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## THINKING SMALL ABOUT URBAN RENEWAL

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With this year presenting us new housing legislation, a Department of Urban Affairs, and an issue of *Life* devoted wholly to cities,<sup>1</sup> it is clear that we're in a tough era for the radical critic of urban renewal and city planning.<sup>2</sup> Take the recent *Federal Bulldozer*<sup>3</sup> caper. Its author, Martin Anderson (who was a research fellow at the Massachusetts Institute of Technology—Harvard Joint Center for Urban Studies), called for the repeal of urban renewal legislation.

More than 1,000 copies of *The Federal Bulldozer*, which had not been scheduled by M.I.T. for publication until November 18, 1964, were distributed well in advance of the 1964 general election. Recipients included Goldwater, Johnson, Justices of the United States Supreme Court, senators, congressmen, and local urban renewal officials. When the distribution was discovered, the professional organization for urban renewal people (NAHRO<sup>4</sup>) swung into action. Robert Groberg, NAHRO's Assistant Director, contacted James Q. Wilson, Director of the Joint Center. It must have looked to Groberg as if the M.I.T. Press and the Joint Center had been made dupes of Barry Goldwater, for, as Wilson and Groberg agreed, the Anderson book was fine ammunition for the conservative opposed to federal welfare programs.<sup>5</sup> And with the implicit backing of Harvard and M.I.T., an attack on urban renewal could be dangerous, indeed.

It fell to Groberg to perform for NAHRO the hatchet job on Anderson's book. This he did for the *Journal of Housing*, NAHRO's official voice, in

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1. *Life*, Dec. 24, 1965.

2. One may also note the President's promise in his State of the Union message to rebuild "on a scale never before attempted entire central and slum areas of several of our cities. . . ." 112 CONG. REC. 129 (daily ed. Jan. 12, 1966).

3. ANDERSON, *THE FEDERAL BULLDOZER* (1964).

4. The National Association of Housing and Redevelopment Officials.

5. Groberg, "Repeal Urban Renewal" says lone wolf "scholar"; publisher steers clear of issue, 21 J. HOUSING 471 (1964).

what is described not as a review but a statement.<sup>6</sup> The first portion of the statement, based on Groberg's conversation with Wilson, reports Wilson as saying that "the vast majority of the faculty of the two institutions concerned with the center's program and the battery of urban affairs 'outsiders' who counsel with the center," would not agree with Anderson's conclusions. The fact that the volume is inscribed as one of a series in which the Joint Center presents some of its findings, "does not mean the center backs the findings of the book." Wilson agreed that these findings "would support the Goldwater line against federal-aid programs." Moreover, Wilson said, "the Anderson book meets only the minimum standards of scholarship that the center applies to its studies."<sup>7</sup> Poor Mr. Anderson was left in the position of a kamikaze pilot who, in the middle of a suicide drive, discovers that his country has surrendered.

Were M.I.T. and Harvard temporarily in the grip of the Birchers? Since *The Federal Bulldozer* is really a very inadequate book—an easy target for criticism from the renewers<sup>8</sup>—it seems equally plausible to argue that M.I.T. and Harvard were in the grip of Robert Weaver, and that Anderson was merely playing a role in a much larger conspiracy. But the plot theory of history is untenable. (Were that not so, social legislation would have a much better chance of reaching its objectives.) And if there was no plot, you must be left, as I am, wondering about the Joint Center.

It is clear that the renewers had been afraid. But when it turned out that the Anderson bomb was a dud, the renewers came out from the corners where they'd been cringing and danced on it gleefully. Mr. Groberg titled the envoy to his review "*Not Recommended Reading*" (italics in the original). But, as if still fearful that someone might disregard his suggestion—that the bomb might yet go off—he announced that the *Journal of Housing* would distribute to all local renewal agencies "a detailed analysis of the mistakes, misinterpretations, and distortions in *The Federal Bulldozer*. . . ."<sup>9</sup> And the *Journal of Housing*, feeling it "useful to publish more than 'one man's' [*sic*] opinion," followed Mr. Groberg's statement with a review, sub-

6. This description is apparently the editor's. 21 J. HOUSING 473 (1964).

7. Groberg, *supra* note 5, at 471. One woman, old and respected in urban renewal circles, gained the impression from having read the Groberg statement that *The Federal Bulldozer* was really published by mistake—as if it instead of some other manuscript had gone to the printer.

8. Summary criticisms of Anderson's errors may be found in Candeub, "*Federal Bulldozer*" labeled "*journalistic rehash of old anti-renewal arguments*," 21 J. HOUSING 473 (1964); Groberg, *supra* note 5; Curry, Book Review, 33 GEO. WASH. L. REV. 1005 (1965) (Mr. Curry is Chief Counsel of the Urban Renewal Administration).

9. Groberg, *supra* note 5, at 472.

mitted independently, that happened to agree exactly with Mr. Groberg.<sup>10</sup> That second review, epic in style, describes a mighty enemy who was, nonetheless, unable to draw blood, and concludes with an heroic call for some criticism worthy the mettle of the renewers.

The intensity of NAHRO's reaction to *The Federal Bulldozer* was no accident. Charles Abrams has recently observed that the proponents of urban renewal, having committed themselves (and with great effort gained the assent of the public and the press) to programs now known to be inadequate, find it difficult to admit that they were wrong.<sup>11</sup> It is little wonder that housing and renewal officials are testy about criticism that calls on them to face inadequacies they've been trying to ignore, cover up, or compensate for. This sensitivity can easily reach a level of paranoia that makes it impossible, for instance, to give Anderson credit for the few good points he does make, that requires a searching out of political motives, and that divides the world into those who are for us and those who are against us.<sup>12</sup> In such an atmosphere, rational discourse about the desirability of urban renewal or city planning is all but impossible.

It may seem trivial or even unfair to criticize urban renewal and planning on the grounds that its practitioners, theoreticians, and supporters are touched, as are we all, by original sin. Original sin, however, is not so

10. Candeb, *supra* note 8. The quote apparently comes from the editors of the *Journal of Housing*; it's part of the introduction to Candeb's review.

11. Charles Abrams in *The City Is the Frontier* has commented on this phenomenon: Once the public has been indoctrinated . . . it is not easy to confess that the whole approach was wrong from the beginning, or that supervening circumstances have made it senseless to continue digging into the same hole.

The housing reformer . . . has committed himself to a position. Even if he has not been pressed into officialdom (as so many of the faithful have been), he is not prone to concede that all has not worked out for the best. His old speeches and writings remain to plague him; he has won over the good citizen and the press to his arguments (editorial positions are almost as sacred as judicial opinions, at least until they have faded from public memory).

. . . .  
The result is a gaping ideological lag between what is and what ought to be. Vested errors command respectability because they are defended by the respectable people. The protagonist of change is viewed as a turncoat . . . . ABRAMS, *THE CITY IS THE FRONTIER* 23 (1965).

There are of course those in planning and renewal who recognize that such programs have limitations, who view themselves as working from inside to bring whatever reason they can, and who are delighted when effective outside criticism assists their own efforts. These people are fighting an uphill battle.

12. When my comment, *Building Codes, Housing Codes and the Conservation of Chicago's Housing Supply*, 31 U. CHI. L. REV. 180 (1963), was published, I was called by one acquaintance a traitor, presumably because, having worked for the Chicago Commission on Human Relations and the Chicago Urban League, I was expected to stand four square for everything good, true and beautiful. I was also told that the executive director of a private organization concerned with housing improvement "hated" me.

easily forgiven in the person who assumes the responsibility for deciding how people shall live and how the public monies shall be spent. And tenderness should not prevent our attending the fact that one of the worst features of urban renewal and planning is the motivation and machinery available to discourage or even prevent open public discussion of its purposes and methods.

The inclination to stamp out criticism is particularly distressing when it is realized that among renewalists there is little agreement as to what they are about—a fact which, while it further explains sensitivity to criticism, makes public discussion all the more necessary. Not only is there little theoretical agreement either at the level of land use or at the level of project design, but when occasionally there is substantial agreement, the favored policy is likely to be thwarted by the strait-jacket of federal legislation or by the force of local politics. These facts are, unfortunately, seldom brought to the attention of the public. Widespread opposition to renewal comes principally from those immediately hurt by a given project.<sup>13</sup> No one questions whether the renewalists know where they are going or whether there is any likelihood of getting there. And only a few, addressing rather limited audiences, have questioned whether where urban renewal seems to be going is a good place to be.<sup>14</sup>

The failure to recognize the absence of clear purpose in urban renewal programming may be explained, at least in part, by the emphasis on the motivation for renewal rather than its results. There are slogans a-plenty, all of which prove that the intentions of renewalists—the preservation of home and hearth—are beyond reproach. The faith of our society in the efficacy of welfare legislation—a faith so often proven wrong—leads us to accept the intention for the ability to perform the deed. We find a condition we don't like; we legislate it out of existence. The response to any criticism of renewal is a full page spread of slum photos. But it is not enough to know what one is against; knowing what one is for, specifically, is much harder, though an obviously necessary prerequisite to any social action likely to be successful. When one seeks answers to such nice questions as where Negroes are to live, where the poor are to live, what's the

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13. In some cities the designation for urban renewal of any area, no matter how decrepit the housing, arouses a desperate resistance among the people living there. Indeed, television dramas of daily life sometimes cast the local urban renewal agency in the role once played by the hardhearted banker. This adverse reputation, a powerful comment on urban renewal, seems to arise from the real experience of the poor; it was not created by the social critics who now amplify it. Glazer, *The Renewal of Cities*, Scientific American, Sept. 1965, p. 198.

14. E.g., JACOBS, *THE DEATH AND LIFE OF GREAT AMERICAN CITIES* (1961).

vision of this brave new world, and how do we get there from here, one finds only obfuscation, evasion and just plain ignorance.

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The history of the City of Chicago's policy with respect to Negroes illustrates well the fate of planning goals not consonant with political purposes. Where and how Negroes will live in the metropolis of the future is one of the most important questions facing society, for one of the clearly recognizable trends is the growth of the Negro population in central city areas. In many cities, Chicago among them, a Negro majority may be realized within less than a generation.<sup>15</sup> Were this population dispersed through the metropolitan area, the danger of political control by a severely handicapped group would be dissipated; it would be staved off for the foreseeable future by extensive annexation. What is the city to do?

