut Savings Bank; vice-chaired by A. Whitney Griswold, president of Yale University; and including local leaders like James W. Hock, the chairman of

---

74. Id. at 7-8.
77. Id. at 12-13.
78. Id. at 13.

Lee noted that new state highways, "cut through the heart of some of our slums."80 He saw this as an opportunity to clean up "the worst of the existing eyesores."81 Lee saw New Haven as the center of a greater metropolitan area, noting that "[s]ocial economic and human problems do not stop at the artificial political boundaries which segregate our community..."82 He charged the C.A.C. with securing regional cooperation with his plan.

Lee's comments were accompanied by a companion article by Maurice Rotival, entitled An Experiment in Organic Planning for New Haven.83 Rotival put the flesh on the bones of Lee's vision.

Rotival began by noting that New Haven's experiment might be influential on "the whole science of city and regional planning."84 Rotival stated that the planning would be done not by a consulting or planning department, as usual, "but by a large group of men from every phase of human activity and from all classes."85 While it is true that the C.A.C. was all men, Rotival's characterization was ironic given the "captains of industry" quality of Lee's appointees, augmented by two labor representatives and one academic. It would be difficult to imagine a less representative group than these fifteen white men who were accustomed to working with each other to decide the city's fate.

Rotival felt that New Haven had to engage in comprehensive planning on a broad scale in order to prevent the city from dying.86 Rotival emphasized the "organic" nature of this experiment (the functions and the separate geographical areas of the city each affecting the other). It was this "organic" view that necessitated a "master plan," which would lie "in the application to planning of the most modern methods of organization, statistical classification and tabulation made possible by electronic calculators," as opposed to a planner who, under the old method "felt himself quite free to calmly prepare his plan, in collaboration with the Planning Department and deliver his completed work at

79. Id. at 14. Rostow and Svirdoff were to become better known for their roles during the 1960s, Rostow as one of the architects of American policy in Vietnam and Svirdoff as the Executive Director of Community Progress, Inc., an anti-poverty umbrella agency funded by the Ford Foundation as a model for the federal Office of Economic Opportunity, itself the forerunner of the Johnson Administration's War on Poverty.
80. Id.
81. Id.
82. Id. at 15.
84. Id. at 16.
85. Id.
86. Id. at 16-17.
the end of the period assigned to him, often a very long time."\textsuperscript{87}

Rotival stressed the importance of rebuilding downtown New Haven as a "thriving retail center," with large department stores, parking for several thousand cars both above and below ground, subway connections from block to block for both cars and people, and platforms for helicopter traffic.\textsuperscript{88} To help serve the downtown, Rotival proposed a new distributor road through the old Oak Street slum, which bordered on downtown New Haven.\textsuperscript{89}

Almost four years later, Edward J. Logue, development administrator of New Haven since 1955, with over-all responsibilities for New Haven's urban renewal program, elaborated on his own ideas in the New York Times Magazine. Logue started with a quotation from Federal Housing Administrator Albert M. Cole: "Any city that does not set in motion by 1960 a comprehensive program to halt blight will be flirting with municipal ruin by 1965."\textsuperscript{90}

Logue bemoaned the failure of cities to enact "a significant master plan," noting that theoretical planners catered to the "applause of elegant critics" as opposed to "the earthier appreciation of politicians who had to try to carry out the plans and get reelected, too."\textsuperscript{91} He was equally critical of detailed zoning ordinances, where so many variances were granted as to make a mockery of zoning. Logue also criticized slum clearance and replacement by large-scale, low-income housing projects. Instead, he called for a whole new approach of urban renewal, which "focuses on the city as a whole and treats all urban problems as interrelated, both in their origin and in their solution,"\textsuperscript{92} a view consistent with Rotival's organic planning.

Logue's urban renewal program included seven key components:

1. Total clearance and rebuilding of the worst slums.
2. Relocation of displaced families and businesses. Where public housing projects are necessary, they should be limited to twenty-five or fifty units at any one location.
3. Spot clearance of blighted areas.
4. Conservation of sound areas with vigorous zoning and housing code enforcement.
5. Coordination of highway building with the city's rebuilding program; "a renewal program which does not provide for an urban highway system to take through and commuter traffic off regular city streets is a waste of time."\textsuperscript{93}
6. Revitalization of the central business district, with the goal of making the city's center core the "favored shopping place of the entire region around

\textsuperscript{87} Id.
\textsuperscript{88} Id. at 22.
\textsuperscript{89} Id.
\textsuperscript{91} Id.
\textsuperscript{92} Id.
\textsuperscript{93} Id.
it."

7. Clearing out old factories to make way for new ones. "Cities are the best site for industries; the reason there has been little industrial expansion is because the best locations are occupied by obsolete factory buildings."94

Logue offered New Haven as an example of successful urban renewal, based largely on the complete razing of two tracts, totaling 140 acres of "slums and blighted commercial structures at the very heart of the downtown area," soon to be replaced "by a striking array of new, modern apartments, office buildings, stores, restaurants, banks and parking facilities," all of which was connected to a new federal-state highway program to provide access to the downtown area.95 The net public cost of razing and reselling the land to private developers was $22,500,000, of which the federal government paid $15,000,000 and the city $7,500,000. Other projects in New Haven called for spot clearance and neighborhood rehabilitation, as opposed to total demolition. Logue predicted that when these projects were completed, within ten years, "New Haven believes that it will have become the first city in America to be completely free of slums and blight" and that Mayor Lee was "well on his way to doing for city rebuilding what Fiorello LaGuardia did for municipal reform—making it colorful, popular and a heavy plus at the polls on election day."96

Logue stated that New Haven officials had developed four underlying principles to a successful urban renewal program, which were applicable to cities in general:

1. Leadership from city hall. "The job cannot be left to ivory-tower planners and volunteer do-gooders," but must be "a vital part of the down-to-earth political life of the city," under a strong mayor.97

2. Organized and strong community support, an activity in which volunteers do have an important role to play, as the Citizens Action Commission did in New Haven. By the time of the Logue article, the Citizens Action Commission and its working groups included "some 600 business, civic, labor and community leaders."98

3. A competent and adequate development and planning staff.

4. Coordinated administration, under the direction of "a single municipal official with urban renewal his sole responsibility."99 (In this case, Logue)

Logue's article included pictures and artists' renderings of the proposed Church Street development (a downtown commercial development facing the

94. Id.
95. Id.
96. Id.
97. Id.
98. Id.
99. Id.
New Haven Green) and the Oak Street connector (a highway connector from the junction of I-91 and I-95, running past the Church Street redevelopment. The Oak Street connector was built over the completely razed Oak Street neighborhood.) These two projects were the two most dramatic development decisions in New Haven in the second half of the twentieth-century. Subsequent history has shown that they were also two of the worst decisions.

The newspaper accounts at the time confirm that Lee, Logue and Rotival's actions were consistent with their vision. In February 1955, Mayor Lee and fifty-three other New Haveners, including the members of the Citizens Action Commission, traveled to Philadelphia to view urban redevelopment efforts there. Patrick B. McGinnis, president of the New Haven Railroad, hosted the trip, providing special cars, meals and cocktails. At a luncheon meeting, Philadelphian Jeffrey Smith emphasized the similarities between New Haven and Philadelphia, noting that each was old, was the site of a large university and had been recently confronted with a traffic-choked business center, slums, low morale and a declining economy. Smith was the co-chairman of the Greater Philadelphia Movement, which, like the C.A.C., "is composed of important men in the business community who are dedicated to the support of the redevelopment program." The group returned to New Haven, enthused about urban renewal: "There were no lukewarm supporters of New Haven's redevelopment project on the return trip home last night. If there were they were not apparent." The Journal Courier reported that the group represented "all segments of community life," but referred to the group as consisting only of men, and like the C.A.C., all members of the group identified in the article came from government or business.

Philadelphia's urban renewal program included razing a tract of land a mile long and several hundred feet wide, a site that was to become Penn Center and included a Sheraton hotel, office buildings, a transportation center and a Pennsylvania Railroad suburban station building.

A picture accompanying the article describing the trip showed one of Philadelphia's newest Housing Authority projects, which can only be described as the antithesis of Lee's and Logue's vision: a fifteen-story apartment building containing 448 family units and a twelve-classroom elementary school and


101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

other facilities. The development also contained "dwellings situated in rows."107

In their two articles describing the trip, the Journal Courier appears as much cheerleader as newspaper. Apparently taking to heart Mayor Lee's call for community-wide support of the proposed urban renewal program, the paper goes to great lengths to note the importance of the involvement of McGinnis and the railroad, as well as the similarities between Philadelphia and New Haven, and mentioning, but minimizing the difference in size between the two cities.108 Implicit in stressing McGinnis' support was the hope that the railroad would be as active in reinvesting in New Haven as it had been in Philadelphia.

The difference in size, population, and public and private resources between Philadelphia and New Haven may make comparison seem incongruous. As detailed throughout this paper, however, New Haven was and remains a microcosm of larger deteriorating cities. The flaw in the comparison between the two cities was not in size, but in the critical elements of the urban renewal plan. Philadelphia razed a large section of its downtown in order to create a new business-oriented center, which brought more people downtown and increased Philadelphia's tax base. While New Haven's plan had some of the same elements, such as the Oak Street connector, a high-speed highway, and the removal of hundreds of families from the area, the separation of a major portion of the city from downtown greatly impeded pedestrian and vehicular traffic trying to cross the new highway. Philadelphia sought to bring people into the central area. While New Haven's Church Street project had the same goals, the Oak Street connector was dedicated to moving people in and out of the city, while separating much of the community from the commercial area. In Rotival's terms, the concentration on traffic ignored the effects on the rest of the organism. However, the Oak Street connector had other purposes.

By the early 1950s, the thriving largely Russian-Jewish Oak Street neighborhood had changed dramatically. The majority of the Jews had moved westward, populating Westville (the western part of New Haven) and the neighboring towns of Woodbridge and Orange. Of the 694 dwelling units identified in the Oak Street area, only twenty-nine were occupied by their owners.109 The population was approximately fifty percent black.110 Little had been done to maintain the neighborhood, including installing modern plumbing and electrical systems, and the buildings had deteriorated. Oak Street was a prime site for urban renewal. The fact that Oak Street was ideally located for the expressway that Mayor Lee and Maurice Rotival saw as necessary to bring people in and out of the center city increased the attraction of building a major

107. Id.
108. See generally supra notes 100-106.
110. Id.
highway there.

Lee's vision of urban renewal included razing severely blighted areas. There is no question that the Oak Street area had become a slum in that it consisted of several square blocks of substandard and inadequate housing with serious vermin and other health problems. At the same time, it was a neighborhood containing hundreds of families, most of which were black.

