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# PROVIDING LOW AND MODERATE INCOME HOUSING THROUGH NON- PROFIT HOUSING ASSOCIATIONS: LESSONS FROM THE BRITISH

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## I. INTRODUCTION†

### A. *The Housing Association Alternative*

Providing adequate housing for every American family is a large and complex problem. The principal actors to date have been private

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developers and national and local government. The soaring cost of housing has increased the gap between its cost and its reasonable affordability for most persons. This widening gap reflects the inability of private enterprise to supply sufficient, quality housing at an affordable price, particularly for those with low and moderate incomes.<sup>1</sup> In an effort to maintain and stimulate a private developer role in the provision of low-income housing through various subsidies and tax incentives, the government has provided increasingly higher levels of financial support. Such assistance has included below-market-rate loans, interest subsidies, insured mortgages, waiver of federal taxes on government securities to finance housing construction, land cost write-downs, and tax deductibility for mortgage interest and property taxes.<sup>2</sup>

Without passing judgment on the merits or success of these efforts, we can safely say that the problem is far from solution. We know too well that no simple solution exists. Intangible social considerations and local variations in the nature of housing problems call for sophisticated and flexible responses. Given the need for a concerted effort by government and the private sector, it makes sense to explore alternative methods of combining public and private housing activity. One such alternative, the housing association, has developed in Britain and many other European countries.<sup>3</sup>

From 1974 to 1980, voluntary non-profit housing associations have evolved as a new force in British housing policy. The British govern-

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1. See THE REPORT OF THE PRESIDENT'S COMMISSION ON URBAN HOUSING, A DECENT HOME 45-47 (1968) [hereinafter cited as A DECENT HOME]. When people must pay such a high proportion of their income (generally accepted as twenty-five percent or more) that they must sacrifice other necessities, the price is too high. See A. SOLOMON, HOUSING THE URBAN POOR 5 (1977).

2. See A DECENT HOME, *supra* note 1, at 53-59. For a brief description of some of these programs, see CONGRESSIONAL BUDGET OFFICE, REAL ESTATE TAX SHELTER SUBSIDIES AND DIRECT SUBSIDY ALTERNATIVES 15-18, 25 (1977).

3. See J.B. CULLINGWORTH, ESSAYS ON HOUSING POLICY: THE BRITISH SCENE 117 (1979) [hereinafter cited as CULLINGWORTH].

ment's ability to generate significant activity through this alternative to public (council) housing,<sup>4</sup> private rentals, and homeownership means the British experience can provide important lessons for developing housing policies in the United States.

A housing association is an independent non-profit organization whose purpose is to provide better housing.<sup>5</sup> Although associations mainly develop and manage rental housing, they may undertake many other types of housing programs, including co-ownership schemes, shared (equity-sharing) ownership, and housing for sale.<sup>6</sup> Associations provide the major share of housing for groups with special needs, such as the elderly, one and two person households, and the disabled.<sup>7</sup> Furthermore, they have been especially active in rehabilitating older properties, particularly in inner-city areas.<sup>8</sup>

Associations are meant to combine governmental responsiveness to the public interest with entrepreneurial ability, efficiency, and creativity.<sup>9</sup> The independence of associations distinguishes them from government agencies and allows them to function with greater flexibility.<sup>10</sup> The actual extent of independence is a function of a continual tension between government attempts to control associations and the struggle to maintain discretion over their own activities. Since the government provides a substantial portion of association funds, control over costs and use of subsidies becomes an important issue.<sup>11</sup>

Associations have demonstrated that they can develop housing eighteen to thirty months faster than local authorities.<sup>12</sup> Some data

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4. Public housing in Britain is usually called Council Housing, reflecting its management by the "Council" of the local housing authority.

5. H.C. COMMITTEE OF PUBLIC ACCOUNTS, FIFTH REPORT, HOUSING ASSOCIATIONS AND THE HOUSING CORPORATION para. 3 (1979) [hereinafter cited as COMMITTEE OF PUBLIC ACCOUNTS].