By 1956—ten years ago—staff members of Chicago's City Plan Commission were aware of at least some of the implications of the city's growing Negro population. In a study of the impact on Chicago of the St. Lawrence Seaway, staff planners pointed out that residential segregation produces higher prices for housing available to minority groups, that high prices encourage overuse, and that overuse accelerates deterioration.<sup>16</sup> The statement

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15. I would consider it a threat that city governments might be taken over by any underprivileged, poverty stricken, and poorly educated minority. Without significant improvement in the condition of the Negro, Negro political domination would necessarily mean cities faced by more serious social problems than the city faces now, and with fewer resources to deal with them. Tax bases would be lowered; those suddenly called upon to administer the city will have had little experience in business or public administration. The danger of this prospect might be staved off by massive efforts to improve the lot of the Negro. Annexation of suburbs or the dispersion of the Negro population within the city would give more time for this improvement to take place.

16. CHICAGO PLAN COMM'N, THE CALUMET AREA OF METROPOLITAN CHICAGO 69 (1956). The report indicated a broad recognition of fundamental policy problems of planning and renewal.

A definite need exists for a realistic examination of redevelopment efforts, urban renewal efforts and possible rehabilitation programs. Redevelopment efforts that demolish housing without adequately providing replacement of the lost number of dwelling units in some other areas cuts down on the housing supply of the City and the Metropolitan Area. . . . Conservation efforts, urban renewal efforts, redevelopment efforts, will fall short of their mark unless an adequate supply of standard housing is available for all people at all income levels. . . . The hope of solving the problems that urban renewal, redevelopment or conservation programs have set out to solve would appear to depend in large measure upon a comprehensive view of what is required and what priority is to be given in solving what problems. With an expanding economy and expanding labor force, the question of the size of the supply of standard housing for all income groups appears a very significant consideration if a city is not to destroy some neighborhoods while trying to rebuild others. *Id.* at 70.

The contradiction of tearing down vast areas while trying to preserve adjacent ones is still built into the urban renewal program, for the federal government will grant much more money to cities for large scale clearance than it will for any other approach to the

was discreet—referring to the housing supply available “for particular groups of people”—and it was hidden on page sixty-nine of a seventy-one page text, but there it was. I recall we were pleased, those of us then active in the race relations field, that even such recognition should be given the problem. We were much more pleased by a second publication, produced by the commission staff at the same time and obviously intended for a narrower audience. It was a study of relocation from urban renewal sites, which admitted the difficulty of finding adequate housing for Negroes being displaced by land clearance.<sup>17</sup> It was recognized that clearing Negroes from slum areas resulted in the spread of the Negro ghetto into previously all white areas, producing tension but not integration, and that the restrictions on the areas available for Negro occupancy made it especially difficult to relocate Negroes into standard housing. The report recommended that the city either build public housing in outlying, hence white, neighborhoods and on vacant land, or that it enact an open occupancy ordinance.<sup>18</sup> Choosing outlying and vacant sites would mean that public housing would be constructed without tearing down existing slums, thus producing a net gain in the housing supply. The defeat of this proposed solution is fully recorded elsewhere.<sup>19</sup> The report opted for open occupancy legislation. It was to be six and a half years before a weak and ambiguous open occupancy ordinance would be passed in Chicago.<sup>20</sup> And by that time, it had become

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problem of renewal. See Glazer, *supra* note 13, at 202-04. It is interesting to note that just this year two of my colleagues at Washington University, Professor Mandelker of the School of Law and Professor Montgomery of the Urban Design Center, have been given a grant by the government to evaluate the government's definition of slum and blight. How slum and blight are defined has obvious implications on the priority assigned areas for improvement. It is possible that the definition amounts to a strait-jacket, preventing the comprehensive view of priorities called for in the Chicago Plan Commission's 1956 report.

17. CHICAGO PLAN COMM'N, POPULATION AND HOUSING REPORT NUMBER 2, A REPORT ON RELOCATION (1956). As far as I know, this was the last of what obviously was originally intended as a more lengthy series of studies. The first, interestingly enough, was a technical analysis of the means of defining slum and blight.

18. *Id.* at 24-26. Though suggested as alternatives, these policies are not inconsistent; in fact they are complementary.

19. GRODZINS & BANFIELD, POLITICS, PLANNING AND THE PUBLIC INTEREST (1956).

20. Chicago's Open Occupancy Ordinance, passed in the summer of 1963, prohibits discrimination on the part of brokers, but not owners. It was thought that the public welfare clause of the *Illinois Municipal Code* would not be sufficient to support any interference with the owners, but that the grant of authority to license brokers would sustain an ordinance controlling brokers only. The difficulty with the ordinance, besides its limited scope, is that it does not make clear whether the broker may inform prospective minority group purchasers that the owner intends to discriminate. What little effect such an ordinance can have rests primarily in its placing upon owners the burden of stating directly to a potential customer the intention to discriminate against him.

clear that such an ordinance was not the ultimate solution it had appeared to be in 1956.<sup>21</sup> But, in 1956, it looked awfully good.

Very shortly copies of these two reports became exceedingly scarce. Most of the staff responsible for them resigned from the Plan Commission within a few months of their publication. The resignations began with the Director of Planning and his immediate superior, the Assistant Executive Director, and went on down through the ranks—if I recollect correctly, some twenty people altogether.<sup>22</sup> No manifesto accompanied the departure, so little if any attention was paid by the press. After the brief flurry of optimism produced by the last works of the departed planners, the question of race and housing was officially ignored by city planners until the publication in the fall of 1964 of the city's planning policy statement.<sup>23</sup> It would be conservative to guess that in the intervening seven and a half years, the city's Negro population increased by 250,000 and the area of solidly Negro occupancy by ten square miles.<sup>24</sup>

Academic justification for inaction was provided by Professor Philip M. Hauser,<sup>25</sup> a frequent consultant to governmental agencies, who at the 1959 hearings of the Federal Civil Rights Commission argued that the problem of the Negro was not significantly different than that of any other ethnic minority that had served its time in the city slum and eventually graduated to suburbia. He added, time "measured in human generations" was needed

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21. It is now quite clear that the economic disadvantages of the Negro community, combined with the tendency to self-segregation, mean that an open occupancy ordinance is no more than a precondition to the dispersal of the Negro community. It was apparently assumed by the authors of the relocation report that open occupancy legislation would prevent the "widening of the areas occupied by non-whites [which] is a historically proven by-product of relocation." CHICAGO PLAN COMM'N, *op. cit. supra* note 17, at 24. Perhaps, however, the authors were merely concerned with the fact that relocation authorities respected existing racial distribution when attempting to find housing for Negro relocatees. These officials argued that they were bound by legislation to find standard housing for relocatees, not to create integration, and that the attempt of the latter might make the achievement of the former incomparably more difficult.

22. The statements in this paragraph are based entirely on personal recollection. I had been acquainted with a number of the planners involved.

23. DEP'T. OF CITY PLANNING, CITY OF CHICAGO, BASIC POLICIES FOR THE COMPREHENSIVE PLAN OF CHICAGO (1964).

24. In the ten years between 1950 and 1960, the Negro population of Chicago increased by some 400,000. To suggest an increase of 250,000 between early 1957 and late 1964 seems, in that context, quite reasonable. Assuming a density of 25,000 per square mile is probably also on the safe side. The average density of Chicago in 1950 was 16,000 persons per square mile. Lynch, *The Form of Cities*, Scientific American, April 1965, pp. 54-55.

25. Professor of Sociology at the University of Chicago.

for education to solve the problem; "legislation cannot by itself, change the attitudes and values of the American people."<sup>26</sup>

When, with various reorganizations of planning and renewal agencies, John Duba was named Commissioner of Urban Renewal—that must have been late 1961 or early 1962—he agreed to meet privately with a group of staff members from civil rights agencies.<sup>27</sup> He was asked whether any effort was made to use urban renewal as a device for encouraging racial integration. He answered no;<sup>28</sup> the city council, he said, had never authorized that as an urban renewal goal. Of course, the refusal to make conscious, or public decisions does not mean that nothing happened; the refusal to act is, in effect, a decision to allow the situation to develop in the direction it is going. As had been pointed out by the planners lost to the Plan Commission five years before, every effort at clearance of a slum that houses Negroes means a concomitant expansion of the Negro ghetto into previously white areas.

Mr. Duba was then asked whether there was any policy with respect to economic integration; he answered that an effort was made to provide housing within each project for all income classes. Asked whether that policy had been sanctioned by the city council, he answered no. The questioning served to point up the willingness of urban renewal people to take a forthright stand on what seemed non-controversial, but to avoid any issue, no matter how important, that might generate antagonism. Moreover, the policies with respect both to racial and economic integration were wrong. It seems reasonably clear that the only hope of obtaining racial integration is in conjunction with segregation by economic class. Whites may accept Negroes of the same class as themselves or of a higher class, but not the poor Negro, whom many middle-class Negroes themselves reject. And economic integration is otherwise hardly so obviously desirable as its proponents assume.<sup>29</sup>

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26. *Hearings Before the United States Commission on Civil Rights: Housing Hearings Held in New York, Atlanta, and Chicago* 637 (1959). Professor Hauser has since become a convert of active intervention as chairman of a committee that recommended to the Chicago Board of Education affirmative programs to benefit Negro students. The report has become a *cause celebre* because of the refusal of Benjamin Willis, Chicago's Superintendent of Schools, to pay any attention to it.

27. The group was the Chicago Chapter of the National Association of Intergroup Relations Officials (N.A.I.R.O.).

28. That this is an essentially accurate report of policy at that time has been confirmed by Mr. Duba in a recent letter to the author. Of course, individual projects are integrated.

29. While the ideal economic integration is generally accepted in the planning field, the acceptance is not universal. See Winnick, *Facts and Fictions in Urban Renewal*, in *ENDS AND MEANS OF URBAN RENEWAL* 23, 39-43 (1961). It seems reasonable to assume that the emphasis on economic integration is a reaction to the segregation, economic,

While Duba was making these remarks, the Department of City Planning<sup>30</sup> had under consideration a policy statement for a comprehensive plan. By mid or late 1962, a draft of this plan, sufficiently final to be in printed form, had been slipped into the hands of a reporter for the *Chicago Daily News*. The stoolie, a member of the Chicago Plan Commission,<sup>31</sup> apparently hoped for its passage in that form. The statement on race, of course only a small portion of the whole, was straightforward. It projected a city in which "minority groups will be absorbed in every aspect of society and live in all areas"<sup>32</sup> and stated as a policy the creation of communities that would attract people reflecting the characteristics of the population of the whole Chicago region. The reporter let a few of us, active in race relations, see the document. We were delighted. True, this was not the frank facing of policy questions that characterized the 1956 report—which had made an effort to lay out the problems that motivated concern, had suggested alternatives, and only then made recommendations.<sup>33</sup> This was

racial, and functional that has been an ideal of the real estate industry, often legislated into existence for at least the last fifty years. For a more detailed discussion of economic integration see note 43 *infra* and accompanying text.