Richard Lee was considered an energetic, progressive mayor. He brought a group of young, bright, idealistic and progressive professionals into city government, Ed Logue foremost among them. They were well aware of the problems facing the city and had a vision of how to save it. They saw white-flight as a serious problem. They believed the city was in danger of tipping and set a high priority on creating conditions which provided incentives for white people to remain in the city or, in the alternative, at least remove some disincentives to remaining in the city. The policy decisions that lead to the Oak Street connector cannot be separated from a desire to remove the city's worst eyesore and replace it with a planned development that would encourage business investment and make New Haven an attractive option to moving to the suburbs for people with adequate capital. Most of those people were white.

Local newspapers helped publicize Oak Street's problems. A series of articles, with vivid pictures, showed littered streets, vacant stores, heaps of trash, and apartments with falling plaster, newspapers and cardboard tacked to the walls and ceiling with lighting furnished by a single light bulb attached by a dangling wire.

If there were any objections to the Oak Street redevelopment, the media was not reporting them. During July of 1955, the Journal Courier reported that city departments were distributing a journal explaining new development terms. The Union and New Haven Trust Company, which prepared the journal, mailed it to 10,000 bank customers. The journal credited the New Haven Chamber of Commerce and the Citizens Action Commission for "crystallizing public opinion behind the development plan and obtaining the additional legislative and financial aid to take the plan out of the dream stage and get tangible results readily available to the city's tax payers."\footnote{City Redevelopment Brings Host of New Terms, Glossary Published, NEW HAVEN J.-COURIER, July 8, 1955.}

Later that same month, the New Haven Register, in a series of articles detailing the nature of the Oak Street redevelopment, estimated the total cost at $17,150,000, of which $14,000,000 would be private investment. The net cost to the city would be $450,000, with the balance paid by the federal government. The plan included four major improvements:

1. Seven hundred apartments and six hundred off-street parking facilities, at a cost of $7,000,000.
2. A four-story, 1,400 employee office building with 500 off-street park-
ing spots, at a cost of $5,500,000.

3. The extension of College Street, which ran through Yale University. College Street would be extended south to help facilitate traffic toward Oak Street.

4. Low-rent public housing project or an institutional use of an isolated triangle in the redevelopment area.112

The excitement over Oak Street would soon be dwarfed by a new project. On June 11, 1957, Mayor Lee announced the most extensive downtown development in New Haven's history.113 The front page of the New Haven Register was devoted entirely to the redevelopment, with five separate stories. The Register did not contain its excitement or moderate its role as cheerleader. The first story below the masthead started as follows:

For New Haven's newsmen, there never was and probably never will be a day like Tuesday, June 11, 1957. What is undoubtedly the biggest of the many big stories in the City's centuries—old history 'broke' in the office of Mayor Richard C. Lee, crowded with the largest assembly of journalists ever to gather here for a press conference.

To a man—and to a woman, too, for there were 'newshens' present—the reporters and news executives knew that the Mayor was going to announce redevelopment of the Church Street area. Not many were not aware of the staggering scope of the projects and its many intriguing details.114

The downtown redevelopment, which would take five years, would literally change New Haven's skyline. Hundreds of buildings would disappear, to be replaced by "glimmering new buildings of metal and brick. The most impressive will be the eighteen-story 'baby skyscraper' which will give the City a new hotel and a new skyline."115 The project was estimated to cost a total of $18,000,000. "Unfortunately," the Register noted, "as was the situation in isolated incidents during the demolition phase of the Oak Street redevelopment, some of the businesses, mostly the smallest and weakest ones, will not survive."116

The biggest investor was Roger L. Stevens, a New York developer and a producer of Broadway plays. Stevens was to build the hotel, adjacent office buildings and retail shopping outlets on a prime piece of New Haven real estate—directly across from New Haven Green. Steven's tie to New Haven was through the Shubert Theater, where several of his plays had tryouts. Steven's walks through the downtown business district, which the Shubert borders,
convinced him that New Haven had potential for investment.\textsuperscript{117}

Mayor Lee said the project would not only combat "urban decentralization" but would "regain the title we lost in 1930 as Connecticut's first city."\textsuperscript{118} Lee praised Maurice Rotival for planning the project, but cautioned that the Plan needed the support of the people if it were to move beyond a plan and become reality.\textsuperscript{119} Lee also saw the project as having a leveraging effect: "We expect there will be a substantial improvement in properties around the project as a result of new investment within the project areas. This has been the experience in other cities and I am confident that New Haven will not be an exception."\textsuperscript{120} Lee felt that the project, including improved roads allowing better access to downtown New Haven, would make New Haven "the entire focus of shoppers throughout the New Haven area."\textsuperscript{121}

By early 1958, Federal Housing Administrator Albert M. Cole described New Haven's urban renewal program as "spectacular, imaginative, exciting—a model for urban renewal in the nation's cities."\textsuperscript{122} The New Haven Program was the largest in the country, as determined by dollars expended per capita. New Haven was to receive $26,056,822 in federal urban renewal funds.\textsuperscript{123} New Haven's success was described as replacing "a jumble of dark, rat-infested, debris-cluttered canyons of filth, poverty and disease" with a path for a six-lane, mile-long traffic artery.\textsuperscript{124}

When the flesh was put on the skeleton of the development plan, Lee had scored another coup: Macy's agreed to anchor the mall. In order to accommodate Macy's, Malley's, a local family-owned department store, agreed to give up its prime space to Macy's, moving to a location just south of Macy's, along the new Oak Street connector. The result was the Chapel Street Mall, the second indoor mall in the country, facing the New Haven Green. Alongside was an office tower and the adjacent Park Plaza Hotel. Macy's was a block south, connected to the Chapel Square Mall by a walkway. Macy's occupied the full block, with Malley's across the street, also connected by a walkway.\textsuperscript{125}

With Macy's as an anchor, it seemed as though the long-term health of New Haven as a retail center was guaranteed. "Long-term" turned out to be less than thirty years. Malley's, isolated by its location, closed in January 1982 when United Department Stores, by then the owner of the Edward Malley

\textsuperscript{117} Id.
\textsuperscript{118} Id.
\textsuperscript{119} Id.
\textsuperscript{120} Id.
\textsuperscript{121} Id.
\textsuperscript{122} NEW HAVEN REG., Feb. 9, 1958.
\textsuperscript{123} Id.
\textsuperscript{124} Id.
\textsuperscript{125} For a full discussion of the details of the coming of Macy's, Malley's and the Chapel Square Mall, see TALBOT, supra note 75, at 122-33.
Company, filed for bankruptcy and closed all fifty Malley's. The New Haven store had been operating for 129 years. By the end of 1993, sales at the Chapel Square Mall were down by one-third. The mall management blamed the mall's problems on the hundreds of teenagers who congregated in and outside the mall after school. Patrons stated that they did not feel safe and that drug-dealing occurred in and outside the mall. Mall management proposed banning teens after school, but abandoned their plan after strenuous objections from many in New Haven, including the Mayor.

By this time, Malley's was a vacant eyesore and, along with the uniquely unattractive New Haven Coliseum, served as the first view of New Haven for people entering from I-95 via the Oak Street connector. Malley's, a stark building, was attractive to graffiti artists. Those driving by were treated to slogans like, "HELP! Bang! Bang! New Haven's Children Cry."

By then, John DeStefano was the Mayor. Like Richard Lee, DeStefano was young, energetic and progressive. Unlike Lee, he was not well-connected in Washington and, given the changing times, could not depend on money from the federal government. DeStefano's plan, the Livable City Initiative, differed from prior plans in two notable ways: (1) It focused on neighborhoods and not downtown; and (2) it acknowledged that New Haven was a shrinking city. The Livable City Initiative was a program of measured demolition. The program included identifying blighted buildings, involving neighborhood "management teams" in the decision of whether to demolish a particular structure and sought innovative ways to use the vacant lot. One prominent use was to divide the lot in half and convey the halves to the adjoining land owners, with an agreement not to build, other than to provide off-street parking. Livable Cities Initiative was a dramatic 1990's response to a declining population and the failures of the 1980's In-Fill Program.

IV. THE HISTORY OF PUBLIC HOUSING IN NEW HAVEN

In 1937, seeking to stimulate a moribund construction industry, Congress passed the United States Housing Act, which created the United States Housing Authority and provided for loans to be made to local housing authorities to...
develop local projects. By the end of 1938, thirty-three states passed enabling legislation and 221 local authorities were established. New Haven proved particularly adept in securing federal loans. On July 11, 1939, the New Haven Board of Aldermen approved the creation of a housing authority and, shortly thereafter, in an act that the New Haven Register called "[a]nother big stride toward a slum clearance project in this city," Mayor John W. Murphy announced the appointment of the first members of the New Haven Housing Authority.

The first board included Dr. C. E. A. Winslow, a chaired Professor of Public Health at Yale University; James W. Hook, President of the Geometric Tool Company; Elizabeth Fox, the Executive Director of the Visiting Nurse Associate and an Associate Professor of Nursing at Yale University; George Crawford, a prominent black New Haven attorney and former special counsel for the City of New Haven; and James F. Welsh, the business agent for the local brick layers union. The Register reported that the Mayor had some difficulty in appointing a board because of the heavy responsibility involved, with indications that Commissioners Winslow and Hook ("one of New England's leading industrialists") would serve only in the early stages of developing initial projects.

Within a year, the Housing Authority completed a plan to house 1,600 low-income residents in thirty-three separate buildings with 442 dwelling units, "designed to effect a maximum of efficiency in minimum maintenance costs, all for $2.5 million. That first project, built on the edge of the deteriorated, largely black Dixwell community that bordered on Yale University, was known as Elm Haven.