6. THE HOUSING CORPORATION, ANNUAL REPORT 1977-1978, at 16-17, 20 [hereinafter cited as 1977-1978 REPORT].

7. *Id.* at 6.

8. *Id.*

9. See NATIONAL FEDERATION OF HOUSING ASSOCIATIONS, THE GOVERNMENT AND THE VOLUNTARY SECTOR 3, 7-8 (1979) [hereinafter cited as THE VOLUNTARY SECTOR].

10. *Id.*

11. See text accompanying notes 102 and 103 *infra*.

12. NATIONAL FEDERATION OF HOUSING ASSOCIATIONS, A STUDY OF THE NEW-BUILD DEVELOPMENT PIPELINE FOR HOUSING ASSOCIATIONS 67-68 (1977) [hereinafter cited as NFHA STUDY].

also reflect that associations achieve lower per unit capital and maintenance costs than do local authorities.<sup>13</sup> When working without the constraints of detailed government approvals,<sup>14</sup> associations have illustrated their flexibility by experimenting with different construction standards that resulted in estimated savings of thirty per cent over normal projects.<sup>15</sup>

Associations have also demonstrated the economic feasibility of rehabilitation. Evidence of revitalization achieved through the application by associations of public resources has enticed private developers into rehabilitation investment in areas sufficiently "primed" by the associations' activities.<sup>16</sup>

The conflicting needs of associations and government—separation from government versus control over public funds—led to the creation in 1964 of a national Housing Corporation. Its functions are to promote and register associations, to channel funds, and to monitor association activities.<sup>17</sup> This system of registration, cost limits, and individual project review has been remarkably effective in assuring proper use of the substantial subsidies that have stimulated the rapid and significant contributions of associations.

### B. *The Record of Achievement*

The present statistics for housing associations in Britain are impressive. By 1980, the Housing Corporation had registered over 2,900 associations.<sup>18</sup> Of these, about 300 are almshouses (charitable trusts),<sup>19</sup> 850 are co-ownership societies,<sup>20</sup> and 300 are Abbeyfield so-

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13. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. V, para. 4.

14. *See* text accompanying notes 178-92 *infra*.

15. MERSEYSIDE IMPROVED HOUSES, ANNUAL REPORT AND ACCOUNTS 27 (1979).

16. CULLINGWORTH, *supra* note 3, at 118.

17. Housing Act, 1964, c. 46, part I.

18. Letter from Nigel King, Chief Officer, Development and Research, National Federation of Housing Associations, to Otto Hetzel I (April 29, 1980) [hereinafter cited as King letter].

19. Almshouses, or charitable trusts, are usually small, privately-financed associations, few of which are registered with the Housing Corporation. They provide housing for the poor, catering generally to the elderly. THE HOUSING CORPORATION, HOUSING ASSOCIATION TENANTS I (1979). Almshouses may be registered with the Charity Commission or the Registrar of Friendly Societies or affiliated with the National Association of Almshouses. NFHA, HOUSING ASSOCIATIONS: SOME INFORMATION FROM THE NATIONAL FEDERATION OF HOUSING ASSOCIATIONS I (1978). *See*

cieties for the elderly.<sup>21</sup> Fewer than ten per cent of the associations have over 500 units in management and an active development program.<sup>22</sup> Yet these few housing associations have produced a significant number of new and improved homes during the last six years, securing 38,000 loans in 1979.<sup>23</sup> This compares with a typical annual production of 2,000 units in the 1960s.<sup>24</sup> Despite the extremely rigorous and generalized belt tightening in the public sector by the Conservative government in Britain, the Housing Corporation still expected to fund 20,000 units in 1980,<sup>25</sup> a number that may make housing associations the major force in governmentally-financed housing development.