30. The perceptive may note that I referred earlier to the Chicago Plan Commission and now to the Department of City Planning. During the years under discussion, there were any number of reorganizations of agencies concerned with planning and renewal. One resulted in the creation of a city department for planning, with a commissioner responsible to the mayor. The old Plan Commission, historic guardian of the spirit of Daniel "Make no little plans" Burnham, continues as an establishment advisory committee to the Department of City Planning, but the staff is responsible now to the Commissioner of City Planning, not to the Plan Commission. That arrangement of course makes more difficult the effective expression of staff dissent. In Kreisler's terms it prevents the alternatives suggested by planners being brought to a political forum for the necessary political decision. See note 40 *infra*.

31. For a discussion of the relation of the Chicago Plan Commission and the Department of City Planning see note 30 *supra*.

32. I am reduced here to reporting from my own notes made at the time. I assumed then that I was merely obtaining some information slightly in advance of publication and bothered neither to get page number citations nor an exact title. I have tried to locate the thermofax copy that I had seen, in order to provide such for the reader. The newspaperman who showed it to me was traced, through three jobs, to another and distant city. He wrote that he had given his copy to someone else, who has, at this writing, not responded to my letter. My difficulty in finding this document suggests some of the problems with discovering what happens in the process of policy making in urban areas. One is that there is a great deal of mobility among the younger and less entrenched, from whom one is most likely to get access to information not officially available. Another is that there is so much that is not officially available. These restrictions on information flow must be respected by those involved, which is why, even at this late date, I am reluctant to name either the newspaperman or the commission member who provided him the advance copy.

33. For a discussion of this report see note 17 *supra* and accompanying text.

simply a policy statement. But we could hardly cavil—it was certainly an improvement over what we'd been hearing.

We anxiously awaited approval and publication. We were to wait for more than two years. The final version was not published until late 1964. In the version finally published, there was no longer the brave (if somewhat unrealistic) vision of a society integrated by class, religion, race, family composition, and age. Instead, we were offered a slick statement that attempted to hide the fact that the city's commitment extended only to helping obtain integration in neighborhoods threatened by racial transition.<sup>34</sup>

Admittedly, the earlier version was unrealistic in trying to do everything at once. However, implicit in it was the reasonable and realistic statement that the problem of neighborhood change could not be solved by stop-gap aid in transitional neighborhoods; the only solution must involve the whole city and, it might be added, the suburbs as well. That, of course, is political

34. It is the policy of the city to plan for a diverse, harmonious population. The city will seek to bring about substantial changes in current trends and conditions, to reduce future losses of white families while accommodating the growth of the non-white population under the fair housing policy adopted by the City Council.

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The growing non-white population in the Chicago area will mean that . . . many additional dwellings built in areas which are now predominantly white will be occupied by non-white families in the future. If current trends were to continue, non-white families would be accommodated through massive transition, mainly in areas adjacent to non-white neighborhoods.

The city will seek to change these trends and to achieve harmonious, stabilized neighborhoods attractive to families of all races and creeds. This has been increasingly accomplished in urban renewal areas, through cooperation between the city and citizens. DEP'T OF CITY PLANNING, CITY OF CHICAGO, *op. cit. supra* note 23, at 26-27.

This statement provides an instructive example of public relations technique. The sentence beginning "If current trends were to continue . . ." is the extent of recognition given a report to the Department that continuation of the process of transition for a long time to come is virtually inevitable. It should also be noted that when it comes to outlining specific racial policies, to achieve a goal that the Department was told was all but impossible, the Department could agree only upon the following:

Using redevelopment and conservation programs to achieve better racial balance in those neighborhoods threatened by racial transition. This would include local improvement programs to encourage families to remain in the neighborhood and to attract new families. The continuation of non-discrimination policies in conservation and redevelopment areas will help in achieving this critical objective, as will city and state policies aimed at insuring freedom of housing choice. *Id.* at 27.

Gone is the commitment to integration throughout the city. Instead, it is to be fostered where it is the only possible choice to Negro inundation or where it is required by legislation. And what of the point made seven years earlier that clearance of Negro areas necessarily means the spread of the Negro ghetto? Now we are given the promise that somehow the city will go on with renewal and conservation while preventing the inundation of neighborhoods threatened by transition. How? The policy statement finally granted us was a public relations rehash of policies long known to be incompatible.

dynamite. Imagine the city serving notice on the suburbs, or even the outlying parts of the city, that it was going to attempt to solve its own problems by encouraging Negro migration.<sup>35</sup> But no other solution is realistic.

While the policy statement was in preparation, the City Council did finally pass an ineffectual open occupancy ordinance; that at least made it possible for the City Planning Department to associate the city's legislative arm with its statement on race.<sup>36</sup> However, because the statement promised attention only to the racially transitional neighborhood, it actually represented no change from city policy prior to passage of the ordinance.<sup>37</sup> Dedicated staff members of the Chicago Commission on Human Relations had been trying to help the transitional neighborhood since the early Fifties. What success they've had has been limited largely to the easing of tension in the process of transition; no greater success is possible for a program thus limited in scope.

Also, an urban renewal bond issue had been disastrously defeated. An analysis of the vote suggests that the main opposition came from Negroes, who didn't want to be moved, and from whites in areas most likely to be pressed by Negro clearance. The reaction to that vote, as evidenced by the new policy statement, was not a rethinking of the problem of clearance and relocation, but rather continued temporizing.

Finally, in late 1963, the city was provided a detailed study predicting for the foreseeable future the continued expansion of the Negro ghetto.<sup>38</sup> The

35. In 1959, the city argued against an open occupancy ordinance (there was and still is no state open occupancy law) on the ground that the passage of such an ordinance in the city would hasten the flow of whites to the suburbs. Mayor Richard J. Daley made the following statement, in response to a question, at the 1959 Civil Rights Commission Hearing: "Getting back to your question that this Chicago metropolitan area doesn't stop at any boundary line, that the employment, that the income, that the manufacturing, that the finance were all tied up as one unit, as you point out, the laws to be really effective should . . . cover the metropolitan area . . ." *Hearings Before the United States Commission on Civil Rights: Housing Hearings Held in New York, Atlanta, and Chicago* 627 (1959). No state-wide legislation was given any active support by the Democratic machine until after the city passed its own ordinance in 1963.

36. A summary description of the ordinance will be found at note 20 *supra*.

37. The limits of the advance represented by the policy statement as published are suggested by Duba's response to my query about housing policy in 1961. "[U]rban renewal projects were not planned [in 1961] as a means to integrate neighborhoods. They have, of course, been effective in stabilizing communities and in providing successfully integrated housing in redevelopment areas. The statement in the Basic Policies [of 1964] does not appear to be in conflict . . ." Authority cited note 28 *supra*.

38. Through a staff member of a private agency, to whom it had been lent by a friend in a public agency, I had a brief opportunity to examine the report on the condition that, in some work I was doing at the time, I would make no direct reference to it. As far as I know, the report has still not been made public. For a discussion of the restrictions on the availability of information see note 32 *supra*.

receipt of this dire prediction is only hinted at in the policy statement. A policy statement such as was made is, in the face of this report, not only timid, but blatantly dishonest. If the prediction is correct, the investment of any effort, other than peace-keeping in the transitional area, is a total waste of time. If it reflects merely a strong tendency, one that intervention might affect, what we need is bold thought and action—exactly what the syrupy, confident, public-relations language of the policy statement would discourage.

The language is itself a key. The 1956 report was a little cranky and ingenuous, but it was strong and straightforward. The voice of planning is filtered now through public relations experts whose purpose is to suppress thought and feeling. It is little wonder—though city officials expressed surprise—that the plan that had been so long aborning was virtually ignored when it saw the light of day. So long had the planners and politicians been plotting about how to push out to the public this mild medicine that history had overtaken and passed it. Negroes were marching in the streets.

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The inability of Chicago's administration to face the problem of race is an example of the difficulty created by political control of the planning process. There is little doubt that most planners would agree on the desirability of racial integration. To the extent that they are bothered by the pretense that effective planning can be carried out while ignoring race, they must suffer in silence, satisfy themselves with such subversion as they can safely accomplish, or leave, as had so many in 1957.

There is nothing to suggest that utmost discretion is no longer a prime requisite of employment in planning for city governments. The average planner, if not brilliant, is also not stupid; he is likely to know and worry about a lot more than he is able or willing to let on.<sup>39</sup> While there are situations where discretion is admirable, it is hardly helpful in trying to set the planning goals of our cities. The tradition of a strong civil service, assured tenure, or a place of refuge in industry or academia, might solve the problem of the technician's dependence on his political superiors, but none of these exist for planners in America.<sup>40</sup> It has been suggested that the reason

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39. Perhaps the word, publicly, should be added. There are many planners and renewers willing to discuss basic policy problems with people they trust, and even to give limited circulation to restricted documents. The recipients of such confidences are most likely to be perceptive people in other agencies, public and private, who are faced with the same order of difficulty—frequent conflict between personal knowledge or opinion and the official position of their employers.

40. KRIESIS, *THREE ESSAYS ON TOWN PLANNING* 110-14 (1963), suggests a three-stage process, proposal, decision, and execution, and urges each be performed by a separate group. Proposal and execution would be carried out by planners—but by

the federal government requires citizen participation in planning is to solve exactly this problem. The notion is absurd. The planner stands silent as the sphinx while the citizen tries to figure out the right questions. If the citizen fails the planner continues muzzled and the program is executed. And of course the citizen inevitably fails. The press fails, too. Many of the real problems of planning are hidden in the obscurest of publications—the ephemera of planning and renewal agencies, or the technical and professional publications of the urban field.<sup>41</sup> As one renewer confessed, “By and large, people don’t understand what we’re after or even what we’re talking about. This is fortunate, for if they did, we’d all have to run for cover.”<sup>42</sup> In the area of race, the difficulty of discovering the proper questions is compounded by emotion and by misanalysis long propagated by the real estate industry. Where the city should be attempting to subdue the emotion and correct the misanalysis, its inclination is to avoid the issue. The general problem is only slightly ameliorated by the willingness of many planning and renewal people to give as many hints as they can get away with, so that their political masters will be put on the spot.

