II. HISTORY OF LOCAL HOUSING POLICY AND INTERGOVERNMENTAL RELATIONS

A. Housing Policy and the Roles Among Levels of Government

The broadest definition of housing policy would include any governmental action that directly affects the shelter of individuals. Under this definition, all three levels of government initiate and implement housing policy. Historically, however, the federal government dominates in some areas of housing policy, while local governments lead in others; state housing policy varies substantially from state to state. While many policies affect the shelter of individuals, four major types of housing policy currently exist in this country. These include: 1) regulation of building standards; 2) land use regulations; 3) financial subsidies to lessen the burden of housing costs to the individual; and 4) regulation of housing-related activities such as mortgage lending and real estate transactions. In general, federal policy favors the latter two approaches, financial subsidies and regulation of financial and other institutions. Local governments and states, on the other hand, typically implement building and land use regulations.

Building and zoning regulations are common policy in most cities and apply to housing units; therefore, at least in theory, positively impact individuals equally. While these regulations are meant to improve a community, they can also lead to higher housing costs. As a result, they may negatively impact lower-income persons and can be regressive policy. That is, costs associated with building and zoning requirements are higher proportionally for lower-income persons than higher-income persons. In addition, as mentioned in Chapter I, zoning may be used to exclude lower-income people from a community.

Financial assistance, the third type of housing policy, involves two approaches. They include 1) the demand side, direct subsidies to persons; and 2) the supply side, subsidies to housing developers offering lower than market rate prices to eligible individuals. These policies are meant to benefit low- and moderate-income persons.¹

¹ A major exception to this statement concerns tax benefits associated with homeownership. These benefits include the mortgage interest tax deduction on federal income taxes and the lower taxes paid by homeowners as a result of non-taxed income from their place of residence (imputed rent). Although these benefits are considered a substantial financial subsidy to homeowners (Dreier and Atlas, 1996; Follain, et al., 1993), this study focuses on financial assistance paid out versus foregone income such as taxes. Here again, an exception exists. The Low-Income Housing Tax Credit (LIHTC) provides tax benefits to investors, but the LIHTC’s purpose is to stimulate the development of low-income housing and is typically used as one of several sources of financing by low-income housing developers (Sinclair, 1997).
The last type of housing policy, regulation of financial institutions and the real estate business, aims to discourage racial and other types of discrimination. For example, federal regulations seek to eliminate “redlining”. This practice typically results in the denial of minority applications for a mortgage or homeowner’s insurance because of the geographic location of the applicant’s home. Real estate practices such as showing only housing in minority neighborhoods to minority clients (known as “steering”) are also prohibited.

The differences in housing policy types among levels of government developed over time, as did expectations of lower levels of government about federal financial support. It is important to know the evolution of housing policy and the intergovernmental relationships in this policy area to fully understand the support for affordable housing policy in cities today.

B. Housing Policy Over Time

The goal to improve housing conditions in U.S. cities was driven by local concerns in the nineteenth century. Rapid population growth related to the industrial revolution and the subsequent arrival of large numbers of immigrants exacerbated health and safety issues in cities during the nineteenth century. The tenement buildings built to house much of the immigrant population became the focus of concern in some cities. Many buildings lacked proper sanitation, ventilation, and light, and experienced a high degree of overcrowding. As Lewis Mumford (1961) comments, the “tenement proved so vile that it soon became the favored resort of thieves and prostitutes” (p. 434). These circumstances and the work of social reformers led to the enactment of the New York Tenement House Law of 1867. This law, passed by the New York State legislature, was the first of its kind and required new tenement developments to provide a minimum level of sanitation and ventilation, as well as a minimum room size (So and Getzels, 1988; Woods, 1979). During the same year, San Francisco passed the first zoning law aimed at the separation of obnoxious uses such as slaughterhouses from residential areas (So and Getzels, 1988).

Local land use regulations and building codes became widespread in the twentieth century. Although many state courts upheld the use of zoning, it was the ruling in Village of Euclid (Ohio) v. Ambler Realty Company that unequivocally sanctioned this practice. The United States Supreme Court found for the defendant, the Village of Euclid, and in doing so, established the constitutionality of comprehensive land use zoning (Scott, 1969).