When we look at large-scale housing projects like Elm Haven, we wonder why planners did not see the socio-economic effects that seem so obvious today. In 1940, however, planners saw a different environment, with three separate benefits from building large-scale low-income housing projects. First, by building the project on the edge of a slum, the project would serve as a barrier to prevent the slum from expanding into adjoining neighborhoods. Second, the project would create a ready market for businesses springing up on its outskirts. Third, the project would provide high-quality sanitary housing for families moving from some of the worst housing in the city. The New Haven Register described the proposed project as "[a] modern utopia . . . [b]uilt to provide efficiency, economy, cleanliness and comfort . . . ."

134. Mayor Selects Authority for Slum Project, NEW HAVEN REG., Aug. 21, 1939.
135. Id.
136. Authority Completes Housing Plan Details, NEW HAVEN REG., Jan. 7, 1940.
137. Id.
138. Id.
was designed with "community and recreational facilities for adults—long organized as a need in such projects." 139 The Housing Authority's Executive Director explained that management personnel and "the financial set-up will assure a high standard of maintenance." 140 He predicted that at the end of the sixty year amortization period [2001] "the project should be just as good as the day it is completed." 141

In addition, federal policy encouraged the development of large projects. The statute required the elimination of a slum unit for each new unit built. 142 That had two dramatic effects: (1) public housing would be built under the 1937 Act only in those cities with substantial numbers of housing units so deteriorated as to merit demolition; and (2) the new housing was likely to be built in high density on the site of the demolished housing or on large parcels of vacant land. 143 Since the establishment of local authorities was voluntary, wealthier communities without deteriorated housing could avoid building any public housing.

A move into Elm Haven was unquestionably a step up. The initial tenants were hand-picked by the Housing Authority to move into Elm Haven from sub-standard homes considered by the Housing Authority to be unfit for residential occupancy. Units were limited to families with annual incomes between $550 and $1,500. Prospective tenants applied at the Housing Authority office and needed to be certified as financially eligible and as occupants of crowded or sub-standard housing. If an applicant met those standards, his application was turned over to a three-person advisory committee representing the city's charities, the businessmen, and the clergy, for any further investigation.

Newspaper articles featured John Jones and his family as typical of the first tenants to move into Elm Haven. Jones was employed at the Coppers Coke Company, with an annual income $1,421. His initial rent for 5½ rooms was $35 per month. The Jones family was at the upper end of income eligibility. The average annual income of the first group of tenants was $975.81. 144

Race was a factor from the beginning in planning New Haven's low-income housing. A tenant survey of the Dixwell slum which was to be demolished in order to build Elm Haven listed 856 black families, 556 of which were

139. Id.
140. Id.
141. Id.
142. Pub. L. No 75-412, § 10(a), 50 Stat. at 891-92. The New Haven Register, May 1942, explained that the Housing Authority's low-rent projects had not "swelled the number of dwelling units available since restrictions make it mandatory that a substandard unit be demolished or rehabilitated for each new unit built."
144. New Haven Reg., Sept. 1940.
living in sub-standard housing, and 425 white families, 210 of which were in sub-standard housing.145 In order to accommodate a project the size of Elm Haven, the demolition plans spared nothing, including the many small business on the east side of Dixwell Avenue.146 A January 1940 aerial photograph shows a neighborhood of three story houses, to be replaced by thirty-three low-rise, flat-roofed buildings.147 While the project as a whole was integrated, individual buildings were racially segregated.148

Quinnipiac Terrace and Farnam Courts, both planned along with Elm Haven in 1939, were completed in 1941. Quinnipiac Terrace, built along a pristine section of the Quinnipiac River in Fair Haven (the eastern-most section of New Haven) was vigorously opposed by the Clinton Civic Association, a local neighborhood group.149 The New Haven Board of Aldermen approved the project and the closing of four streets in spite of the protests, and Quinnipiac Terrace opened in November of 1941.150 Like Elm Haven, rents for the three- to six-room apartments were based on income, with a maximum yearly income of $1,575. Rents ranged from $17.50 to $28.50 per month.151 Newspaper stories celebrating the new project called for more housing to make New Haven a "truly American city" and showed pictures of families (all of whom were white) moving into Quinnipiac Terrace, noting that "neither the Quinnipiac Indians nor the Pilgrim fathers who founded New Haven could boast the comforts to be found today in Quinnipiac Terrace." Some of the families were dressed as Pilgrims, to celebrate the anniversary of treaties with the Quinnipiac Indians.152

Farnam Courts, which was built along Grand Avenue, approximately halfway between Elm Haven and Quinnipiac Terrace, contained 318 units.153 Construction started in April 1941.154 As construction began, Viva E. Bruce, the social service director of the New Haven Department of Charities, reported that "it is impossible to find decent housing and increasingly difficult to find any housing whatsoever."155 Mayor Murphy informed the Capital Board of Finance of a recent eviction of a family of nine. The family had been living in

145. NEW HAVEN REG., July 25, 1939.
146. Id.
147. See NEW HAVEN REG., supra note 144.
149. NEW HAVEN REG., Nov. 1940
150. Id.
151. Id.
152. Quinnipiac Terrace, Low-Rent Community In Fair Haven, Holding Open House Today, NEW HAVEN REG., Nov. 23, 1941.
153. Id.
154. Work Starts Tomorrow on Housing Unit, NEW HAVEN REG., Apr. 3, 1941.
155. NEW HAVEN REG., Apr. 1941.
a four-room flat, paying a rental of ten dollars per month for an apartment which was, according to an investigator, "in need of repairs." The parents and four children were taken in by relatives; three other children were placed in an institution, "to await uniting of the family at some future time."\textsuperscript{156} Ms. Bruce reported to members of the New Haven Social Workers' Club that, for families whose residences were condemned by the Department of Health as unfit for habitation, "there is just no place for them to go."\textsuperscript{157}

As of March 31, 1941, New Haven reported a vacancy rate of 1.078% of the 44,000 dwelling units in the city, with many families paying monthly rentals in excess of $40 per month.\textsuperscript{158} The Department of Charities increased the amount it paid for rent assistance for poor families from $1 to $5 per month, in a futile attempt to alleviate the problem.\textsuperscript{159}

The Housing Authority advertised Farnam Courts has a model of careful planning and effective land use. By building eleven separate three-story apartment buildings, many of them U-shaped wing apartments with open courtyards, as opposed to the common site arrangements which provided for "wasted" backyard space, Farnam Court would provide for 318 units on the same land which had previously housed sixty fewer families, thus increasing density from thirty-one families per acre to forty families per acre.\textsuperscript{160} The proposed amenities included a wading pool, skating rink, "sitting out benches" and playgrounds.\textsuperscript{161}

With the completion of Elm Haven, Quinnipiac Terrace and Farnam Court, the Housing Authority could report the creation of over 1,000 low-income units in less than three years, all pursuant to a $5,000,000 federal loan. Dr. Winslow reported that "the contrast with the present bad housing is obvious. A much more desirable living arrangement has been obtained by the effective use of land."\textsuperscript{162} Dr. Winslow particularly noted that the valuable property "along the street front [of Farnam Courts] was not wasted in the present plan as there was no attempt to cultivate productive gardens except in a few cases where grapes were grown."\textsuperscript{163} He added that "the surface only has been scratched, however, and the problem of bad housing in New Haven is not solved. More must be done to make this a truly American city."\textsuperscript{164} Thus ended New Haven's first entry into developing public housing.

World War II brought to New Haven a thriving defense industry and in-
increased housing pressures.\textsuperscript{165} By late October 1942, B.M. Petitt, Director of the Housing Authority, announced that the Authority was interviewing "eligible in-migrant war workers" to occupy the 300-unit West Hills Defense Housing Project, the first project to be built in the western end of the city. Rents at West Hills ranged from $35 for a one-bedroom apartment to $44.50 for a four-bedroom apartment, including utilities. Eligible tenants had to be employed in a war industry approved by federal authorities, must have come to New Haven within the past year or be commuting, and must have been living under unfavorable housing conditions. The federal government funded the project so that New Haven would be better able to attract workers who otherwise would not accept jobs in the city.\textsuperscript{166}

Dr. Winslow, responding to "wide spread inquiries as to whether Negro defense workers are to be discriminated against" in West Hills, stated that such discrimination would be "unthinkable."\textsuperscript{167} Dr. Winslow expressed his pride in "the complete absence of any racial discrimination" in the Housing Authority's programs, noting that more than 330 of the 1,035 available low-rent projects "are occupied by Negroes—a very large portion of the total but one fully justified by the special needs of this particular group." Dr. Winslow did not note that approximately ninety percent of the black tenants resided in Elm Haven in buildings which were segregated by race. He stressed that black workers would be represented in the West Hills project in approximately in the same proportion as they represented of the total in-migrant group of the defense workers.\textsuperscript{168}

The problem of housing black defense workers was particularly acute at Winchester, which was planning to "import an additional large numbers[sic] of Negro workers to round out their employment rolls."\textsuperscript{169} Winchester's officials visited B.M. Petitt concerning housing policies at West Hills. The housing shortage in the Dixwell Avenue neighborhood was particularly acute, with stories that black workers slept in shifts because of a lack of adequate beds or in their automobiles, sleeping in beds only on weekends when they returned to their out-of-town homes.\textsuperscript{170} Defense manufacturers considered asking the city to repeal a recently-enacted ordinance regulating trailers and trailer camps.\textsuperscript{171} The Housing Authority estimated an influx of 2,700 families into New Haven by the middle of 1943.\textsuperscript{172}

\begin{itemize}
\item \textsuperscript{165} \textit{New Haven Reg.}, Mar. 1941; \textit{New Haven Reg.}, Apr. 1941.
\item \textsuperscript{166} \textit{West Hills Housing Project to Be Formally Opened Nov. 1, New Haven Reg.}, Oct. 29, 1942.
\item \textsuperscript{167} \textit{New Haven Reg.}, Oct. 1942.
\item \textsuperscript{168} \textit{Id}.
\item \textsuperscript{169} \textit{Id}.
\item \textsuperscript{170} \textit{Id}.
\item \textsuperscript{171} \textit{Id}.
\item \textsuperscript{172} \textit{Id}.
\end{itemize}
The list of plants approved by the federal government as war industries provides some sense of the breadth of New Haven's industrial base. The Mottlin Firearms Company, the Sargent Company, the Winchester Company, the Bolton Manufacturing Company, the M.B. Manufacturing Company, the American Tube Bending Company, the Malleable Iron Fittings Company, the Safety Car Heating Company, the Wire Rope Corporation of America, Snow and Nabstedt, the Armstrong Aircraft Corporation, the Armstrong Rubber Company, the Seamless Rubber Company, the A.C. Gilbert Company, the C. Cowles Company, the Geometric Tool Company and the Rockbestos Company were among the approved companies. Mr. Petitt requested that the federal government approve an additional forty industries where applicants were employed. Dr. Winslow credited Mayor Murray and the members of the Housing Authority for anticipating the housing shortage in time to obtain federal funding.