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A planning problem, as difficult at the political level as that of race, is that of poverty. Where the poor are to live is no less impossible a question for politicians forthrightly to answer than is the question, where shall Negroes live. It is as impossible politically to say to the poor that according to the master plan they will continue to live where they are; it is equally impossible to tell them that they will be given another neighborhood. In the face of this dilemma, the city falls back on its position that the poor will be evenly distributed throughout the city.

The politician’s difficulty with the issue of where the poor are to live is, however, not his alone. Planners disagree on this issue much more radically than they do on race.<sup>43</sup> Indeed, many subscribe to the egalitarian utopia

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different groups of planners. The decision would be made by politicians. The proposal stage is probably the most important, for at that stage the possibilities and their consequences must be detailed; obviously, these possibilities should be made subject to critical public discussion before the political decisions are made.

41. Members of the staff of the *University of Chicago Law Review* found that the only practical method of cite checking my comment on the building and housing codes in Chicago was to send a man to my house. Much of the material on which it was based was not available in any of the University of Chicago’s libraries.

42. Wallace, *Beggars on Horseback*, in *ENDS AND MEANS OF URBAN RENEWAL* 47 (1961).

43. Racial integration is probably almost universally accepted as an ideal by urban planners, at least those in the North. While economic integration is accepted quite generally, there are articulate critics. There are no such critics of racial integration in planning circles. There are, however, renewalists who conceive their function as one

of the politicians, and in doing so provide the politicians a principled justification for their pragmatism. However, such utopianism is by no means universal. Louis Winnick has said: "The social gains of mixture and social losses from economic homogeneity have yet to be demonstrated."<sup>44</sup> Having pointed out that the desirability of this goal is no more than a liberal act of faith, Mr. Winnick goes on to describe the costs implicit in its achievement.

One of the major factors in housing price is land; land price is determined in large measure by location. To assert that the poor should share equally with the rich in access to the most wanted land means that the society must absorb greater costs with respect to that housing provided the poor in high land cost areas. Requiring the society to dedicate a portion of its renewal finances to subsidize the poor in high land cost areas means a corresponding reduction in the amount of money available for renewal efforts elsewhere. Social diversification is bought, then, at the cost of an overall reduction of the scale of the renewal program.

Once the economically integrated community is realized, we will be faced with a situation in which housing available at the same price is radically different in desirability. In order to assure that the housing designated for the poor but located in more desirable areas is actually occupied by the poor, it would be necessary to set upper income limits for occupants—a policy which has proven one of the disasters of public housing.<sup>45</sup> Further, there would certainly result a disproportionate demand for the low-income housing in better areas—waiting lists for occupancy with corresponding high vacancy in the less desirable areas. This unequalized demand would quite likely encourage deterioration in both—in the good areas because maintenance is not necessary to attract tenants and in the less desirable areas because income is not sufficient to support it.

Nonetheless, the city blithely accepts the goal of equal distribution of the poor. Only once in Chicago has the practicality of this solution come out in open public debate—not because the planners or politicians wanted it to, but because the residents of Hyde Park, the neighborhood around the University of Chicago, are a vocal and litigious lot. Some wanted the plan for that area to include at least such a quantity of public housing that

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simply of providing housing and who thereby succeed in ignoring questions of race. Certainly this attitude colored the position of those in Chicago responsible for relocation from cleared areas.

44. Winnick, *Facts and Fictions in Urban Renewal*, in *ENDS AND MEANS OF URBAN RENEWAL* 23, 39 (1961).

45. A thorough critique of public housing has been provided by ABRAMS, *op. cit.* *supra* note 11, at 32-38. Pages 36-37 deal specifically with the problem of tying rent to income and of putting out of public housing those whose income exceeds certain limits.

the community could ease its conscience for accepting the benefits of a clearance program that eliminated from the neighborhood most of its poor Negroes. Others predicted that the reintegration of the poor Negro would mean the failure of the plan and the ultimate departure of even those dedicated souls who wanted public housing. The result was a compromise that will place in the community a few scattered units of public housing. The few are a drop in the bucket compared with the number Hyde Park would have to share pro rata if integration of the poor were a realistic possibility.

The questions of the location of the Negro and of the poor must be solved if planning and renewal are to be effective. The mass movements of both groups into new areas often cause deterioration.<sup>46</sup> If renewal continues to require the movement of the poor and the Negro, deterioration will continue to be one step ahead of the bulldozer. In such circumstances it is not difficult to conclude that planners and their political bosses are moving solely for the euphoria of motion. Treadmills may be fine for keeping in fighting trim (there are always critics to be roasted), but a program that looks so like a treadmill is hardly worth the cost in dollars, in effort, and in human suffering, especially when it is arguable that the ostensible goal of renewal, improved housing, is probably better provided by the private market.<sup>47</sup>

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The protection of the poor is, of course, not the only test of social policy. It may well be justified to carry on some planning activities harmful to the poor in order to gain worthwhile ends, as the protection of a great university. However, that renewal may have some other legitimate purposes is recognized by planners only as a defense to the charge that renewal has done nothing but hurt the poor.<sup>48</sup> And it must be admitted that the prin-

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46. Not necessarily, of course.

47. The private housing industry builds without tearing down. While slum clearance gives at least the temporary appearance of improving things by reducing the amount of bad housing, it has done much less, by way of providing good housing, than has the private housing market. Far and away the bulk of the additions to the national supply of standard housing since the Second World War can be attributed to new construction by private housing interests. This is a point to which ANDERSON, *op. cit. supra* note 3, pays a good deal of attention.

48. The misery, the disease, the mortality, in "rookeries," made continually worse by artificial impediments to the increase of fourth-rate houses, and by the necessitated greater crowding of those which existed, having become a scandal, Government was invoked to remove the evil. It responded by Artisans' Dwellings Acts; giving to local authorities power to pull down bad houses and provide for the building of good ones. What have been the results? A summary of the operations of the Metropolitan Board of Works, . . . shows that up to last September it had, at a cost of a million and a quarter to ratepayers, unhoused 21,000 persons and provided houses for 12,000—the remaining 9,000 to be hereafter provided for, being, mean-

cial purpose of renewal is still the provision of decent housing for all Americans. In the name of achieving this goal, much has been destroyed and much built. What good has been done the poor by the process?

First of all, urban renewal has destroyed many slum communities. It may seem implausible to argue that anything is lost when a slum is destroyed, but certainly something is.<sup>49</sup> Slums serve a variety of useful purposes, both for those who live in slums and those who do not.<sup>50</sup>

In order to establish credentials with such few liberal readers as may still be with me, I must begin by conceding that the slum is undoubtedly a lousy place to live. That, however, does not mean that just anything is better. The slum has important advantages, seldom noticed by those who would improve the lot of the slum dweller simply by doing away with bad hous-

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while, left houseless. This is not all. Another local lieutenant of the Government, the Commission of Sewers for the City, working on the same lines, has, under legislative compulsion, pulled down in Golden Lane and Petticoat Square, masses of condemned small houses, which, together, accommodated 1,734 poor people; and of the spaces thus cleared five years ago, one has, by State authority, been sold for a railway station, and the other is only now being covered with industrial dwellings which will eventually accommodate one-half of the expelled population: the result up to the present time being that, added to those displaced by the Metropolitan Board of Works, these 1,734 displaced five years ago, form a total of nearly 11,000 artificially made homeless, who have had to find corners for themselves in miserable places that were already overflowing!

See then what legislation has done. By ill-imposed taxes, raising the prices of bricks and timber, it added to the costs of houses; and prompted, for economy's sake, the use of bad materials in scanty quantities. To check the consequent production of wretched dwellings, it established regulations which, in mediaeval fashion, dictated the quality of the commodity produced: there being no perception that by insisting on a higher quality and therefore higher price, it would limit the demand and eventually diminish the supply. By additional local burdens, legislation has of late still hindered the building of small houses. Finally, having, by successive measures, produced first bad houses and then a deficiency of better ones, it has at length provided for the artificially-increased overflow of poor people by diminishing the house-capacity which already could not contain them!

Where then lies the blame for the miseries of the Eastend? Against whom should be raised "The bitter cry of outcast London?" SPENCER, *SOCIAL STATICS OR ORDER* 346 (1915 ed.).

This was written in 1884. I am indebted to Professor Aaron Director of the University of Chicago Law School for bringing this essay to my attention. The fundamental difficulty of urban renewal is now, as it was eighty years ago, an inability to provide decent housing to the poor at prices the poor can afford, while allowing them the right to live as they will. See also ABRAMS, *op. cit. supra* note 11, at 23-30, 43-44; ANDERSON, *op. cit. supra* note 3, at 208-13; Comment, *Building Codes, Housing Codes and the Conservation of Chicago's Housing Supply*, 31 U. CHI. L. REV. 180 (1963); note 55 *infra*.

49. "When you walk through the smoke-dim slums of Manchester, you think that nothing is needed except to tear down these abominations and build decent houses in their place. But the trouble is that in destroying the slum you destroy other things as well." ORWELL, *THE ROAD TO WIGAN PIER* 71 (1958 ed.). This quote appears in FRIEDEN, *THE FUTURE OF OLD NEIGHBORHOODS* 123 (1964).

50. A very interesting analysis of the social functions of the slum is provided by Seeley, *The Slum: Its Nature, Uses and Users*, 25 J. AM. INST. PLANNERS 7 (1959).

ing. The slum is an economic and ecological whole.<sup>51</sup> Besides providing housing, it provides ways of making a living, of bettering oneself—it can provide the stuff of which success may be made. The very refuse of the city can be picked up and, with care and patience, made salable and sold. The small needs of the slum dweller have been provided typically by the correspondingly small business, even by peddlers. The scale of slum enterprise has corresponded to slum needs; slum needs have often been provided by businessmen who are themselves rising from slum backgrounds. The run-down buildings are cheap enough that the slum dweller can become, by dint of hard work and denial, a property owner and perhaps even a landlord.<sup>52</sup>

The primal economy of the slum, the intense commitment of many slum dwellers to making one's way on one's own, is evidenced most clearly to the middle-class Chicagoan in the Maxwell Street Market, which must have its analogue in many another city. There the poor bring the refuse of the city and spread it out for sale, often right on the street, so that it's difficult to tell where merchandise ends and debris begins; the middle class come down to buy and slum. (It is consistent with the general misdirection of planning that much of the area previously constituting the Maxwell Street Market has been foreclosed to such selling, making it more difficult for the poor to earn a living. Replacing the market area's east end is a new commercial district developed on land cleared by the City of Chicago.) Junk sale is, of course, not limited to Sunday morning on Maxwell Street. In slum communities the number of store fronts devoted to second-hand trade is staggering. Better junk is resold to antique dealers. Copper, iron, even coal can be collected either for sale or use.