Although the judicial branch substantially impacted housing policy through this zoning ruling, no other branches of the federal government played a role in early housing efforts due

---

2 The position of cities in the federal structure was emphatically defined by Justice John Dillon of the Iowa Supreme Court in 1868. In his decision, known as Dillon's Rule, he wrote, "Municipal corporations owe their origin to, and derive their powers and rights, wholly from, the legislature. It breathes life into them the breath of life, without which they cannot exist." Dillon's Rule basically limited the power of local governments to that power granted to them through enabling legislation by the state (Frug, 1988).
to the traditional notions of federalism and the principle of "home rule". The federal role, however, changed dramatically in the 1930's. Until this decade, the federal government avoided urban policy making. As John Mollenkopf (1983) observes:

Before the New Deal...Federal and state government displayed a fundamentally antiurban disposition...Beginning in 1932, however, the New Deal and subsequent administrations overturned this status quo (p. 47).

The policies of the federal government during this period represent a monumental shift in intergovernmental relations. The dramatic change in relations demands an explanation, but scholars disagree on the reasons behind the federal shift of the 1930s. Mollenkopf asserts that President Franklin D. Roosevelt (FDR) changed federal politics through his aggressive use of federal programs. He contends that FDR intentionally used these programs to build a strong urban support base. While it is true that the New Deal produced structural changes in intergovernmental relations and shaped future approaches to federal politics, Mollenkopf’s analysis seems overly narrow.

FDR's programmatic measures may be better understood in light of the extraordinary circumstances of the time and FDR's personal philosophy. During the Great Depression, urban areas experienced extremely dire economic conditions. Unemployment was high and many of FDR's measures were aimed at providing temporary employment to the masses. His package of programs seem more like a "shotgun" approach to a problem, than a well-planned political strategy to win a specific constituency. Moreover, FDR favored the rural lifestyle. In fact, he advocated an exodus from the urban environment; a return to subsistence rural living (Gelfand, 1975). Some of FDR's programs exhibited his preference for the non-urban environment. As Paul Conkin (1975) writes:

Roosevelt added more land to our national forests, extended the national park system, subsidized a system of state parks, established a new Soil Conservation Service in the Department of Agriculture, and strengthened federal control over western grazing lands (p. 45).

Given the circumstances of the period and FDR's preference for the outdoors and the rural lifestyle, Mollenkopf's explanation of FDR's creation of federal programs seems, at the least, to ignore rather important issues about FDR and the times.

---

3 The confirmation of Dillon's decision by the United States Supreme Court did not thwart the active home rule movement already underway. Under home rule, a state gives local government control over its own affairs. The first state to adopt an official home rule stance was Missouri in 1875. Today, while the degree of local autonomy varies in breadth from state to state, most state constitutions include some form of home rule provision (Frug, 1988; Martin, 1965).
Other scholars offer competing arguments about the purpose of the New Deal. They suggest that cities were reshaped by the Depression and special interests (Gelfand, 1975). They argue that business had the ear of politicians long before the Depression and that their influence continues today in the form of political action committees. In addition to business, citizen organizations actively lobby the federal government for assistance. Lastly, local governments represent strong special interests of their own.

Mark Gelfand (1975) asserts that cities played a large role in the creation of federal programs. City leaders formed coalitions and actively lobbied the federal government for assistance during FDR's administration (Monkkonen, 1988; Gelfand, 1975). Although resistant at first, FDR eventually responded to the pleas from cities. The success of the appeals by cities to the federal government in the 1930s set the precedent for many more decades of local lobbying in Washington, D.C.

A completely satisfactory explanation for the federal intervention of the 1930s may never be found. However, no one disputes that the change occurred. As Deil Wright (1988) observes, "redistribution issues were nationalized during the 1930s" (p. 437). These issues resulted in many federally-assisted efforts including housing programs (Kantor, 1988; Mitchell, 1985; Nenno and Brophy, 1982). For example, in 1933, Congress created the Home Owner’s Loan Corporation (HOLC) to save many homeowners from foreclosure on their mortgages. HOLC successfully provided emergency refinancing to over 1,000,000 homeowners. HOLC was never intended to be permanent and once its portfolio was exhausted in the 1950s, the organization folded (Winston, 1979; Mitchell, 1985). Other federal initiatives during this period, however, created more permanent institutions.