Eighteen months later, Mr. Petitt announced that the Housing Authority received approval from the Federal Housing Authority to accept as tenants any veterans who had been discharged from service for at least one year and, more important at the time, the families of absent servicemen. Around the same time, Colonel Raymond J. Reeves, commanding officer of the Army Air Forces Training Command School, made appeal for housing facilities for the military officers and families coming to New Haven for courses at Yale. Colonel Reeves reported that approximately ten officers and five families arrived in New Haven each week, with immediate housing needs. In reporting Colonel Reeves' comments, the New Haven Register noted that the Yale Service Bureau, the YWCA Room Registry and the New Haven Real Estate Board were the proper places to apply; the Chamber of Commerce, which received many requests for assistance, was not able to maintain a registry.

At the same time, there was a lack of consensus as to the housing needs in the black community. The New Haven Register reported that recent layoffs, brought about by changes in production schedules in some of New Haven's largest war-related industries, had slightly eased the housing crunch for black families, noting that "a percentage of those that were let out were Negroes who had left their families in New York and other cities within weekend commuting distances. When released they gave up their furnished rooms instead of seeking other employment in this area and returned to their native communities." George W. Crawford felt that "a considerable portion of the immigrant workers" left New Haven, although most were single men and

173. NEW HAVEN REG., Oct. 29, 1942.
174. Id.
175. NEW HAVEN REG., Apr. 20, 1944.
176. NEW HAVEN REG., Feb. 5, 1944.
177. NEW HAVEN REG., Apr. 9, 1944.
women living in rooming houses.\textsuperscript{178} Dr. Carter L. Marshal, a Dixwell Avenue physician practicing near Elm Haven, agreed, noting that those blacks who left New Haven were roomers and would not affect the housing situation of families.\textsuperscript{179}

A Dixwell Avenue realtor stated that the recent layoff at Winchester helped ease the common doubling and tripling up under one roof, with many formerly overcrowded families now having separate quarters. Another broker "specializing in properties in the Negro sections" stated that "the clamor for rooms let up" but that there were no vacancies in the Dixwell Avenue, Commerce Street or Grand Avenue sections of the city. Mr. Petitt noted that black families were still having a difficult time finding rooms. There were no vacancies at Elm Haven, where sixty-eight percent of the 487 units were occupied by black families. The availability of rental apartments and houses "in the more desirable neighborhoods, remain[ed] acute if not desperate."\textsuperscript{180}

At the end of World War II the expected exodus of war-time workers did not occur. With returning veterans and negligible construction of new units, a November 1945 survey estimated that 3,000 individuals and families were searching for housing, with an average of only three families per week finding suitable housing.\textsuperscript{181} Anecdotal information included eight families sharing one kitchen and three families living in five rooms. Local realtors predicted the housing shortage would get worse before it improved.\textsuperscript{182} By the spring of 1946, an estimated 2,500 families were seeking housing, while only ninety-nine permits for family units had been issued, fourteen of which were conversion of third floor attics into apartments. The suburbs of Hamden, East Haven, North Haven, and West Haven reported an additional 200 permits. Critical shortages in building materials hampered large-scale construction.\textsuperscript{183}

With the newly-formed Citizens Housing Emergency Committee advocating the needs of war veterans, the Board of Aldermen approved a new zoning district known as Residence A-1, designed to permit the conversion of large single-family houses, twenty years or older, into apartments. Yale University resolved its veterans' housing problems by erecting eighty-three Quonset huts near the Yale Bowl and thirty-seven huts on Whitney Avenue, all for married, veteran students.\textsuperscript{184} The huts near the Yale Bowl, were known as Armory-
ville. The huts remained until 1955 when the city administration supported Yale's plans for off-campus apartments for married students. Meanwhile, the Housing Authority applied for an $8 million federal allocation to construct a new low-rent project in the Hill section of New Haven and to extend Elm Haven and Farnam Court. The plan would provide for an additional 1,400 to 1,500 family units.

By early 1949, a New Haven Housing Authority survey showed a need in the city for 6,952 homes or apartments, approximately 3,000 of which would replace substandard dwellings. Over seventy percent of applications to the Housing Authority were from veterans. Later that year, the federal government allocated funds for 700 low-rent units, which allowed for the planned expansion at Elm Haven and Farnam Court. The proposed project in the Hill still awaited federal approval. In Washington, the federal Public Housing Administration announced that all preliminary loans to plan low-rent projects must be used in slum and sub-standard areas.

While federal policy in the 1937 Act encouraged building public housing in deteriorated or vacant areas, the 1949 Act mandated a process which made inevitable the siting of low-income projects in poor neighborhoods. The policy was ideal for enlarging already existing projects like Elm Haven and Farnam Courts.

In mid-October 1949, Richard C. Lee, nearing the end of the first of two unsuccessful runs for Mayor of New Haven, (to be followed by a sixteen year tenure as Mayor) offered a seven-point housing program, which included consolidating the Emergency Housing and Veterans Emergency Housing into the Housing Authority, conducting a needs survey for all economic levels, encouraging private capital projects, encouraging the expansion of ownership housing in cooperation with private builders, using a "skilled expert" to advise on the building code currently being drafted, preparing a modern housing code by the Health Department and providing a community information center through the Housing Authority. Lee's plan foreshadowed his reliance on experts, particularly planners; his call for more private building, more ownership housing and consolidation of housing programs within the Housing Authority would prove to be ironic. The future Mayor Lee would change the New Haven landscape through public dollars, with slum clearance, massive redevelopment and highway construction constituting critical parts of the process.

190. Id.
191. See Schill, supra note 143.
193. See discussion of Urban Renewal, supra notes 110-25 and accompanying text.
Meanwhile, William C. Celentano was still the Mayor and the Housing Authority remained the primary builder in New Haven. In mid-1950, the Housing Authority received bids for the construction of McConaughy Terrace and Brookside, the city's first two moderate rental projects. Both projects were built with state funds. Brookside would consist of 300 units, 165 with two-bedroom apartments, 120 with three-bedroom apartments, and 15 with four-bedroom apartments. The addition of the four-bedroom apartments was a break with the past, accommodating families with five or more children. Given the recent rise in the cost of building materials, units were expected to cost an average of more than $10,000 each.\(^{194}\)

Brookside was a controversial project from its inception. The New Haven Real Estate Board asked the Board of Aldermen not to approve the Housing Authority's proposal, listing seven objections:

1. Brookside was too expensive. Tax payers should not have to pay for the government to build units costing $10,000 each. Over ninety-six percent of the tax-paying population earned $5,000 or less per year and the group as a whole paid more than eighty percent of the income taxes collected.

2. The project was an unwise state investment. The realtors predicted that within a few years, there would be a sizable number of vacancies in the proposed units. Incomes would level off with the end of the current inflationary spiral and people in the lower income brackets would be unable to afford the moderate rents at Brookside. In addition, the acceleration of private construction would bring about a decline in housing costs. The project would run at a deficit and the state would be responsible for the bill.

3. The units were not planned for low-income families, which had the greatest need.

4. Too few families would benefit. Even assuming full occupancy, the proposed 300 units would house less than three-quarters of one percent of the city's 50,400 families. The realtors felt that this was too small a gain to risk the financial consequences.

5. There was no evident need. Only 350 people had indicated an interest in renting the units. Because of the expected decline in the cost of private housing most of those would probably would not be interested in Brookside once the units were completed.

6. The basic principle underlying Brookside was unsound. The small home owner, managing an annual income of $1500 to $2000, should not be required to help pay the rent for people whose income was double his. People earning $4000 to $5000 per year should not be subsidized.

7. The destruction of individuality. Large-scale housing uniformity bordered on "machine thinking" and "mass thinking" and was "a swing in the di-

---

rection of socialism and communism.\textsuperscript{195}

Since the first occupants of Levittown had moved in almost two years earlier and Bill Levitt and his "almost identical houses" and homogeneous community had received national recognition,\textsuperscript{196} the realtors' fear of government as the promulgator of mass-produced design seems incongruous. It is true, however, that New Haven was a city of attractive and well-constructed one- and two-family houses. A drive through New Haven and its suburbs today shows that large-scale projects, i.e., 100 units or more, were generally built in New Haven by the government and in the suburbs by the private market.

The complaint that Brookside would serve moderate-income instead of low-income residents reflected a fear of competition from government, since low-income residents did not provide much of a market, while Brookside's perspective tenants would likely to be able to rent or buy other homes. This argument, too, is reflected today, as New Haven realtors object to subsidizing competing private developers in an attempt to lure middle-class tenants to New Haven, as in the current Ninth Square development.\textsuperscript{197} That project, however, was still forty-five years down the road.

The location of Brookside at Springside Farm on a sixty-acre, city-owned tract was not raised as an issue. Springside Farm was a bucolic spot near the back of West Rock, which, along with East Rock, are two starkly beautiful sheer cliffs of glacial deposits. East and West Rocks, New Haven's most distinctive geologic formations, quite literally marked the spot where a southern glacier stopped moving and melted. Their beauty can been seen in paintings of the Hudson River School, where the foreground contains open land and farm animals, not real estate development. Springside Farm was as isolated as it was beautiful.

Today, Brookside's population approaches 100% African-American, low-income families. The racist overtones of selecting such an isolated site seem obvious. The problem with this analysis is that Brookside's initial occupants were neither black nor low-income. The project was seen as a means of housing a largely white, moderate-income worker population.