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51. *Ibid.* See also MAYHEW'S LONDON (Quennell ed.), an abridged version of MAYHEW, LONDON LABOUR AND THE LONDON POOR (1851). Quennell's abridgement omits most of the tables of data gracing the original, but in his introduction Quennell cites as an example Mayhew's calculation of the total intake and excretions of a "Brown horse of middle size." He investigated this subject because of his interest in the economic status and personal habits of street-cleaners. *Id.* at 21. The abridged work is a series of superb vignettes of members of various occupational groups among London's poor. It is abundantly clear in *Mayhew* that these occupational groupings are closely interrelated with each other and with the total environment of poverty—those who sell on the streets, those who entertain on the streets, and those who clean the streets.

52. All approaches to urban renewal—public housing, clearance, and code enforcement tend to deny to the poor the opportunity of home ownership. "Philadelphia provides a good example of what can happen in the private market when a housing code is widely enforced in a community. When values began to decline under the impact of enforcement, the small holders sold out to large investors." MEYERSON, TERRETT & WHEATON, HOUSING, PEOPLE, AND CITIES 190 (1962). Charles Abrams, in criticizing public housing for providing only rental housing, states "slums are both owned and rented, and a slum one can call his own may be a more precious thing than a rented apartment." ABRAMS, *op. cit. supra* note 11, at 32.

The choice offered slum relocatees, subsidized housing or more expensive private housing, are so obviously more desirable at first glance that a second glance is seldom given. But the very things that make such housing appear eminently desirable to the middle-class viewer mean the destruction of the very real opportunities offered by the slum. Public housing or 221(d) (3)<sup>53</sup> housing, owned by the largest of absentee owners, the government or charitable foundations, is clearly beyond the possibility of ownership by the slum dweller. So, too, with the stores that serve public housing; they are likely to be chain supermarkets in shopping centers designed to compliment the public housing complex. Peddling is difficult indeed in a twenty-story high apartment complex. Where does the peddler keep his horse and wagon or his snow-ball vending cart? And there is no junk. Street sweepers, incinerators, and project police assure that not enough refuse accumulates for a living to be made from it. It can't be brought in, either. Public housing doesn't provide dilapidated garages where such refuse can be stored and sorted. And even if junk could be brought in, it couldn't be laid out on the street and sold. The project manager, trying to compete for a prize for prettiest project, will hardly tolerate such goings-on, and it's probably against the law anyway. The sterile public housing project is a land of dependence; the slum is by comparison a land of opportunity.<sup>54</sup>

The slum also provides cheap housing. It is clearly true that poor housing costs less than better housing. Inevitably, slum dwellers who are relocated into better housing pay more money.<sup>55</sup> There are those who will dis-

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53. National Housing Act § 221(d)(3), 68 Stat. 5.99 (1934), 12 U.S.C. § 1715(l)(d)(3) (1957).

54. See MAYHEW'S LONDON, *op. cit. supra* note 51. During the Second World War, there were in St. Louis some 1700 persons engaged in selling coal by the bushel basket. In the 1950's, the number fell below 1000. There are now only sixty engaged in this trade (the figures are based on licenses issued). The survivors consider it a good day when they sell seventy baskets, where they used to sell 250. Whole districts where users of coal had lived were torn down by urban renewal programs within the last ten years. St. Louis Post-Dispatch, Jan. 30, 1966, Sunday Pictures, p. 8.

55. The Chicago Plan Commission made that clear in 1956. CHICAGO PLAN COMM'N, POPULATION AND HOUSING REPORT NUMBER 2, A REPORT ON RELOCATION (1956). Reporting on the experiences of New York and Indianapolis as well as Chicago's, the study indicates a 37% increase in rent in New York (*id.* at 12), "much higher" rents in Indianapolis (*id.* at 14), and in Chicago "gross rents after moving . . . almost twice as much as previous rents," an increase in the median from \$37 to \$67 (*id.* at 18). The same sorts of figures are still causing consternation. Nathan Glazer cites a recent study, by Herbert Gans, of the West End section of New York, where the median rental increased from \$41 to \$71 per month. Glazer, *supra* note 13, at 199. It is undoubtedly true that, in the majority of instances, the housing to which the poor have been moved is better than that which was abandoned. The problem, as Mr. Glazer points out, is how to weigh this change. It is evident that the opportunity to opt for this more expensive

approve if some people decide they prefer to pay low rent for poor housing in order to spend any surplus making their lives more amusing. I don't find anything wrong with that.<sup>56</sup> Those who do might consider that the money saved on slum housing is possibly being set aside for an eventual break with the slums.<sup>57</sup> But, whatever those of the poor who could afford to pay a little more choose to do with the savings they earn by putting up with bad housing, I should not presume to interfere.

I have chosen to defend slums with the argument of their economic viability—I think it's a valid one and not simply an intellectual trick—rather than the more popular romanticization of slum life, because it is too difficult to tell the borderline between sociologizing and patronizing. As soon as the outsider begins to see the life of the slum as colorful or its inhabitants as an amusing corps marching to a different drum, one begins to wonder if the slum is being preserved simply so some people can go slumming. That is, of course, an indefensible apology for the slum. It is, however, the beginning of another explanation for the economic vitality of the slum. As said earlier, the slum serves outsiders as well as insiders.

The slum's chief service to the outsider is "what some feel able to call

and better housing was available before a decision was made to renew. Why wasn't it taken? It may be that at least in some cases the reasons were quite sound. See FRIEDEN, *op. cit. supra* note 49, at 120-24; Gans, *The Human Implications of Current Redevelopment and Relocation Planning*, 25 J. AM. INST. PLANNERS 15 (1959); Marris, *The Culture of Slums*, New City, July 15, 1962, p. 4; Seeley, *supra* note 50. Gans says:

Because of high land coverage, the first- and second-floor apartments of many buildings receive less air and sunlight than desirable, although there is no evidence that this has had deleterious effects. This may be owing in part to the fact that many West Enders spend much more time outside, since the street is a major location for neighborhood sociability. I would not defend such apartments as desirable, but I can understand the preference of low-income West End residents for these dwellings at rentals of \$30 a month over those with more air and sunlight at \$75. Gans, *supra* at 17 n.11.

Gans argues at 16-17 for a distinction between slum and low-rent districts.

56. There are clearly those who do. It has been recommended as an intentional policy that we promptly demolish abandoned structures, a policy which is desirable because "it raises the minimum prices of shelter and forces all families to spend a little more, but hopefully for a higher quality of housing." Wheaton, *The Feasibility of Comprehensive Renewal*, in ENDS AND MEANS OF URBAN RENEWAL 70 (1961). Perhaps the widest gulf among people concerned with social welfare is that evidenced by my disagreement with the policy recommended by Wheaton. The difference might be most generally described as that between those interested in giving the poor the opportunity to live better and those interested in forcing the poor to live better. I am sympathetic to any proposal for providing the poor whatever might be considered a minimum income for decent living. When the response to my suggestion is, we can't just give them the money because they might spend it on the wrong things, I know that the ultimate and unbridgeable policy dispute has been reached.

57. Public housing may well actively discourage such moneys being set aside by tying rentals to income in a fixed proportion.

'vice' ”<sup>58</sup>—gambling, prostitution, bootlegging, narcotics. The clearing of the slums will not end the demand for such products and services. That demand cannot be destroyed by destroying slums, no matter how mysteriously efficacious we consider good housing, because many of the people who create those demands don't live in slums. The destruction of slums merely means that such services will be provided in other places. Of course, no plan makes provision for a red-light district (as politically impossible as providing a Negro district or a poor district). If the city is indeed effective in clearing its slums, these service industries will follow other industry to the suburbs.

Yet another service of the slums is the provision of a home for many social deviants. This may be a political, an emotional, or a sexual deviant. I am trying to describe a class other than that which finds the slum a haven for illicit activities, or that which finds in the slum opportunity for betterment. I am talking about groups just not wanted elsewhere. Homosexuals are a good example, though they by no means all live in slum areas. I recall asking an official of the urban renewal program in Chicago where he was planning to relocate the homosexuals from the North Clark Street Redevelopment area. Of course he didn't answer, and I'm not sure he considered the question any more than a good joke.

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Urban renewal destroys not only slum communities as ecological entities, but buildings as well, and not a few of those torn down are pretty. This may seem a trivial remark, akin to the sin of mentioning in the same breath property rights and human rights. Even at the White House, beauty is left to women, more or less capable of dealing with it. But certainly beauty is one of the things planners are trying to create in our urban environment.<sup>59</sup> It should therefore be relevant to consider what beauty is destroyed in favor of the new beauty.

One of the most curious publications to come out of the urban renewal program is a pamphlet called *Segments of the Past*,<sup>60</sup> a photo survey of historically and architecturally interesting buildings in the Hyde Park area of Chicago that were torn down by the renewalists. I describe the publication as curious, for while it is one of the most effective attacks on urban renewal I've seen, it was prepared by persons ostensibly in favor of renewal.

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58. Seeley, *supra* note 50, at 9.

59. KRISIS, *op. cit. supra* note 40, at 14-19, demonstrates that beauty is of secondary importance to planners. Of first importance is mental health.

60. HYDE PARK-KENWOOD COMMUNITY CONFERENCE, *SEGMENTS OF THE PAST* (1962). This pamphlet was published in cooperation with Chicago's Department of Urban Renewal.

The photos convey the grace of a way of life now no longer possible in Hyde Park. The text, given the impossible burden of neutralizing the pictures, falls back on devices familiar to renewalists and planners—distortion and lies intended to obscure the hard reality of renewal, and the picturing of planners as busy, busy, busy doing good.

At one place in the text, the removal of buildings such as those pictured is said to have been required either because they were beyond repair, or to allow for “urgently needed public facilities such as schools, recreational areas or institutional expansion.”<sup>61</sup> In another part of the text it is stated that all the buildings pictured were actually in bad shape.<sup>62</sup> The first statement is a distortion; the reason many of these buildings were torn down was because it was felt necessary to provide the large and contiguous sites thought to be demanded by developers. The last statement is a bald-face lie.<sup>63</sup>

Elsewhere in the text, the Germanic efficiency of the plan for preserving some record of buildings destroyed is described in terms reminiscent of the Ahnenerbe’s effort to bring back to the fatherland the physical manifestations of the culture of the *Volksdeutsch*.<sup>64</sup> The buildings were classified by architects and architectural historians according to the treatment they were to receive—which were to be photographed and measured, which to be raped of decorative detail (interior or exterior), and which to be preserved entirely (curiously, none were considered quite worthy of preservation). The ornaments were removed by teams from the urban renewal project office, often under the very shadow of the wrecking ball. The

61. *Id.* at 5.