The Housing Act of 1934 created the Federal Housing Administration (FHA). The purpose of the FHA was to promote confidence among investors by insuring mortgages for rental housing developments and owner-occupied housing, and loans for repair and improvements to housing and commercial structures (Lieder 1988; Scott, 1969; Semer, et al., 1985). President Roosevelt initiated the creation of the Federal National Mortgage Association (FNMA) in 1938. FNMA purchased insured mortgages from lenders reducing the risk for banks and freeing funds for more loans (Fish, 1979). The Housing Act of 1937 established the structure for a permanent public housing program. The Act provided funds to create local public housing authorities to develop and operate housing for the poor; localities had the choice whether to participate in the program or not (Fish, 1979; Lieder, 1988). It is important to note that many federal programs, even those existing today, do not force participation by cities. Instead, an eligible locality opts to receive federal assistance. Generally, planning and reporting requirements and other regulations accompany the assistance.

World War II and its after effects dominated federal policy for much of the 1940s. As part of the Serviceman’s Readjustment Act passed in 1944, the Veteran’s Administration (VA) guaranteed low interest, long-term mortgages for veterans of military service. The intent of the guarantee was to encourage private lenders to make home loans available to returning GIs. The initial maximum amount guaranteed by the VA proved too low to stimulate many
loans; however, subsequent changes to the amount of the guarantee allowed many veterans to secure home loans (Fish, 1979; Mitchell, 1985).

The end of the decade witnessed the passage of the Housing Act of 1949. The 1949 Act included the goal, “a decent home and a suitable living environment for every American family.” It established the Urban Renewal Program (URP), authorized the construction of over 800,000 public housing units, encouraged localities to develop housing plans for their communities as well as provided for the expansion of rural housing programs. The URP provided funds to communities for acquisition and clearance of land in blighted or slum areas (Scott, 1969; Mitchell, 1985; Lieder, 1988).

The Housing Act of 1949 promised that the 1950s would be a period of public housing development. As Mitchell (1985) comments, the 1949 legislation “authorized the construction of 810,000 units over the next six years, which would bring the total to one million public housing units by 1955” (p.194). However, the actual number of public housing units built during this period fell considerably short of the goal. President Eisenhower’s opposition to public housing is often cited as a major reason that by the end of the decade, only 250,000 new units were ready for occupancy (Hays, 1985; Mitchell, 1985).

Urban redevelopment overshadowed public housing efforts during the 1950s. It is clear that urban renewal and public housing were not equally important objectives during this period (Mitchell, 1985). Each of the Housing Acts of 1954, 1956, and 1959 addressed the urban renewal process in some fashion. The 1954 Act emphasized rehabilitation of slum areas, while the 1956 Act authorized financial payments for individuals and businesses relocated as a result of the renewal process. The former legislation also created the Section 220 and Section 221(d)(3) and (d)(4) mortgage insurance programs. These FHA programs provided benefits to complement urban renewal areas and assist displaced residents. According to Cole (1979), the Section 220 and Section 221(d)(3) and (d)(4) programs:

> provided for liberalized mortgage insurance to assist in the rehabilitation of existing dwellings, in the construction of new dwellings in slum clearance and urban renewal areas, and in the relocation of families displaced by urban renewal (p. 294).

The 1954 act also called for the expansion of blight analysis and planning from a project site level to a larger area such as a group of neighborhoods. The 1959 Act extended the blight analysis and redevelopment planning to the entire city (Nenno and Brophy, 1982; Baer, 1986).