In planning Brookside, the Housing Authority was not ignoring low-income families. Less than two weeks after the deadline for construction bids at Brookside, the Housing Authority announced plans to seek federal funding for 800 "slum-clearance units."\textsuperscript{198} The 81st Congress had enacted the Housing Act of 1949,\textsuperscript{199} mandating a six-year program to provide over 800,000 new

\textsuperscript{195} \textsc{New Haven Reg.}, Sept. 19, 1949.
\textsuperscript{196} \textsc{Kenneth T. Jackson, Crabgrass Frontier} 234-238 (1985).
\textsuperscript{197} Comments of Joel Schiavone, a private developer of commercial and residential property in New Haven, to Yale Law School's Housing and Community Development Clinic, 1994 and 1996.
\textsuperscript{198} \textsc{New Haven Reg.}, Aug. 21, 1949.
\textsuperscript{199} Pub. L. No 81-171, 63 Stat 413 (1949).
low-rent units across the country, through long-term loans by the Public Housing Administration to local housing authorities. The New Haven Housing Authority expected to make an additional request for 600 units before the expiration of the six-year period.\textsuperscript{200}

The Housing Authority's application stated that there were 10,719 New Haven families living in sub-standard homes, i.e., dwellings which did not meet minimal requirements of space, safety, utilities or construction. The Authority stated a need in New Haven for low-rent public housing at rents within the means of low-income families, especially for families of living or deceased veterans, whose needs were not being met by the private market.\textsuperscript{201}

The federal government agreed and provided the funding to allow the Housing Authority to build the Rockview project, also at the Springside site, adjoining Brookside.\textsuperscript{202} Rockview contained 202 units of low-income housing which were built at a cost of $2.5 million. Rockview was the city's fourth low-rent project and the first to be built in ten years.\textsuperscript{203} Tenants began occupying after Christmas in 1952, with full occupancy expected by mid-February 1953.\textsuperscript{204} In addition to meeting maximum income requirements similar to those at Elm Haven, Farnam Courts and Quinnipiac Terrace, tenants at Rockview had to sign affidavits attesting that they were not communists or member of communist friendly organizations. Recent federal legislation "bar[red] Reds and their sympathizers from subsidized housing."\textsuperscript{205} The Rockview tenants were the first in New Haven to be compelled to sign affidavits swearing that they had no communist ties.\textsuperscript{206}

Although Brookside and Rockview were within a few feet of Woodin Avenue in the suburb of Hamden, there was no access from Rockview to Hamden.\textsuperscript{207} That additional isolation was intentional, further isolating the residents of Rockview from any sense of greater community. Although reports state that Woodin Avenue could be extended to Hamden "should traffic requirements warrant it in the future,"\textsuperscript{208} a memorandum from HUD's predecessor indicates that the federal government would accede to Hamden residents' demands to keep the road closed. To this day, that isolation remains; the only change to the few feet of grass between a street within Rockview and Woodin Avenue is the addition of a metal fence which prevents pedestrians as well as

\begin{footnotesize}
\textsuperscript{200} NEW HAVEN REG., Aug. 21, 1949.
\textsuperscript{201} Id.
\textsuperscript{202} First Tenants Begin Moving Into Rockview: Sever Families Entering New Project Union at Springside, NEW HAVEN REG., Dec. 29, 1952.
\textsuperscript{203} Id.
\textsuperscript{204} Id.
\textsuperscript{205} Id.
\textsuperscript{206} Id.
\textsuperscript{207} NEW HAVEN REG., Feb. 11, 1951.
\textsuperscript{208} Id.; see NEW HAVEN REG., Dec. 29, 1952.
\end{footnotesize}
motor vehicles from entering Hamden.\textsuperscript{209}

By mid-1951, with the Housing Authority presenting plans for the expansion of Elm Haven and Farnam Courts, public housing found itself in the midst of a new controversy when the Board of Commissioners of the Hartford Housing Authority ordered the eviction from low-rent projects those families found to exceed the income limits for low-rent housing. At a public inquiry, "ugly charges that [the tenants] gained acceptance through influence were hurled."\textsuperscript{210} The New Haven Journal-Courier asked,

Can such taxpayers be blamed if they raise loud protests over being assessed to give housing aid to persons whose income may be twice as high as their own? Can there be any wonder that these taxpayers complain bitterly when they see some of those who are recipients of their assistance riding around in $2,000 or $3,000 automobiles and enjoying the entertainment provided by $1,000 or so television sets while seated on lavish furniture?\textsuperscript{211}

The Journal-Courier urged a reexamination of the income status of present tenants before concentrating on expansion.\textsuperscript{212}

Criticism aside, by the fall of 1952, the Housing Authority released plans, including an architect's sketch, for a 368-unit expansion of Elm Haven, along Ashmun, Webster, and Canal Streets.\textsuperscript{213} By October, the federal government approved funding.\textsuperscript{214} In order to make maximum use of the land, the Housing Authority approved a dramatic plan. In contrast to the one- and two-story public housing buildings throughout New Haven, the Housing Authority planned two ten-story buildings and four of eight-stories, along with a new central administration building. The Elm Haven addition would bring to 1,474 the number of low-rent units in New Haven, with an additional 900 moderate-rent units. The proposed cost for the extension was $4,750,000.\textsuperscript{215}

In October 1953, the Register reported that "wrecking crews during the past week launched an attack on houses in the Winchester School area which are to be torn down to clear a site" for the Elm Haven extension.\textsuperscript{216} Seventy houses occupied by 130 families resided in the demolition area which was near a new factory being built by Winchester Repeating Arms Company to join existing buildings.\textsuperscript{217}

\textsuperscript{209} The fence is visible at the site. It is kept in good repair.

\textsuperscript{210} NEW HAVEN J.-COURIER, July 28, 1951

\textsuperscript{211} Id.

\textsuperscript{212} Id.

\textsuperscript{213} Architect's Sketch of $4,750,000 Project Planned in Elm Haven, NEW HAVEN REG., Sept. 22, 1952.

\textsuperscript{214} U.S. Signs Contracts For 372 Elm Haven Units, NEW HAVEN REG., Oct. 9, 1952.

\textsuperscript{215} Id.

\textsuperscript{216} Air View Shows Area Being Cleared For Elm Haven Housing, NEW HAVEN REG., Oct. 4, 1953.

\textsuperscript{217} Id.
The extension was not occupied until early 1955. Tenants were admitted to the new units based on income level and need. Some of the applicants were from the Oak Street redevelopment. Approximately 100 families from Oak Street were eligible to apply for housing at Elm Haven. The Oak Street applicants received the top priority for vacancies

The elevator in the buildings stopped at the fourth and seventh floors. Tenants on other floors reached their apartments by walking up or down one flight of stairs. Apartments larger than one bedrooms had balconies. The floors served by the elevators contained coin-operated washers and dryers. The floors were covered with asphalt tile.

The Register reported that "[c]ommittees of the Council of Social Agencies and the Dixwell Community Council are planning expanding activities expected to be needed with completion with the project. Each new family will be visited by a representative of the Community Council." The Register did not report the nature of the services with any greater specificity.

In March 1956, Mayor Lee, beginning his second term as mayor and considered a likely Democratic candidate for Senate in 1958, testified before a Senate sub-community, urging federal legislation to encourage the construction of smaller public housing development, including "professional 'social guidance' for development families." In a remarkable testimony, Lee foresaw the problematic future of large public housing projects. Lee predicted that in five years public housing would be "bigger than ever," but uncontroversial, as society recognized the primary function of public housing "to serve as a housing resource for families displaced by urban renewal and development, housing code enforcement and urban arterial highway programs." Lee felt that local communities would insist on urban renewal, local housing code enforcement and the development of freeways, all of which would displace families and would lead to more public housing.

Lee saw large housing projects becoming more isolated from the community, populated by elderly people, single-parent families, families living on AFDC and other welfare programs, and black families, "because there are those in our cities and towns throughout America who are not yet American enough to welcome them as equals and as neighbors." Lee urged federal funding for smaller projects of fifty to seventyfive units, housing that, in his

220. Id.
221. Id.
222. Id.
223. Id.
225. Id.
226. Id.
view, "will not be a threat to anyone. It will be just a part of an over-all program of urban renewal and improvement, which will have its major emphasis, and its major capital expenditures from private enterprise."  

Only five months later, however, the New Haven Register reported that the Housing Authority was planning a two hundred unit, $2.5 million state-funded, moderate-rental housing project on Eastern Street, on the eastern edge of the city, bordering on East Haven and across from the municipal golf course. The project was controversial from its conception. The proposed site was privately owned. The Housing Authority failed to reach an agreement with the owner and, therefore, instituted condemnation proceedings. The 31st Ward Citizens Committee also instituted proceedings, contesting the condemnation. Ultimately, the owner sold the twenty-one acre site to the Housing Authority.  

The 31st Ward Citizen's Committee and home owners living across Eastern Street from the proposed project instituted new litigation to stop the project. In April of 1958, following a year delay, the second of the two suits was resolved in the favor of the Housing Authority, allowing the construction of the $2.434 million, 154 moderate-rental units.  

New units aside, the basic theme in late 1970 was no different than it had been for the past thirty years. New Haven faced a housing shortage that was described as a "crisis of monumental proportions" that was "a fact of life that Elm City dwellers lived with and accepted as a part of their existence." Edward White, Jr., the Executive Director of the Housing Authority, characterized New Haven's housing crisis as being as bad as any other city in the country, caused in part by the dwelling units lost to urban renewal, construction of highways throughout the city, and creation of student housing by Yale and Southern Connecticut State Universities.  

In October 1970, New Haven had 1,662 units of low-income, federally assisted family housing, 742 units of state-assisted, moderate-income family units, 300 units leased by New Haven from the private sector for low-income families, and 140 units of planned low-income housing—a total of 2,852 units, as well as an additional 600 public housing units for the elderly. Although there were an additional 2,000 families on the Housing Authority waiting list, White urged construction of additional elderly housing, stressing that any new family housing project would be fifty-five units or smaller, and noting that,
"[b]efore this we didn't build smaller than 200 units. When people think of public housing, they think of things like Elm Haven with over 800 units... and this is what we are trying to get away from—that city within a city affect."\textsuperscript{234} White noted a traditional pattern of in-migration from rural southern communities to urban southern communities and then north to cities like New Haven created "a virtual insatiable demand for housing."\textsuperscript{235}

Despite all the talk of smaller projects, 1971 saw two large, highly visible projects: Bella Vista, a proposed 1,400 unit complex for the elderly and Oriental Masonic Gardens (OMG), perhaps New Haven's best-known project since Elm Haven. Both projects were privately owned and publicly subsidized.

OMG, the third project to be built at the Springside Farms site, was considered an experiment in "instant housing." OMG was funded by HUD through section 236 of the National Housing Act.\textsuperscript{236} Consisting of factory-built, modular townhouses, the project was problematic from its conception.