62. *Id.* at 14.

63. I lived in one building four views of which are included in the twenty-three pictures in this pamphlet—4843-47 South Lake Park. It was a perfectly sound structure, well maintained, and—as the number of photos in this pamphlet indicates—very attractive. The complex of buildings next door to the south, comprising the Harding Museum, also appears among the photographs in this booklet. It, too, was sound and well maintained. Moreover, its destruction has apparently lost for Chicago a fine collection of arms, armour, military curios and Remington paintings. The reason for destroying these buildings had nothing to do with their condition or with the need for community facilities. They were taken down that a street might be moved so that a more salable plot could be provided potential developers. While I doubt the need for such touching concern with prospective developers—doubly because the Department of Urban Renewal is so touchy about mentioning it—my principal point is that we are faced here with another instance of utter lack of candor.

64. The *Ahnenerbe* (Ancestor’s Heritage) was a branch of the S.S. dedicated first of all to archeological and historical research in support of the Nazi mythology. It was assigned the task of going through the museums of the Tyrol to bring back with the *Volksdeutsch* being relocated from there all artifacts of arguably German origin and to produce photos of everything that couldn’t be moved, including the countryside.

photographer took his pictures. Measurements and descriptions were "recorded on standard forms" and copies placed in various public depositories.<sup>65</sup> The authors of the text, in an enthusiasm that might have been born of desperation, almost managed to convey that these "standard forms," the photos, and the shards of beautiful buildings no longer with us are somehow a substitute for the buildings themselves.

Much of the nicest housing in cities—architecturally speaking—is in areas in line for eventual demolition.<sup>66</sup> It is true that such housing is often in bad condition, having been abandoned long since to successively poorer occupants by the advancing line of urban prosperity. However, it is simply not true that such buildings are beyond renovation.<sup>67</sup> In many cities across the country exactly such buildings are eagerly sought for by those whom sociologists call "taste-makers," artists, artisans, intellectuals, and camp-followers. That such renovation is a booming business already and the renovations are being undertaken by people who strongly influence taste suggest that the demand for such housing will continue to grow. Housing such as this offers many obvious advantages—individuality, convenience of location, charming settings. It is possible that in the normal course of development of the metropolis much of the housing we feel called upon to destroy could be brought up to reasonable standards.<sup>68</sup> Unwilling to await

65. HYDE PARK-KENWOOD COMMUNITY CONFERENCE, *op. cit. supra* note 60, at 11.

66. One may cite the delightful red brick row houses of the older sections of St. Louis, a prime example being the area around LaFayette Park. The Kenwood-Oakland area of Chicago (also characterized by row houses) is another example. The urban renewal program for Hyde Park-Kenwood—the area in Chicago immediately to the south of Kenwood-Oakland—has been eminently successful insofar as it has made the area desirable to middle and upper-middle class people, with, of course, a raising of rents. There are many of lesser income who've been forced to seek housing elsewhere—either people forced to move out of Hyde Park by rising rent levels, or people who would like to move in or near Hyde Park but can't afford it. The circumstances are ideal for the spread of the area of rehabilitation through private initiative. It is doubtful whether the Kenwood-Oakland area, while a Negro slum ripe for rehabilitation, will be soon affected by the heightened demand in the area because the value of Kenwood-Oakland housing as slum housing is kept high by urban renewal's clearance activities.

67. The test of what can be renovated is solely how much one wants to spend. Some, of course, are in such state or of such little architectural interest that it would be difficult indeed to find people willing under any circumstances to invest money in them. On the other hand in Chicago's Near North Side and Lincoln Park areas, the shells of buildings alone can sell for anywhere from \$15,000 to \$40,000. These figures come from an architect, William Spooner, who has done many renovations in those areas.

68. And where that is not true, the buildings can be replaced by private development. The market is probably the best means of selecting those buildings worth preserving and those not. It is interesting to consider at this point FRIEDEN, *op. cit. supra* note 49. He suggests that urban renewal would work better by restricting itself to the clearing of houses that have so declined in value that the government may perform the clearance with no write-off cost—that is, clearance should be undertaken only at the point where

that eventuality, we continue to tear down such irreplaceable buildings, after casting their poor occupants upon the uncharted sea of urban progress.

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The full wonder of our committing hundreds of millions to urban renewal can be realized only when it is seen that there is no agreement among planners as to what urban renewal is for or how its goals should be determined. The debate as to what urban renewal should do goes on full tilt among the planners and renewalists, while the public is presented the bland face of self-assurance. To an audience of his peers, Louis Winnick predicted that the debate would go on for years.<sup>69</sup> To the same audience, Chester Rapkin said, "We have no set of specific, coherent and consistent goals for urban renewal; we have instead a variety of programs and objectives, some of which are mutually inconsistent."<sup>70</sup> Cushing Dolbeare, summarizing the forum in which Winnick and Rapkin had been participants, stated that "many physical planners do not really believe that there can be such a thing as a renewed city." He added, "We need now to create an image of the metropolis of the future. It follows that this image should be created so as to motivate people to carry it out."<sup>71</sup> Our planners, all decked out with the power of condemnation, the police power, and the key to the public purse, haven't the slightest idea where they are taking us.

Probably the most basic issue among planners is that which separates the utopians from the realists.<sup>72</sup> The utopian starts with an image of the

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the market would justify clearance without subsidy. If that point is reached, it is hard to understand why there should be a clearance program at all, except to overcome the inertia of the private market or to provide new community facilities to make more attractive private development. The argument of my comment on building and housing codes is analogous: that the only workable code is that which corresponds to the real potential of the market. Comment, *Building Codes, Housing Codes and the Conservation of Chicago's Housing Supply*, 31 U. CHI. L. REV. 180 (1963). But if that is true, why have codes at all? KRIESIS, *op. cit. supra* note 40, at 59-66, comes to much the same point with planning generally. Rejecting utopian planning, he calls for planning that fits factual sociological trends. This sounds like planning for what is going to happen anyway. This problem, which also confronts the Marxist, is considered by PLEKHANOV, *THE ROLE OF THE INDIVIDUAL IN HISTORY* (1940 ed.).

69. Winnick, *supra* note 29, at 24.

70. Rapkin, *Trends in the Philadelphia Area*, in ENDS AND MEANS OF URBAN RENEWAL 77, 80 (1961).

71. Dolbeare, *Synthesis of Forum Discussions*, in ENDS AND MEANS OF URBAN RENEWAL 87, 95 (1961).

72. KRIESIS, *op. cit. supra* note 40, is a proponent of the realist school. Dolbeare, *Synthesis of Forum Discussions*, in ENDS AND MEANS OF URBAN RENEWAL 87 (1961), represents the utopian school. Engelen, "Big Change" in *Renewal*, 22 J. HOUSING 462 (1965), is another realist statement. Ylvisaker, *The Deserted City*, 25 J. AM. INST. PLANNERS 1 (1959), is another utopian statement.

metropolis of the future and directs his efforts to the approximation of that image. That image may take more or less cognizance of the world as it is. The popularity of the new town concept doubtless stems in large measure from the freedom it gives to ignore the problem of changing existing institutions. The realist sees renewal as simply a midwife to the unborn future, lending a hand here and there to make sure the realization of the inevitable. Such fundamental differences in approach have obvious effects in the real world. The utopian faced with the failure of a given program is likely to seek further powers so that he can control the forces disrupting his original program.<sup>73</sup> The accretion over the years of powers respecting housing quality, land ownership, and home financing, demonstrates this tendency of utopianism.

The realist school, if it is to achieve anything at all, must decide which of the forces in the community are emerging, irresistible, and susceptible of successful conscious influence. The history of the City of Chicago's policy with respect to race illustrates a change from utopianism to realism. And for Chicago, realism amounted to the abandonment of any effort to affect racial distribution.<sup>74</sup> Realism, then, may serve simply as a rationalization for political surrender. Chicago's policy with respect to economic integration is, of course, unadulterated utopianism. That these two policies can exist side by side is evidence that the conflict between utopians and realists is far from resolved.

The utopians, however, are clearly in the majority today. As recently as October 1965 realism was described in the *Journal of Housing* as a "new philosophy of renewal."<sup>75</sup> With the utopians in the majority, it is curious that one continues to hear calls for an image of the future city that will stir sleeping people to action. The renewalists have no such image;

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73. It may be suggested that the utopian almost inevitably fails in his initial legislative attempt because of his acceptance of common but erroneous understanding of the nature of law. The error is described by Underhill Moore as follows: "that a proposition of law, or its administration, is the single and only cause of 'its' effect; that is to say, that the behavior which follows the enactment of a law or its enforcement is a dependent variable, the value of which depends alone upon the law or its enforcement and upon no other variable." Moore & Callahan, *Law and Learning Theory: A Study in Legal Control*, 53 *YALE L.J.* 1, 2 (1943). Because the situation following the enactment of a law is defined not solely by the law, but by the interaction of a multiplicity of social forces (and, correlatively, because the law also causes not a single but a multiple effect), the assumption that the law is the sole cause of "its" effect results, except by chance, in the design of legislation that inevitably does both more and less than is intended. It is, therefore, necessary in order to achieve the result desired in the first place to obtain control over those variables that shape the effect of the law, or are, by the law, unintentionally redirected.

74. Present Chicago policy is discussed at note 37 *supra* and accompanying text.

75. Engelen, *supra* note 72.

they appear to be guided more by sentimental abstractions, defining what should go on in this community of the future—everybody will love everybody else, regardless of race, creed, previous conditions of servitude, or economic class; moreover, everybody will live next door to everybody else; everybody will fulfill himself; no one will live in bad housing, even those who prefer to because it's cheap; everybody will live near work; industry will be separate from residence; magnificent mass transportation will make the private auto obsolete; super highways will provide access to generous green spaces preserved on the outskirts of the city; because of the freedom and responsibility ownership engenders, home ownership will be encouraged; appropriate controls will assure that everyone's private home is at least as good as everyone else's. Anyone can develop his own list of noble sounding goals, but these don't make the image of a city that is wanted. What is needed is a visual ideal. Planners, however, are usually not architects. It is the architects who suggest the physical utopias.