The URP focused on renewal and redevelopment policy and little on housing specifically. The urban renewal effort in the 1950s, however, impacted housing in many cities in three ways. First, land clearance resulted in the loss of housing stock, especially lower-income housing. Second, housing programs such as Section 221 initiated to assist the urban renewal process set the stage for the expansion of these programs in the 1960s. Third, through the URP, the federal government encouraged formal planning by localities that contributed to the urban form in many communities today.
The 1960s were a watershed period for federal housing policy. Urban renewal remained the goal of many local government officials and federal policies, but this goal required professional staff for implementation of the programs. As a result, bureaucratic institutions grew to plan and administer programs. These bureaucracies also tended the existing and expanded housing programs during this period. The Housing Act of 1961, for example, expanded the 220 and 221(d)(3) programs. In this legislation, the 221 (d)(3) program, initially created to benefit individuals displaced by urban renewal, was extended to include low- and moderate-income households in general (Siemer, et al., 1985; Nenno and Brophy, 1982). The Housing Act of 1964 expanded housing programs for the elderly and the handicapped populations. The Housing and Urban Development Act of 1965 created a variety of housing programs including low-interest loans for lower-income households. Also, in 1965, Congress authorized funds for housing rehabilitation, code enforcement activities, and additional public housing units. Finally, Congress established the U.S. Department of Housing and Urban Development (HUD) in 1965 (Gerckens, 1988; Rice, 1979; Nenno and Brophy, 1982).

The Housing and Urban Development Act of 1968 set an ambitious goal, offered new housing programs, and further encouraged housing planning. The Act called for 26 million new and rehabilitated housing units within 10 years with over 20% of these units for lower-income households. New initiatives included the Section 235 and Section 236 programs that subsidized low-income homeownership and rental units respectively. Finally, an extension of the 701 Comprehensive Planning Program required participating local governments to develop a housing element as part of their master plan (Mitchell, 1985; Gerckens, 1988, Baer, 1986; Scott, 1969).

The federal government flexed its regulatory arm near the end of the decade. The Civil Rights Act of 1968, and amendments in 1974 and 1988, prohibited discrimination in the sale or rental of housing on the basis of race, color, national origin, religion, sex, familial status, and religion (Basolo, et al., 1996).

The federal legislation of the 1970s reflects a philosophical change from the aggressive and expansive federal role of the 1960s to a focus on localism. While the Housing and Community Development Act of 1970 continued and expanded many of the programs initiated in the 1968 Housing Act, the early years of the 1970s witnessed a spending moratorium on the Section 235 and 236 programs. Scandals associated with implementation of these programs and political maneuvers between President Nixon and Congress resulted in the moratorium and set the stage for the passage of the 1974 Housing and Community Development Act (Brown, et al, 1984; Sullivan, 1979). The Act created the Community Development Block Grant Program (CDBG) from a group of categorical grant programs. This block grant gave more discretion to local governments in their use of federal housing funds. Under CDBG, eligible localities received entitlement funds based on a formula. The small cities program allowed ineligible communities under the entitlement program to apply for funds through a competitive process (Nenno and Brophy, 1982).
The federal perspective on public housing also changed during the 1970s. Construction of new public housing fell drastically in this decade and did not rise again until after 1977 (Hays, 1985; Sullivan, 1979). Instead, the federal government favored a new approach, the Section 8 program, authorized in the 1974 Housing and Community Development Act. Section 8 rent supplements were created to be used in the private housing market. Section 8 was intended to address the diversity of housing conditions across cities in the U.S. For example, as part of the Section 8 program, locally determined fair market rents were established to account for the variation in housing costs among localities (Lieder, 1988; Mitchell, 1985). The 1974 Act also required CDBG recipients to submit a Housing Assistance Plan (HAP). The HAP had to address the needs of current and future low-income people in a community (Baer, 1986).

The federal government passed several anti-discriminatory pieces of legislation in the 1970s to encourage financial institutions and mortgage insurers to serve the needs of the entire community. This legislation included the 1974 Equal Credit Opportunity Act, the 1975 Home Mortgage Disclosure Act, and the 1977 Community Reinvestment Act (Basolo, et al., 1996). This legislation expanded credit to minority and lower-income persons.

Other legislation passed in the 1970s targeted distressed areas. The Housing and Community Development Act of 1977 established the Urban Development Action Grant (UDAG) program. These grants were used to leverage private investment for housing and economic development activities. In 1978, amendments to the Housing and Community Development Act included enhanced operating funds to FHA backed projects experiencing problems and financial assistance to neighborhood organizations (Nenno and Brophy, 1982).