On March 16, 1970, New Haven Mayor Bartholomew Guida announced that the 230 modular units would be leaving the manufacturer's plant that day and would shortly arrive in New Haven. Two days later, only two units arrived on the site. When the units did arrive, they did not meet the current building code requirement of a two-inch fire wall between each unit. The walls had to be added at the site.\textsuperscript{237}

In January 1971, when the general contractor finally completed the project, the city rejected the application for a certificate of occupancy because of numerous housing code violations. The developer requested an additional $230,000 from HUD "to meet changing requirements, to correct oversights, and to improve the project."\textsuperscript{238} HUD rejected the request.\textsuperscript{239}

By mid-April 1971, twenty-seven of the thirty-seven clusters of units had received temporary certificates of occupancy. Outstanding problems included landscaping, grading, and "hundreds of electrical violations."\textsuperscript{240}

OMG was designed by Paul Rudolph, Dean of the Yale School of Architecture. HUD praised Rudolph's design "as the vision of the housing projects of the future."\textsuperscript{241} Rudolph viewed the modules and clusters as representing a model for housing projects of the future. Modules could be added or subtracted as needed.\textsuperscript{242}

\begin{footnotes}
\footnotetext[234]{Id.}
\footnotetext[235]{Id.}
\footnotetext[236]{12 U.S.C. § 1715z-1 (1994).}
\footnotetext[237]{Oriental Masonic Gardens About Ready for Occupation, NEW HAVEN REG., Apr. 25, 1971, at 11A, 39A (editorial).}
\footnotetext[238]{Id.}
\footnotetext[239]{Id.}
\footnotetext[240]{Id.}
\footnotetext[241]{TOM WOLFE, FROM BAUHAUS TO OUR HOUSE 74-75 (1981).}
\footnotetext[242]{Id.}
\end{footnotes}
The project also looked different from previous worker or public housing. The modules, which were blue, were particularly modern, with barrel-vaulted living rooms. The rounded roofs, which were quite visible, were covered with a teflon-like material, so that dirt would not adhere, allowing the rain to wash them clean.\textsuperscript{243}

Unfortunately water accumulated where the roofs met the walls; the modules did not fit together well.\textsuperscript{244} The combination of these problems caused serious leaking. When roofing material was applied to the roof in an attempt to make repairs, it did not adhere to the roofs any better than the dirt had. The roofing material washed off in the rain.\textsuperscript{245} In addition, the landscaping problems had never been resolved. After each heavy rain fall, OMG was a mud hole.\textsuperscript{246} The modules were sinking into the mud.\textsuperscript{247} In 1977, HUD became mortgagee in possession, taking title a year later.\textsuperscript{248} By the end of the 1970s, tenants were leaving OMG. In 1979, a federal district court characterized the living conditions at OMG as "intolerable."\textsuperscript{249} The district court enjoined HUD from collecting rent.\textsuperscript{250} By early 1980, more than half of the units were vacant and boarded up. Many units had been gutted by fire and vandalism and the community center "was nothing more than a skeletal frame."\textsuperscript{251} By September 1980, there were only seventeen tenants left.\textsuperscript{252}

Inside the occupied units, water poured down the inside of the walls, electrical sockets shorted out, water pooled on the floors, and tiles curved at the edges and lifted. In the upstairs rooms, there were gaps between the wall and the ceiling with water pouring through. Tiles had loosened and been removed, leaving plywood floors.\textsuperscript{253} HUD's response was to demolish the project two years later, in 1981.\textsuperscript{254}

The state of the city's housing in the late 1970s seemed reminiscent of the early 1940s. While the city's rental vacancy rate was six percent, more than half of the available units were substandard, according to the Housing Assistance Plan (HAP) submitted to HUD as part of the city's Community Devel-


\textsuperscript{244} WOLFE, \textit{supra} note 241, at 83.

\textsuperscript{245} Sheehan, \textit{supra} note 243; \textit{Techer}, 83 F.R.D. at 125.


\textsuperscript{247} Id.

\textsuperscript{248} Id., at 125.

\textsuperscript{249} Id., at 131.

\textsuperscript{250} Id.

\textsuperscript{251} Id.

\textsuperscript{252} WOLFE, \textit{supra} note 241, at 83.

\textsuperscript{253} Id.

\textsuperscript{254} Sheehan, \textit{supra} note 243; \textit{Techer}, 83 F.R.D. at 125.
More than 1,000 families were living in apartments that were substandard and not suitable for rehabilitation.

The city's major housing policy was the Neighborhood Preservation Program (NPP), which loaned funds to owners in target areas with high concentrations of owner-occupied housing, but from 1976 to 1978, more than twice as many units had been abandoned as the city helped preserve under the NPP. Annual property loses due to fire had doubled in the past ten years, with the increase disproportionate among old wood-frame buildings in low-income neighborhoods. Most of the loses were insured, but the buildings not replaced. The 1977 New Haven Fire Department Annual Report listed more than sixty percent of the city's fires as "suspicious." The Redevelopment Agency identified 1,390 units of vacant or abandoned housing in 1976. A year and a half later, the City Building Department identified an additional 595 abandoned units. The waiting list for public housing surpassed 2,000 families for a total of 4,300 units.

By late 1983, the Elm Haven high-rises were a disaster. Mayor Biagio DiLieto suggested razing the high-rises because of their bad condition and because they were inadequately designed for families with children. A team of experts, designated the Elm Haven Design Charrette ("Charrette"), spent four days studying Elm Haven to devise a solution to "New Haven's worst public housing problem." They recommended that a street bordering the high-rises be expanded to create a wide, landscaped boulevard, that three of the high-rises be demolished, that one be renovated as housing for the elderly and the other two retained. The high-rises were described as "dilapidated" with "broken windows, dark urine-soaked hallways covered with graffiti and bullet holes, [and] garbage-strewn lots." In some of the buildings, there was inadequate heat and hot water, while in others the water was scalding. The heat and hot water problem was resolved only after the tenants, represented by the local legal services program, filed suit. The Charrette recommendation be-

256. Id.
257. Id.
258. Id.
259. Id.
260. Id.
261. Id.
262. Id.
264. Id.
265. Id.
came known as "the Boulevard Plan."\textsuperscript{267}

At the same time, the \textit{New Haven Register}, reporting on crime in public housing, wrote:

[T]he hallways of the Elm Haven public housing project high-rise apartments are havens for drug dealers and thieves, tenants say. The Brookside Projects provide easy pickings for criminals bent on breaking and entry. Some of the elderly residents at the William T. Rowe Towers are afraid to leave their apartments and venture out into the street for fear they'll be mugged, according to tenants. At the Farnam Courts project, one of the most popular forms of outdoor recreation for youngsters is a floating craps game.\textsuperscript{268}

By this time, more than 16,000 people lived in the Housing Authority's thirty-two housing projects.\textsuperscript{269} Many of the projects were reserved for the elderly and had been built between 1962 and 1974.

According to a Housing Authority spokesperson, there were very few crime problems in 1940 when Elm Haven first opened.\textsuperscript{270} Admission was selective, management was strict and tenants were fined for littering or failing to put trash out. According to the spokesperson, that changed in the 1960s, when authoritarian structure broke down.\textsuperscript{271} The Housing Authority Executive Director, Linda Evans, insisted, however, that crime in the public housing projects was similar to economically distressed areas of the city.\textsuperscript{272}

In 1989, the Housing Authority requested and HUD approved the demolition of all six Elm Haven high-rises, a total of 366 units.\textsuperscript{273} When little was done concerning replacing the demolished units, tenants, Housing Authority waiting-list applicants and social service agencies brought suit against the Housing Authority and HUD. As part of a settlement, the parties agreed to the Elm Haven Replacement Plan, which provided for the development of 183 public housing units and 183 project-based Section 8 rental units within a six year period.\textsuperscript{274} The settlement required the new units be scattered, in nonracially-impacted neighborhoods.\textsuperscript{275} In the low-rises, only one percent of the families earned more than $15,000 per year.\textsuperscript{276} The population of Elm Haven was ninety-eight percent black, with single women heading ninety-two of the

\textsuperscript{267} \textit{Id.}
\textsuperscript{269} \textit{Id.}
\textsuperscript{270} \textit{Id.}
\textsuperscript{271} \textit{Id.}
\textsuperscript{272} \textit{Id.}
\textsuperscript{273} \textit{See Settlement Agreement at 2, Christian Community Action, Inc. v. Cisneros, No. 3:91CV00296 (AVC) (D. Conn. 1995).}
\textsuperscript{274} \textit{Id.} at n.252.
\textsuperscript{275} \textit{Id.}
\textsuperscript{276} \textit{NEW HAVEN REG.}, May 26, 1985.
In 1992, the Housing Authority began buying properties for the scattered-site program. The Housing Authority had purchased twelve buildings by September 1992, when one was burned by an arsonist. That building was located "in middle-class, mostly white Morris Cove" in the eastern-most section of the city.277 Opposition to the scattered-site program was intense.278 At public hearings, the New Haven Register noted that "[n]o single issue in this city, save the property revaluation that sent tax bills into orbit last spring, has engendered a more intense reaction from homeowners."279 Public support was muted and Mayor John Daniels, New Haven's first (and only) African-American mayor, joined the opposition. Ultimately the houses purchased by the Housing Authority were occupied.

Meanwhile, HUD granted the Housing Authority $46,000,000 to redevelop Elm Haven's low rises. After five years of planning, tenants were being relocated in anticipation of demolition. The plan was to develop a mixed-income project, lower density and provide for some home ownership.

As 1996 drew to a close, New Haven was waiting for the results of HUD's investigation of alleged improprieties of the Housing Authority. Confidence in the Housing Authority was virtually nonexistent. Perhaps in recognition of its own deficits, the Housing Authority contracted with HOME, Inc., a private nonprofit organization, to manage the new scattered-site programs.280

V. REINVENTING HUD AND FUTURE SHOCK

Any discussion of the future of public housing starts with the Clinton Administration's Blueprint for Reinventing HUD, a proposal to transform all existing federal public housing programs into tenant-based housing assistance. Under the plan, "public housing tenants would become certificate holders and public housing authorities (PHAs) would become ordinary private landlords."281

The Blueprint envisions three stages for achieving its objectives. In Stage I: 1) PHAs would be substantially deregulated, with many currently-existing tenant rights eliminated; 2) the various public housing funding programs would be consolidated; and 3) there would be widespread demolition and sale of

277. Id.
279. Id.
public housing and an increase in efforts to turn troubled PHAs around.\textsuperscript{283} In Stage II: 1) the funding system would be changed to replace operating subsidies and modernization grants with one-year contracts to PHAs for project-base certificates; and 2) PHAs would be further deregulated, so that new tenants would have lesser rights than Stage I tenants.\textsuperscript{284} In Stage III: 1) the project-based certificates would become tenant-based, so that tenants could move elsewhere, and 2) only those tenants who were in PHA buildings at the end of State I would retain any federal tenants' rights.\textsuperscript{285} Transformation from traditional public housing to tenant-based assistance would be phased in over five years.