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Well, having torn the buildings down, with what do we replace them? This is the domain of the architect and urban designer. It is from them that we may get the vision of the city of the future that planners and renewalists are crying for. The architects have plenty of ideas, for in architecture today the emphasis is on universal design principles and on the total environment. "It is noteworthy," says one architect, "that our contemporary architectural heroes, Frank Lloyd Wright, Walter Gropius, Mies van der Rohe, Le Corbusier, are as widely admired for their programmatic declarations as for their artistic achievements as form makers."<sup>76</sup>

The goal of universality of design theory undoubtedly fires the imagination of the enterprising architect. Efforts to date to achieve that goal have, however, left much to be desired. That is reasonable. Universality is a goal that is probably not attainable, because needs change with time and place, because the variables in urban design are beyond the capacity of individual mortals or even of machines to deal with, but not least of all because variety is in itself a highly important value.

Consider first some of the theorizing affecting urban planning today. The dominant theme in the design of urban renewal projects (and often in new town developments, too) has been the tower in the park—a high-rise apartment building set in the middle of a large green space. As a model of urban design, the popularity of the tower in the park is waning, but our cityscapes are cursed with thousands of examples, made possible by urban renewal, of a passing fad of architectural theory.

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76. CHERMAYEFF & ALEXANDER, *COMMUNITY AND PRIVACY* 113 (Doubleday ed. 1963). See also KRIESIS, *op. cit. supra* note 40, at 57.

Probably the predominant impetus for this solution was the garden city ideal propounded in 1898 by Ebenezer Howard.<sup>77</sup> In the garden city, a new town built just beyond the periphery of an existing city, there should be countless opportunities, in individual lots, in parks, in adjoining agricultural areas for refreshing contact with nature. The approximation of that ideal through the renewal of a modern metropolis is possible only by building up. Only by doing so can sufficient density to cover land costs be achieved in conjunction with large open spaces. There are, then, some for whom the tower in the park is a compromise to obtain open space. There are others for whom the tower itself is a positive value. Le Corbusier saw the tower not merely as an unfortunately necessary response to economics, but as a proper means for recreating the close communal life of the village.<sup>78</sup> The individual apartment within the tower, moreover, he described as a "bottle,"<sup>79</sup> a container perfectly designed for family life and completely insulated from adjoining containers.

The critics of the tower have certainly had the best of the argument. If the tower is justified by the green space, it turns out that the green spaces are, in fact, "the left-over voids between gigantic boxes, where sparsely sprinkled adults and children are equally ill at ease."<sup>80</sup> The universal experience is that these green spaces are not used.<sup>81</sup> They are dull. The tower for its own sake has been proven inadequate by experience. The family is removed from the ground, which eliminates most of the contact with nature that the green space was intended to provide. It is too high even to see the trees, except from above. The control of children is extremely difficult. Who can call down sixteen floors that supper is ready? Elevators and long corridors are unsafe. Only those can successfully live in high-rise buildings who can afford effective security service, and who can afford regularly to escape their aeries. The container concept turns the dwelling into a space

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77. HOWARD, *GARDEN CITIES OF TOMORROW* (M.I.T. ed. 1965). The first edition was published in 1898.

78. LE CORBUSIER (JEANNERET-GRIS), *OEUVRE COMPLÈTE 1946-1952* 109 (Zürich 1953).

79. *Id.* at 186.

80. CHERMAYEFF & ALEXANDER, *op. cit. supra* note 76, at 72.

81. Arthur Leff, Assistant Professor of Law at Washington University, who was kind enough to read this manuscript, commented here that children's games, even baseball, need limits. The large green space—as compared to the street—almost necessarily demands full, nine-man teams, else problems of chasing the ball make the game onerous. Younger children are unlikely to be able to organize adequately without adult supervision. Hence, space, he argues, creates the need for the Little League. His general statement was "Ball games demand boundaries, just like sonnets."

capsule or a submarine in which life-support is technically simple compared to the difficulties of "keeping the capsule's inhabitants human."<sup>82</sup>

Chermayeff, another contemporary architect who shares the goal of a universal theory of residential design, wants to get the family down to the ground. This means not free-standing suburban cracker-boxes, to which Corbusier<sup>83</sup> and Chermayeff<sup>84</sup> both object, but the party wall house, with courtyard or patio, that can be built at a density approximating that of the tower in the park. His proposal, developed with the assistance of a computer analysis of twenty or thirty desiderata, would be objectionable to Jane Jacobs<sup>85</sup> for orienting city life away from the street, and probably to Lewis Mumford for providing the individual too little ground.<sup>86</sup>

The search for architectural universals in fact reaches absurdity. Corbusier developed a system of dimensioning, called The Modular, which he asserted would resolve "[h]esitations and uncertainties and even errors of design . . . in advance."<sup>87</sup> The basis of the system was the human figure, "the ideal 'beautiful man,' for which the English Policeman, 6 feet high, as described in English detective novels" served as a model.<sup>88</sup> The fact is that Corbusier was a great architect and we could do worse than to have many of his buildings. Chermayeff, too, is probably a good architect. Wright, van der Rohe, and Gropius have made great buildings. But we could stand a world designed by none of them. We may be fascinated today

82. CHERMAYEFF & ALEXANDER, *op. cit. supra* note 76, at 48.

83. LE CORBUSIER, *op. cit. supra* note 78, at 109:

If the cult of the little house, which has become an act of faith in the U.S.A. for example, produces excellent business, it also introduces on the other hand psychological instability in the social group. The little house, this vast wastage of modern times, weighs down the housewife under domestic cares, burdens the municipal finances under maintenance costs and makes bad use of the 24 hours of the day (transport necessary due to distance). However the valuable and even sacred idea of the Unity of the family and the desire for "a close contact with nature" is entirely to the credit of the family house.

84. CHERMAYEFF & ALEXANDER, *op. cit. supra* note 76, at 63-74. This chapter is entitled, "The Suburban Flop." Lynch, *The Form of Cities*, Scientific American, April 1954, p. 56, makes the point in a more restrained manner:

At 3,500 persons per square mile we approach the density of a typical U.S. suburb, with single houses on generous lots. This is the American dream becoming reality . . . The present impulse toward the suburbs is too strong to be denied. Yet it raises important problems: the giant mushrooming of cities, long travel times to work, the impracticality of frequent bus service because of the population dispersal, some isolation of group from group, insufficiency of social stimuli. Many of those who move out from the city remark on the loneliness of outer suburbia.

85. JACOBS, *THE DEATH AND LIFE OF GREAT AMERICAN CITIES* (1961).

86. HOWARD, *op. cit. supra* note 77. In Mumford's introductory essay he suggests that Howard in setting his lot sizes for the garden city was "on the conservative side: in fact, they followed the traditional dimensions that had been handed down since the Middle Ages . . ." *Id.* at 31.

87. LE CORBUSIER, *op. cit. supra* note 78, at 179.

88. KRIESES, *op. cit. supra* note 40, at 98 n.3.

by their programmatic statements, but in the long run they will be known for their buildings. Their programmatic statements can do no more than suggest forms, worthy of trial by time, that may be judged as having been "successful solutions to the problems of the times in which they were built."<sup>89</sup>

And this is only to be expected. There is no universal ideal for the human habitation. Time is a constant betrayer. With its passage, tastes and technology change. We point with wonder at the man who has foreseen technological developments. That, however, is relatively simple. That Samuel Butler foresaw television helped him not the least to see what would be the impact of television on the society. The helicopter is known to exist, but the contemporary planner can only indicate in his plans here and there a heliport;<sup>90</sup> he has no notion whether this means of transportation will eventually take hold as did the auto, or whether it will never be more than a curiosity (as the petition to abandon helicopter service in Chicago suggests may be the case). Family size fluctuates, as do occupational patterns. Will significant shortening of the working week place new demands upon home design? Most fascinating, perhaps, is the notion that architecture reflects the socio-political ideals of the community—that the new town designed to minimize locational status is an appropriate expression of the ideals of the British welfare state, that Stalin Allee in Berlin is a translation into brick and mortar of the socialist state.<sup>91</sup> The principle, however, is obvious enough even if its subtle manifestations are hard to measure; a medieval town is likely to be centered around a church; socialized societies are likely to place considerably more emphasis on communal facilities than are democratic societies where the private home is a retreat from the world and a symbol of individuality.

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Finally, consider the problem of designing a single, large urban renewal project. As the architect Harry Weese<sup>92</sup> has pointed out, the tower in the

89. A charming phrase borrowed from HYDE PARK-KENWOOD COMMUNITY CONFERENCE, *op. cit. supra* note 60, at 5. As used there, it means the building is ready to be torn down.

90. The incapacity for expressing and incorporating the function of such developments as the automobile, the aeroplane, radio, motion pictures, television etc. which have had such far reaching social and psychological effects is betrayed in almost all plans.

They have left the Town Planner unperturbed and he indulges in the self satisfaction of producing unimaginative plans and accusing his fathers for the little foresight they have shown on the revolutionary effects of the railway.

What better example than the helicopter? All that the most advanced (we hesitate to use [the] word progressive) plan can do is to allocate a small site and name it "Helicopter Station". All the rest remains as if it were not there. KRISIS, *op. cit. supra* note 40, at 26. (Footnotes omitted.)

91. *Id.* at 95-109 (a section entitled *On the Relation of Town Patterns to Socio-political Milieux*).

92. A well-known Chicago architect, who made this comment to me while in St.

park is probably, for most designers, not so much a theoretically ideal solution as it is the easy way out when the scale of the project exceeds the analytical and creative capabilities of the designer.

The average city planner or architect is possessed of no more than a respectably high average of creativity.<sup>93</sup> Urban renewal gives such people as raw material not a city lot twenty-five by a hundred and twenty-five, not even a suburban half acre, on which to exercise their ingenuity, but perhaps hundreds of acres in which thousands of people are to be housed. One or a few minds are allowed to dilute such creativity as they are possessed of on unimaginable stretches of our urban scene. The drawing board on which the planner lays out a whole project is not significantly larger than that on which the residential architect designs a single-family home. The difference is that the planner-architect works to a different scale. When his plan is executed, it is enlarged many more times than is the architect's design of a single-family home. And the enlargement destroys detail.<sup>94</sup> What appears interesting at the scale of the plan becomes interminable vacuity in execution. What fiddling, what playing the designer had done was in his sketching. That fiddling, that sketching may have been adequate to produce an interesting home, even an interesting apartment, building or factory, but it is likely not to produce an interesting community.<sup>95</sup>

The problem of the urban renewal designer or the new town planner is not merely that such measure of creativity as he possesses is diluted beyond reason. He is asked, in effect, to create in a vacuum, or more accurately, to create in a space without definition, without reference points, without

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Louis to judge the architectural competition for the design of Washington University's new School of Law.