The 1980s was a decade of federal devolution and reduced funding in the housing policy domain (Varady and Raffell, 1995; Brown, et al., 1984). A steady decrease in new budget authority for low-income housing programs started in the late 1970s and the 1980s witnessed further cuts in federal funding (Stegman, et al, 1991; Rasey, 1993). Some new “experimental” housing programs did appear in the 1980s. For example, Congress authorized the Local Property Urban Homesteading Demonstration program in 1983 (Rohe, 1991). However, according to William Rohe (1991), “As a short-term demonstration with no additional funds provided for administration, many cities gave low priority to the demonstration” (p.450). Federal leadership and financial support for housing continued to wane throughout much of the 1980s.

The federal commitment to housing policy reflects a change in attitudes about the functions of the national government. A philosophical shift beginning in the 1970s emphasized a smaller central government and the return of local control on community issues such as housing (Brown, et al., 1984; Wright, 1988; U.S. Advisory Commission on Intergovernmental Relations, 1992). In fact, as reported by Constance Lieder (1988), “The President’s Commission on Housing concluded that housing was basically a state and local responsibility” (p. 367).

The changing federal role of the 1970s-1980s resulted in new approaches to housing policy. First, state governments became more active in finding affordable housing solutions. Before
1980, states typically offered only one housing assistance program, the sale of tax free bonds for housing development. Loans from the bond proceeds benefited housing developers and eligible home buyers (Swartz, 1992). By the early 1980s, forty-six states were involved in some form of affordable housing finance such as providing rental subsidies and residential construction loans at below-market rate interest (Hoben, 1981). State housing finance agencies were firmly established in many states by the 1980s, and, according to Mary Nenno (1997), “Between 1980-1989, it is estimated that more than 300 new state housing programs were enacted” (p. 12).

Second, local community development corporations (CDCs), nonprofit organizations, emerged as important players in the provision of affordable housing in cities. While CDCs existed prior to the 1980s, their performance was varied and many of these organizations relied heavily on federal funding (Rasey, 1993). Even today, despite the proliferation of CDCs, performance remains difficult to measure (Rohe, forthcoming). Although many questions remain as to the effectiveness of CDCs as housing providers, these organizations have strong relationships with cities and, in some locales, define their relationships as partnerships (Basolo, 1997b). Many CDCs work aggressively to develop affordable housing and in doing so, exhibit entrepreneurial prowess. While they still rely heavily on federal, state, and local governments for funding, CDCs often leverage these funds to secure private funding from foundations and lending institutions (Vidal, 1992; Rasey, 1993).

The passage of the Housing and Community Development Act of 1987 provided for changes in the public housing system. The Act authorized the creation of public housing resident-management corporations and provided funding for training of these resident organizations. Also, the Act outlined the process for the conversion of a public housing development to a cooperative (Peterman, 1993). In the late 1980s, federal policy also favored increasing the homeownership rate in the country. However, it was not until 1990 that Congress passed major federal legislation to support this policy.

The 1990 National Affordable Housing Act included “Homeownership and Opportunity for People Everywhere” (HOPE), a set of programs aimed at increasing homeownership for lower-income households. HOPE I provides funding to plan and implement homeownership programs for public and Indian housing tenants. HOPE II funds the development and implementation of programs to sell government-owned, or financed, multi-family housing units to resident-management corporations or eligible, low-income individuals. HOPE III is similar to HOPE II, but focuses on the sale of single-family homes to lower-income persons (Warren, Gorham and Lamont, Inc., 1992; Peterman, 1993). HOPE VI was added in 1993 and included financial assistance for public housing rehabilitation and aid to public housing residents to buy their units (U.S. Department of Housing and Urban Development, 1997a). The HOPE programs also stress assisting low-income families attain self-sufficiency, creating jobs, and working to end homelessness (U.S. Department of Housing and Urban Development, 1991).

The 1990 Act required state and local jurisdictions receiving CDBG and federal housing funds such as the HOPE programs to prepare a Comprehensive Housing Affordability Strategy (CHAS). The CHAS replaced the HAP that was created under the 1974 Housing
and Urban Development Act. The CHAS guidelines required jurisdictions to assess the housing needs of lower-income households, examine the existing housing market and inventory, develop a five year strategy to meet the housing needs, and on a yearly basis, identify resources and update plans for strategy implementation (Nelson, 1992).