The most immediate effect of the Clinton Administration's \textit{Blueprint for Reinventing HUD} has been a flash flood of written and oral comment, largely on the question of privatization. Supporters fall into two camps: an economic model, arguing that privatizing public housing will be more efficient and cost-effective,\textsuperscript{286} and a desegregation model, arguing that privatization will increase tenant choice, resulting in regional housing mobility, desegregation and improved lives for public housing tenants.\textsuperscript{287} Opponents to privatization stress the security that public housing provides, including economic security, protection against displacement, procedural protections, and the absence of discrimination based on low-income, family status or race.\textsuperscript{288} Even those advocating privatization, however, support the continued existence of traditional public housing in certain circumstances, including where race discrimination prevents poor minority tenants from having equal access to the private housing market and as a means to preserve tenant rights.\textsuperscript{289}

There is, however, little empirical information on the critical questions of mobility or the extent to which a mobile public housing population will affect public housing projects. In a broader sense, this means we are still experimenting, since we have little sense of how to structure a successful housing policy for low-income people.

In trying to determine what works and what does not, it is worth looking at several housing programs in St. Louis: Pruitt Igoe, Cochran Gardens, and three programs Peter W. Salsich, Jr. describes as successful: DeSales Mutual Hous-
Pruitt-Igoe was in many ways the spiritual ancestor of New Haven's Oriental Masonic Gardens. Built in 1955 as worker housing, Pruitt-Igoe was a massive project of fourteen-story buildings. Although the project won a design award from the American Institute of Architects, with covered walkways on each floor, the project was a failure from its completion. Tenants were not involved in any management decisions until 1971, when a task force asked the few remaining tenants for suggestions. The tenants suggested the demolition of Pruitt-Igoe. The task force agreed and in July 1972, the city leveled the multi-block housing project in an event captured on film.

Nearby, Cochran Gardens seemed ripe for a similar fate. However, in Cochran Gardens, the tenants turned the project around. In 1986, in a segment which began with the dramatic demolition of Pruitt-Igoe, CBS's 60 Minutes profiled Cochran Gardens as a successful project. Cochran Gardens, a low-income high-rise located near Pruitt-Igoe, with a long history of violence and a population of low-income, African-American, single-parent families, seemed an unlikely success story. Yet, the 60 Minutes segment showed a clean, attractive and well-managed high-rise, with manicured grounds and play areas. Morley Safer, the reporter for the segment, noted that he felt a marked lack of racial hostility at Cochran Gardens, in contrast to other housing projects he had visited.

A viewer could identify several reasons for success, including a strong organizing effort, tenant management, an emphasis on personal responsibility, community building and massive subsidies. It is worth looking at each of these factors.

Near the beginning of the 60 Minutes segment, Morley Safer suggested that the difference between Pruitt-Igoe and Cochran Gardens may be Bertha Gilkey, the president of the Cochran Gardens Tenant Management Corporation. By all accounts, Bertha Gilkey was and remains an extraordinary positive force. She was not alone. She was supported not only by a strong and effective Cochran Gardens tenant community, but by an effective legal services program as well as by other organizers. Their efforts resulted in massive funding to renovate Cochran Gardens, but did not stop there.

Tenant management was critical to Cochran Gardens' turnaround. Today,
as more and more projects and neighborhoods attempt to establish neighborhood standards, Bertha Gilkey and Cochran Gardens are credited with a shift in priorities from bricks and mortar to value-based concerns, and attempts to oust gangs and drugs from the complex.295 Cochran Gardens’ management is notable for its emphasis on family responsibility. At one point in the 60 Minutes portrayal, the Cochran Gardens’ managers advise an applicant that her sixteen-year-old sister is not old enough to serve as a babysitter for her children.296 Morely Safer refers to the strict, no-nonsense approach of the tenant management as seeming more like the Moscow Housing Authority than what one might expect in the United States.297 During the segment, two families are evicted because of the actions of their teenage age son; a member of the Tenant Association Board of Directors explains how she sent her son to live with family members in another city in order to avoid eviction.298

Bertha Gilkey describes Cochran Gardens as a community, not a project. Taking that description one step further, it is a community governed by communitarian principles and not individual rights. The tenants take pride in governing their community more strictly than the St. Louis Housing Authority governs other projects. In Cochran Gardens, individuals must follow the rules established by the community. Violation of the rules means eviction.299

Finally, Cochran Gardens was heavy subsidized, receiving $22.5 million for renovations.300 As Bertha Gilkey points out, funds for renovations were only a beginning. “People who urinated in the elevators before the renovation will still urinate in the elevators after the renovations, unless attitudes are changed,” she noted.301 Still, the subsidies to permit the renovations, along with on-going subsidies to provide for tenant management, were crucial to the success of Cochran Gardens.

Cochran Gardens may still be the best advertisement in the United States for tenant management of public housing. At congressional hearings in St. Louis in June 1996, Bertha Gilkey criticized HUD’s plan to demolish 100,000 high-rise apartments, calling instead for more dollars for tenant management.302 Representative Christopher Shays, a Connecticut Republican, stated that “perhaps an empowered resident management program can save some of these buildings,” noting that Cochran Gardens was "one of the best tenant

295. See MINNEAPOLIS STAR TRIB., May 28, 1996 (comments of Harry Boite, Center for Democracy and Citizenship at the University of Minnesota).
296. Id.
297. Id.
298. Id.
299. Id.
300. Id.
301. Id.
management programs in the country" and "should serve as a model for less successful programs."\textsuperscript{303} Gilkey lauded the Cochran Gardens Tenant Management Corporation for its acquisition of a fifty percent ownership interest in Blair Apartments, creation of a catering service to supply seven hundred meals per day for elderly residents, obtaining a ten percent ownership of a local cable company, and establishing a janitorial service.\textsuperscript{304}

Peter Salsich, describing three successful projects, argues that privatization should be based on community empowerment and effectuated in conjunction with "social housing," that is, restraints on the future sale of units on the private market, such as community land trusts or limited equity housing cooperatives.\textsuperscript{305} Social housing is "a means of preventing gentrification, regulating the speculative aspects of housing ownership, and providing a realistic opportunity for low-income households to experience the benefits of ownership."\textsuperscript{306}

The DeSales Mutual Housing Association is a housing cooperative where residents enjoy lifetime security of tenure and the right to have their family members receive priority consideration for their units if they should choose to move. Tenants are active in the governance of the cooperative, including selecting new neighbors, and tenants are subject to cooperative rules.\textsuperscript{307} The St. Louis Association of Community Organizations created a lease-purchase program where tenants "who have good prospects for homeownership" enter into long-term leases with a portion of their rental payments funneled into a down-payment fund for future home-ownership.\textsuperscript{308} Finally, the Ecumenical Housing Production Corporation (EHPC) owns and rents out houses in the St. Louis suburbs to families with Section 8 certificates. EHPC selects its tenants carefully and, in addition, provides them with intensive support, which includes training in housekeeping, budgeting, parenting, and day care, as well as educational referrals, and vocational training.\textsuperscript{309} Salsich believes that privatization should be accomplished with the joint involvement of the private sector, the public sector, and the affected residents, including both public housing beneficiaries and their neighbors.\textsuperscript{310}

Salsich also argues against excessive deregulation in the privatization of public housing.\textsuperscript{311} The Blueprint for Reinventing HUD, he fears, may go too far in that respect. He argues that a privatization strategy should not eliminate tenant grievance procedures or "good cause eviction requirements, particularly

\begin{thebibliography}{9}
\bibitem{303} Id.
\bibitem{304} Id.
\bibitem{305} Salsich, \textit{supra} note 291, at 286.
\bibitem{306} Id.
\bibitem{307} Id. at 289-91.
\bibitem{308} Id. at 291-92.
\bibitem{309} Id. at 293.
\bibitem{310} Id. at 298.
\bibitem{311} Id. at 303-04.
\end{thebibliography}
for elderly and disabled tenants who are unlikely compete effectively in the private housing market.\textsuperscript{312}

The common thread in these successful projects is a resident property or management interest that guarantees some control over the environment. This is not surprising: home ownership has long been accepted as a stabilizing factor in successful neighborhoods. Try an experiment on any beautiful spring or fall day. Drive or walk through home ownership and rental residential neighborhoods. In a neighborhood dominated by home ownership, people are likely to be outside, working in yards, planting gardens and doing the never-ending chores to improve their personal environment. In rental property, the same people are more likely to be working on their cars or applying their energy elsewhere. The point is not that people who work on houses are better than people who work on cars: both types of work require knowledge and industry. The point is that we are much more likely to improve our own property than property belonging to someone else. Ownership is the American dream. If we want to make housing work, either we either have to pay for enough management to maintain the property or create enough of a stake so that residents will maintain the property. If there is a judgment to be made, it is that a well-maintained housing unit is a greater community benefit than a well-maintained car.

We also know, however, that home ownership is not a cure-all. New Haven's In-fill Program was based on home ownership as a means of turning around neighborhoods. It did not take long for the problems of the neighborhood to dominate the benefits of home ownership. Similarly, failed co-ops are scattered throughout New Haven. A stake in meaningful governance, whether through tenant management, limited equity ownership, cooperative ownership or traditional ownership is an important factor in stabilizing a community, but will never be sufficient in and of itself as means of changing undesirable neighborhoods to the point at which people want to tip-in as opposed to tip-out.

There are other factors, each of which need to be addressed in formulating a sound housing policy:

1. 