93. CHERMAYEFF & ALEXANDER, *op. cit. supra* note 76, at 111-12. "In futile conservatism, the design schools maintain the tradition of trying to transform average students into universal men of the highest order—to graduate an annual horde of Leonardos. This makes pretentious pseudo artists out of fools . . ." *Ibid.*

94. CHERMAYEFF & ALEXANDER, *op. cit. supra* note 76, at 75-84 (chapter entitled "In Search of the Small" ). Here the authors attack the urban environment generally, and the tower development in particular, for lack of human scale.

95. I am indebted for much of the analysis of creativity here to a description of the latest research of Getzels, provided by a colleague of his. The project consisted of the photographic observation of art students at work, the determination by an independent jury of the quality of the work, and the attempt to determine if there were any visible differences in the work patterns of those students whose efforts were considered most successful by the jury. All painted still-lives of objects chosen by the artist from among a set provided by the researchers. One outstanding feature in the behavior of the more creative students immediately stood out—they picked up and examined in a variety of positions the pieces they chose to paint; they tried different pieces in different relations to each other. The less creative were much more likely to be satisfied with the first arrangement of pieces selected without study. See also Lehman, Book Review, 31 U. CHI. L. REV. 616, 622 (1964).

character. The fewer the points of reference within which a person is required to work, the more difficult the task of creation. There is nothing there to play with, nothing to suggest, nothing to be learned from.

Such an argument should appeal to a common-law lawyer. His experience is always exactly that of the common man builder working on a small lot in an already developed city. He adds his little bit within a framework that limits him radically, yet the very limitations suggest intriguing new ideas, nonetheless valuable or exciting because they may seem small, and because they are but a part of what others, too, have worked upon. I think it fair to say that the common-law system works because it forces even the not very competent to pay close attention to what is given (except, perhaps, in the United States Supreme Court), and to learn from what is given by fiddling with it, seeing where it can be stretched or constricted, where it can be refined, where a mark made in haste can be gradually obliterated.<sup>96</sup>

The frenetic concern of planners, renewalists and architects to change our urban environment begins with the assumption that something is drastically wrong with the city as it is—or as it is expected in the near future to be. If one accepts the notion that something is drastically wrong, it is difficult not to be frightened by the people trying to do something about it: practicing planners bound by politics to silence; the theoreticians of the field arguing volubly about the direction they should be going in; architects, swept by waves of programmatic enthusiasm, cluttering our landscape with monuments to the impossible goal of universality; beneath it all, the poor, in whose name the whole thing began, raped of their homes, their communities, their means of livelihood, and their self-respect.

But why get so excited about cities in the first place? The most general answer, I suppose, is that man has succeeded in wresting from nature the responsibility for a greater and greater proportion of the human environment. For the many millennia of man's life on earth, his constructions have been but minute shelters from an immense and hostile nature; but the accretion of man's buildings and the effects of his scratchings at the earth's crust have finally, it seems, tipped the balance. Man can now see himself as creating his own environment. And for a person morally inclined, it is hard not to feel a developing sense of responsibility. What has been done has been done without conscious design; but now that man is making his own world, he must give thought to what it should be. Moral stirrings are warmed by the self-confidence that rational direction is not only possible, but easy—if but enough in millions is devoted to the task.

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96. For a suggestive development of this theme, see LLEWELLYN, *THE COMMON LAW TRADITION* (1960).

Of course, this concern would not be so powerful were there not a feeling of dissatisfaction with what is. It is hard in a society still wrung with Jeffersonian mistrust of the city to distinguish in the voice of the critic that which is wrong with the city as city, and that which is wrong with the city because it isn't the country. There are undoubtedly among the planners, architects, and criers of alarm the equivalents of those homosexuals who design women's clothes.

But there are criers of alarm with better credentials. Those who foresee the depopulation of the city and fear it must be respected. There are the supporters of the "grey area" hypothesis—the hypothesis that the older, undifferentiated and decaying areas circling our downtowns will be depopulated and eventually deserted.<sup>97</sup> This concern has turned architects and planners into geneticists. These are the searchers for an urban design ". . . just as favourable to fertility, just as encouraging to marriage and parenthood, as rural areas still are."<sup>98</sup> The fact of the matter is that "grey area" hypothesis is probably wrong. It was Lewis Mumford who expressed concern with declining urban birth rates. The statement was made in a preface, written in 1945, to an edition of Ebenezer Howard's *Garden Cities of Tomorrow*. In a preface to the 1965 edition, F. J. Osborne commented, "The fear of a declining population mentioned in Lewis Mumford's preface has been replaced by the prospect of an embarrassingly rapid increase . . ."<sup>99</sup> In fifteen short years, the situation had changed so radically. But Mumford, of course, wrote at the end of a war that followed a depression, and before the post-war baby boom. (What better example of the betrayal by time of the best of social theorists?) One would think that the "grey area" hypothesis would have died with the rising birth rate, but it has not. Most American cities have experienced slight population declines in recent years—not the suburbs, of course. The concern is not now with the possibility of racial suicide so much as the position of the central city *vis-a-vis* its suburban ring.

One would think that a decline in population in the central cities would be welcome to everyone. It means the following things: that the former

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97. The hypothesis has very wide currency in the urban planning and renewal field. Paul Ylvisaker of the Ford Foundation accepted it in *The Deserted City*, 25 J. AM. INST. PLANNERS 1 (1959). It is referred to frequently by the participants in the Philadelphia Housing Association's 50th Anniversary Forum. PHILADELPHIA HOUSING ASS'N, ENDS AND MEANS OF URBAN RENEWAL (1961). Frieden considers and rejects it. FRIEDEN, *THE FUTURE OF OLD NEIGHBORHOODS* (1964).

98. MUMFORD, *Preface to HOWARD, op. cit. supra* note 77, at 38. Kriesis, writing at about the same time as Mumford, expresses exactly the same concern in his first essay. KRIESIS, *THREE ESSAYS ON TOWN PLANNING* 5-13 (1963).

99. Osborne, *Foreword to HOWARD, op. cit. supra* note 77, at 7.

residents of the grey areas are finding newer and presumably better places to live, that population density is being reduced, that therefore the slum problem is in the process of self-eradication, and that land values in central city areas may be on the way to declining sufficiently that such land will become economically attractive to private redevelopment. The process of destroying slums of course increases slum land values, puts off the day that redevelopment will be economical without a write-down,<sup>100</sup> and in fact commits the government to an endless cycle of paying heavily to get done what, in a relatively few years, the market would do.

Consideration of what the housing market could be expected to do without governmental interference brings to mind yet another assumption that underlies the concern with our cities. This assumption is that something which had worked in the past has ceased to work. The planner of today is fascinated by the form of older cities—forms that clearly express the character of the life within.<sup>101</sup> The commercial town, the religious center, the fortification, each took shape according to its function. But the shape was not planned. "Cultural continuity and slow technological change combined to establish a planning and building method that relied on adjustment and refinement through trial and error. A pressure needed only to be felt to find its way into form; any aspect of the form that failed was bound to be weeded out in time."<sup>102</sup>

This process of form developing to suit needs is seen as somehow having come to a halt; we can no longer depend upon the uncontrolled interaction of need, technology, and values to produce a rationally ordered community.<sup>103</sup> There is no doubt that technology is today developing more rapidly than it had in the past, that population growth and movement are equally rapid, and that patterns of living are in transition. But this does not necessarily mean that what has worked in the past has ceased to work; it may only mean that the forces of modern society have not yet fully articulated a functioning city that suits modern needs. It is possible that fifty or a hundred years from today the urban centers of the present will be viewed

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100. See also note 68 *supra*.

101. CHERMAYEFF & ALEXANDER, *op. cit. supra* note 76, at 51-61; Lynch, *supra* note 84, at 57-63; Sjoberg, *The Origin and Evolution of Cities*, *Scientific American*, Sept. 1965, p. 55.

102. CHERMAYEFF & ALEXANDER, *op. cit. supra* note 76, at 55.

103. See CHERMAYEFF & ALEXANDER, *op. cit. supra* note 76, at 59-60. Herbert Gans realizes that this is the ultimate issue; "we need first to be clear that private housing is not going to solve the slum problem." Gans, *The Failure of Urban Renewal*, *Commentary*, April 1965, p. 29, 32. His effort to support this assertion hardly changes its status as an act of faith. In fact, the three paragraphs devoted to the subject stick out like a sore thumb in an otherwise thoughtful article. *Ibid.*

as having been in the process of developing a rational solution to the needs of modern man, that our children will comment upon how false starts quickly withered (permanent as they look today), and on the inexorability of the metropolis as a mechanism as appropriate as was Peking for Imperialist China.

Chermayeff suggests that the reason the process has stopped is that the forces are now so complex and varied as to have somehow ended in producing only chaos.<sup>104</sup> I hope it is not impertinent to suggest that the problem may well be in the viewer, that the forces may be working toward quite rational ends (save perhaps as they are distorted by conscious human efforts to intervene<sup>105</sup>) but that the viewer, because the process is so complex, can make head nor tail of them. If there is any likelihood that such is the case, it would seem the best possible argument for the imposition of a rule of architectural self-restraint.

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It should be obvious by now that the question planner-politicians never answer—where is all this headed?—is avoided not simply because of the hot political issues involved, but because no one really has any idea. We have ideologists of various stripes—mental healthers, utopians, biological analogizers,<sup>106</sup> and crack-pot artists—and we have those who would be midwives to the birth of the unknown future. Urban renewal is, for all of them, a magnificent playground.

There is nothing wrong with experimentation with new ideas (else, indeed, how will the future be born?), but with the assistance of the federal government all experimentation is for real. The government is tearing out the guts of our cities to allow planners to immortalize their barely articulate ideas of what the human environment should be.

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104. *Ibid.*

105. *E.g.*, the Federal Housing Administration program has certainly gone a long way toward fostering exactly the kind of suburban development and sprawl criticized here.

106. These classifications come from Kriesis. KRISIS, *op. cit. supra* note 98, at 39-41, 47-50, 56-58.