The HOME Investment Partnerships Program (HOME) was also authorized in the 1990 Act. HOME provides funds to local jurisdictions on a formula basis; however, participating jurisdictions must provide a 25% match of local funds. The funds may be used for a range of low-income housing activities such as tenant-based rental subsidies and home ownership assistance (U.S. Department of Housing and Urban Development, 1997b).

The Omnibus Budget Reconciliation Act of 1993 created the Empowerment Zones program. This program is place-based and designates distressed areas as empowerment zones (EZ) or enterprise communities (EC). As an EZ or EC, an area is eligible for federal grants and other benefits such as tax-exempt bonds. The main objective of the EZ program is economic development, especially the creation of jobs to help reduce unemployment. However, the EZ funding may also be used for the development and rehabilitation of housing and other community development activities such as public safety (U.S. Department of Housing and Urban Development, 1997c).

The federal policy of the 1990s seeks to bring more Americans into the societal mainstream. This goal continues as the current administration stresses homeownership opportunities and eliminating welfare dependency (Gabriel, 1996; Wiseman, 1996). Other trends include streamlining the housing planning process for state and local jurisdictions. HUD instituted the Consolidated Plan (CP) to replace the CHAS in 1994. The CP reduces the amount of information required from state and local jurisdictions (Varady, 1996).

Intergovernmental relations continue to evolve as the federal government redefines its role. Current federal housing policy favors less government restrictions, more responsibility from the individual, and more local control. This policy coincides with a reduction in federal leadership and funding uncertainties.

The federal withdrawal leaves a void in housing policy making. States have responded to some extent with new housing initiatives. However, the ability of states to fully absorb the bulk of housing policy responsibilities is uncertain. At present, states face a test of their ability to handle major policy devolution in the area of welfare reform (Wiseman, 1996). The outcome of this effort should be a reasonable indicator of the states’ ability to assume other policy responsibilities such as housing. In the meantime, cities continue to grapple with affordable housing issues. CDCs serve some housing needs, but critics warn that the CDC model cannot independently and completely address urban housing issues (Stoecker, 1997). Given current circumstances and the direct impact of housing availability and conditions on local communities, cities may be the most likely candidates to assume the primary role in affordable housing policy.

B. Summary and Conclusions
This chapter provided a brief history of housing policy in the intergovernmental context. This history reveals that the federal government has played the key role in housing policy during this century. Federal funding and regulation of financial and other institutions have shaped housing policy within the nation’s cities. However, history also shows that cities as well as states have affected local housing conditions and availability by setting and enforcing minimum building standards and land use regulations. Furthermore, as administrators of federal housing grants in their jurisdictions, many cities have developed the planning and administrative expertise to develop and implement affordable housing programs.

This chapter also documents an intergovernmental evolution in housing policy. The era of strong federal leadership in housing appears to be over as the federal government shifts more and more responsibilities to lower levels of government and looks to the private sector, especially nonprofit housing organizations, to solve housing problems. It is too early to know if states will assume the lead role in housing policy and many analysts doubt the ability of the nonprofit sector to fully address the nation’s housing problems. Thus, cities may emerge as the new leaders in housing policy. For this reason, we must understand the forces and conditions that motivate cities to support affordable housing programs.

The next chapter reviews the literature on city policy making. This literature provides both theoretical and empirical explanations for local decision making. It is the work of scholars reviewed in the next chapter that provides the background and foundation for this investigation of support for affordable housing programs in cities. END OF CHAPTER

Continue reading to bring this brief history up-to-date…

In 1996, the Clinton Administration passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which initiated “welfare reform.” In this policy move, the federal government devolved responsibility for welfare to the states. One element of welfare reform has been time limits for recipients of the Temporary Assistance to Needy Families (TANF) program. The 1998 Housing Quality and Work Responsibility Act was another piece of legislation devolving housing policy responsibilities. The Act gave public housing authorities much more discretion in the administration of public housing and the housing voucher program. In addition, the program lifted disincentives to work for recipients of housing assistance. Also, at the end of the decade, Congress approved a program, “Welfare to Work Vouchers.” The program is limited in scope (approximately 50,000 households across the country), but is consistent with the policy trends of the last two decades – the program aims to help recipients become and remain self-sufficient. Recent legislative proposals have sought to cut funds for housing and block grant the housing voucher program to states.

REFERENCES: end of document.