Privatization—Most of the discussion concerning privatization has revolved around mobility plans which enable tenants to leave, with not enough attention to the majority who will remain. Each tenant who opts to leave will create a new vacancy. Each vacancy is like a huge broken window, attracting vandalism and illegal occupancy. If enough people leave, whole buildings will be demolished, leading to vacant lots which are potentially the biggest broken windows of them all, ultimately leading to "gap-tooth" neighborhoods where vacant lots are as common as buildings.

Vacancies prove to be a major tipping factor. To avoid massive numbers

\textsuperscript{312} Id. at 304.
of vacancies and large urban wastelands, we need to look to tenant manage-
ment and ownership opportunities in existing public housing. This will neces-
sitate additional subsidies and technical assistance. Without careful, attention
to those who stay (or who are left behind), privatization will accelerate the de-
terioration of cities with large numbers of public housing units.

2. Security—In a recent Sunday edition of New Haven's local newspaper,
the major story, occupying much of the front page, was the release of new
crime statistics. The big news was the narrowing of the gap between the cities
and their suburbs in number of reported crimes. While crime rates were still
higher in Connecticut's cities, the headline emphasized the lack of safety in the
suburbs.

If the perception of unsafe suburbs spreads, we can reliably predict in-
creased efforts by suburban municipalities to change that perception through a
variety of mechanisms, including increasing expenditures for law enforcement.
Security is a critical tipping factor, perhaps even greater than race. (There is
some argument that white-flight is based, in part, on a perceived reduction in
security more than on race per se.) People will not remain in an unsafe situa-
tion unless they have no alternative.

Public housing authorities do not have the option of raising taxes to spend
more on security. Cities like New Haven, which already have higher taxes
than their suburbs, are unwilling to raise taxes to focus increased police power
on housing projects as opposed to city-wide services. Yet, anyone who has
represented public housing tenant groups can attest that the tenants usually ex-
press their highest priority to be a desire for a safe and drug-free environment.
The perception of housing project security is far worse among people living in
private housing, not to mention the views of suburbanites.

The New Haven Housing Authority has over $46 million in federal funds
to redevelop Elm Haven and the Dixwell neighborhood. The goal is not only
to replace housing units, but to lessen density, create home ownership oppor-
tunities and to develop a mixed-income population.

There are a fair number of skeptics who doubt that these goals can be
achieved, asking, "Who would want to live in Elm Haven if they didn't have
to?" Although I take this to be a rhetorical question, I answer, "Lots of peo-
ple." Then I add my provisos, some of which are easy to accomplish and some
of which are not.

Elm Haven is generally described as being part of the largely-African
American Dixwell community near the Yale University campus. We could
just as easily identify Elm Haven as being within a few blocks of the Yale
Gymnasium, Yale Law School, and the Yale Graduate School of Arts and Sci-
ences. If Elm Haven were private housing, it would represent by far the largest
housing stock within easy walking distance of these facilities. Assuming that a
newly-constructed Elm Haven would be physically attractive (that is the easy
part) and that we make a sufficient commitment to addressing real and per-
ceived questions of security, people coming to Yale are likely to view Elm Haven as ideal housing.

The unknown variable is whether Yale University as an institution is willing to facilitate this transformation. Currently, the Yale Gymnasium and Yale parking lots create an impenetrable barrier separating Yale from all but one isolated corner of Elm Haven. The chances of a redeveloped Elm Haven succeeding will be enhanced and may well depend on whether Elm Haven reaches outward toward Yale as well as the Dixwell community, as opposed to inward, blocked off from Yale. While the gym is not going to move, the parking lots can. Walkways and green space can facilitate a sense of a transition from Elm Haven to Yale and vice versa, as opposed to the current wall of separation.

In December 1996, Yale announced that it would build a new dormitory on a parking lot next to the gym.\footnote{313} It remains to be seen whether this project will usher in a new integration with the community or serve as an additional barrier.

### 3. Legal Services

Throughout the history of the federally-funded Legal Services Corporation,\footnote{314} there has been a conflict between a rhetoric of representing community interests\footnote{315} and a practice devoted to individual rights, with an emphasis on securing, preserving and asserting individual rights regardless of larger effects on the community. This conflict between individual rights and community is most dramatic when a legal service office defends the eviction of housing project tenants who are adversely affecting their community, such as drug dealers, regardless of community sentiment. More often than not, the decision to defend an eviction in these cases is a choice to represent an individual in direct opposition to the community.\footnote{316}

If legal services programs are to continue to be relevant in a world of tenant management and limited equity ownership, legal services attorneys will


\footnotesize{315. See \textit{JOHN A. DOOLEY \\& ALAN W. HOUSEMAN, LEGAL SERVICES HISTORY 1} (1985) (noting that one of the basic tenets of the legal services movement was to have a presence in the community, representing the community as a whole. Much of this rhetoric came from opponents of legal services, who argued that legal services attorneys were more concerned with social engineering than with providing individual services).}

need to set priorities in their work in public housing based on community needs, not individual rights. They will need to learn new skills in housing and community economic development and represent tenant groups and community development corporations. They will also need to learn the skills involved in complex real estate transactions. There are few signs that legal services programs are moving in this direction.

In private housing, legal services attorneys and housing advocates need to base their policies on neighborhoods, not individuals. Recently, a colleague and I were discussing an eviction in the Fair Haven section of New Haven, a city with high vacancy rates. Although the client described her apartment as being in decent condition, the city had condemned the building and was threatening to arrest the client if she did not vacate immediately. This was an unusual circumstance, since condemnation required the city to pay the tenant $4,000 in relocation benefits pursuant to the Uniform Relocation Assistance Act.317 The client believed that the city had condemned the property not because the building was uninhabitable, but because the city wanted the property to expand an adjacent parking lot. We decided to visit the apartment.

The building, a three-story structure, was the third building from the corner of the block. The first two buildings were vacant and boarded up. On the other side of the client's building, there was a small vacant lot. The next building was also vacant and boarded up. While we did not see the inside of the building, from the outside the building looked deteriorated, but structurally sound other than the front porch, where the floor was rotting and in danger of caving in. The housing on adjacent blocks was much better, and in some cases looked new.

I asked my colleague if he would have agreed to defend this eviction had he seen what we were viewing before he accepted the case. He told me that he would not.

Is this an isolated case? I doubt it. In my experience, legal services offices determine whether or not to defend evictions based on interviews, papers and an intimate knowledge of esoteric landlord-tenant law, not on visits to or knowledge of a neighborhood. This is a serious mistake. In a shrinking city like New Haven, where deteriorating housing is in ample supply, most eviction defenses provide the client with extra time to move from one substandard unit to another. In many cases, the client could receive adequate time by appearing pro se in an eviction proceeding and negotiating a settlement. The extra time gained by a full-scale representation is a poor use of a limited resource and shows a marked disregard of community priorities. Even worse, concentrating on eviction defense as a priority regardless of neighborhood often perpetuates slums under the guise of keeping clients in the only available housing. This is not a sustainable housing policy.

A neighborhood-oriented policy requires that legal services attorneys know and work in the neighborhoods, work with neighborhood groups, target particular landlords and be able to place a building within a neighborhood strategy. An eviction defense has a strategic impact, with consequences for the betterment or worsening of a neighborhood. To the extent that this is a war to save neighborhoods, legal services lawyers are top-notch fighters who do not necessarily know which side benefits from their victories. Too often, it is the individual at the expense of the neighborhood.

4. Communitarianism—Bertha Gilkey is right when she identifies community as an important component of Cochran Gardens’ success. In the 60 Minutes segment, a tenant manager explained that the rules at Cochran Garden are the same as in other housing authority projects; the difference is that in Cochran Gardens the rules are enforced. Too many projects are not policed, with no sanction for serious misbehavior. Housing advocates give lip service to tenant management and control, but place a premium on grievance procedures and individuals rights. We cannot have it both ways. Housing advocates have been too patronizing in determining what is best for public housing residents. It is time for a policy which allows tenants to control regulations, policing, management and evictions. Without that control, all talk about community is illusory.

5. Integration and Mobility—The question of mobility is more complex than most commentators acknowledge. While commentators praise vouchers as a means for promulgating racial and economic integration and point to Gatesaux-like programs, there is little information to support the proposition that vouchers lead to a diaspora of the poor without massive intervention.

For the past ten years, Yale Law School’s Landlord Tenant Clinic has provided eviction defense to New Haven tenants. The clients are referred by New Haven Legal Assistance Association under federal eligibility guidelines, requiring that each client meet strict financial eligibility guidelines of 125% of poverty. The clients are overwhelmingly black. Many of the tenants have vouchers.

Clients, students and faculty tend to live in different neighborhoods of New Haven, segregated in a stark fashion by bright-line boundaries. When students visit their clients, they are often appalled at the substandard condition of the housing. Yet, as the students are quick to note, many of these tenants, particularly those who have vouchers, pay higher rents than the students do, even though the students obtain better housing in safer neighborhoods.

This is not an attempt to characterize this as a question of "choice," given existing discrimination based on race, children and economic status. Still, after representing over 1,000 clients in greater New Haven over the years, I am struck by how tied clients are to their immediate neighborhoods, with a view of housing opportunities extending only to a small section of the city. As for the suburbs, my experience is that a poor, black New Haven family is more likely...
to move to South Carolina than to a white suburb surrounding New Haven, in contrast to middle- and upper-class black families, which are likely to relocate in the suburbs.

In pressing for increased use of mobility programs, Tegeler, Hanley, and Liben fail to address questions of spacial equality, although they recognize that "as housing mobility programs become more successful, policy makers may need to examine, and possibly compensate for, the economic effects that suburban mobility programs may have on city neighborhoods." 318

That statement implies "compensating" cities only after they have been further damaged by declining population, which in turn will inevitably result in declining neighborhoods. In public housing, departing tenants will leave local housing authorities unable to manage their remaining stock. The problem is that mobility programs will have a two-fold adverse effect on cities. Resources will be diverted from cities and more and more people will leave. In New Haven and other cities, there is a remarkable confluence of abandoned buildings, Section 8 and poverty. Section 8 tenants are the most stable and highest rent payers in these neighborhoods. Relocating the Section 8 tenants is likely to result in another abandoned building. Neighborhoods will worsen, thus accelerating the effect. Investment in mobility programs must be coordinated with increased vigilance and increased investment in cities in order to achieve John Calmore's spacial equality. Cities will continue to be defined by who is left behind. City residents in public and private housing should be assured that we are as concerned with their city as with the cities to which their neighbors have chosen to relocate.