The significance of the rapid growth of housing associations is twofold. First, it shows that a non-profit, voluntary movement can respond quickly to government financial incentives and can become a major factor in the government's current housing policy. Second, their growth has been effectively targeted toward tenant groups and locations where the most pressing problems exist. Associations have had the following three major priorities since the 1974 Housing Act propelled them into prominence:

- 1) Inner-city rehabilitation, especially in designated housing improvement areas;

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*also* NFHA, HOUSING ASSOCIATIONS: A COMMITTEE MEMBER'S HANDBOOK, app. 9, A9.1, A9.3.

20. Co-ownership societies cater to those desiring a specific financial stake in their own housing. Although members do not become owners of the units they occupy, they can anticipate receiving a capital sum based on the increased value of their dwellings upon leaving the society. Day-to-day management generally occurs under the wing of a housing association. *See* NATIONAL FEDERATION OF HOUSING ASSOCIATIONS, CO-OWNERSHIP HOUSING ASSOCIATIONS (1978).

21. 1977-1978 REPORT, *supra* note 6, at 7. Abbeyfield societies are a specialized form of charitable trust focused on the needs of the elderly. They are usually small and generally non-developers. Few are registered with the Housing Corporation under the provisions of section 13 of the Housing Act of 1974. *See* THE HOUSING CORPORATION, REPORT FROM THE HOUSING CORPORATION ON REGISTRATION UNDER THE HOUSING ACT 1974, HC/9/76 Ag. 9(A), app. B (1976) [hereinafter cited as REGISTRATION].

22. THE HOUSING CORPORATION, HOUSING ASSOCIATION TENANTS 49 (1979).

23. THE HOUSING CORPORATION, THE VOLUNTARY HOUSING MOVEMENT 6 (1979).

24. Department of Environment, Housing Associations table 5 (March, 1979) (unpublished internal memorandum on file with the author).

25. THE HOUSING CORPORATION, THE VOLUNTARY HOUSING MOVEMENT 6 (1979).

- 2) General family housing in areas of acute housing stress, with the emphasis on small projects and small units;
- 3) Housing to meet the special needs of single people, the elderly, the handicapped, and other groups for whom there may be inadequate provision, such as ex-psychiatric patients and one-parent families.<sup>26</sup>

In geographical terms, housing associations have concentrated their activities in areas of depressed housing conditions.<sup>27</sup> This tendency to concentrate on the needs of the urban poor has evolved from the philanthropic beginnings of the movement, when the proximity of enormous wealth and enormous poverty prompted individuals and businesses to devote funds to the problem.<sup>28</sup> The government's allocation of grants and the willingness of larger associations in inner-city areas to take on the problems of rehabilitation have reinforced this earlier emphasis. As a result, housing association units are heavily concentrated in London and other cities, such as Manchester, Liverpool, and Birmingham, that have experienced the deterioration and social conditions typical of many American cities in the Northeast and Midwest.

In the United States, as in Britain, housing associations could supplement existing efforts of local and national government. They have proved capable of producing and managing housing units and of responding to special housing programs for a broad income spectrum.<sup>29</sup> Most recently, they also have provided a source of subsidized units for sale.<sup>30</sup> They can operate with much less government involvement than can traditional public housing,<sup>31</sup> and can provide an alternative to both public housing and the private sector. The diminution of the private rental sector in the United States threatens tenants who cannot afford ownership of houses or condominiums. Here, as in Britain, housing associations could become a "third force" in the housing field.<sup>32</sup>

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26. 1977-1978 REPORT, *supra* note 6, at 6.

27. Department of Environment, *supra* note 24, at 4.

28. *Id.*

29. THE VOLUNTARY SECTOR, *supra* note 9, at 11-12.

30. MERSEYSIDE IMPROVED HOUSES, *supra* note 15, at 31.

31. As mentioned above, public housing has developed an increasing reliance on private involvement. See A. DECENT HOME, *supra* note 1, at 59-67. The level of government participation in housing association activity varies, and in some respects the English system may entail too much government supervision.

32. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. II, para. 3.

## II. HISTORY: THE DEVELOPMENT OF HOUSING ASSOCIATIONS IN BRITAIN

Housing associations have existed in Britain for quite some time. During the nineteenth century most of the early associations were charitable trusts and almshouses established for the poor and sick.<sup>33</sup> Although these types of associations still carry on such roles, they have produced an insignificant amount of housing.<sup>34</sup>

The forerunners of the current housing associations were private charitable organizations which provided housing for those unable to do so for themselves.<sup>35</sup> These organizations had little impact on housing until the government recognized the necessity for subsidy to meet the difference between the cost of decent housing and the ability of the poor to pay for it.<sup>36</sup>

In 1919, Parliament enacted legislation<sup>37</sup> to promote the activities of housing associations, then known as housing trusts or public utility societies. The law authorized local governments to make grants and loans to housing associations, to invest in them, and to guarantee interest payments on loans by others.<sup>38</sup> The Housing Act of 1935<sup>39</sup> defined "housing associations" and allowed the government to recognize the National Federation of Housing Associations as the representative of the voluntary housing movement.<sup>40</sup> This combination of public funding support and a quasi-independent national organization has continued to be a hallmark of the British system.

In its early years, the voluntary housing movement provided housing on a similar basis and for similar tenants as did the local government's council housing.<sup>41</sup> Housing associations essentially supplemented local government housing by financing rental units through local authority funding and charitable contributions.

In 1961,<sup>42</sup> the government chose to expand the potential of volun-

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33. CULLINGWORTH, *supra* note 3, at 117.

34. *Id.*

35. *Id.*

36. *Id.*

37. Housing, Town Planning, Etc. Act, 1919, 9 & 10 Geo. 5, c. 35.

38. *Id.* §§ 18-20.

39. Housing Act, 1935, 25 & 26 Geo. 5, c. 40, part II, §§ 26, 30.

40. THE HOUSING CORPORATION, THE VOLUNTARY HOUSING MOVEMENT 1 (1979). The Advisory Committee has now been disbanded.

41. See CULLINGWORTH, *supra* note 3.

42. Housing Act, 1961, 9 & 10 Eliz. 2, c. 65, § 7.

tary housing associations by using them to supplement the depressed private house-building sector. The National Federation became administrator of a £25 million loan fund to finance development by associations of units to rent for cost.<sup>43</sup> This assignment contrasted with the association's original role of providing housing for the working classes at rents below market levels. The new objective was to use cost-rent society housing associations to demonstrate the economic feasibility of building houses to rent to the private housing development sector.<sup>44</sup>

The Federation encouraged these cost-rent societies, basically commercial operations, to compose their boards mainly of professionals—architects, solicitors, and real estate agents.<sup>45</sup> Such boards would have both the expertise to promote the projects and the motivation to do so from the fees they would earn in providing the necessary design, legal, and management services.<sup>46</sup>

The initial success of this experiment led to a £100 million expansion in 1964 and the creation of the Housing Corporation to assume the National Federation's role as promoter and financial channel.<sup>47</sup> The alacrity with which the £25 million had been taken up under section 7 of the 1961 Act pointed to the need for a special body "whose general duty it shall be to promote and assist the development of housing societies."<sup>48</sup> Thus, with all-party support under the 1964 Act, the Housing Corporation came into being in September of

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43. See CULLINGWORTH, *supra* note 3, at 118.

44. *Id.*

45. Another Government motive behind the 1961 and 1964 Acts was to see whether professional people with housing expertise (at that time rather short of work) would come forward to form housing societies (as defined in the 1964 Act) and in return for their normal professional fees for the development work (architects' and solicitors' scale fees, for example) give the benefit of their knowledge and advice free of charge to the society as a committee member. This was described by the then Minister as "enlightened self-interest." The system provided the required incentive: it worked very well and there was little abuse but it angered the more traditional charitable housing associations, whose committees were largely composed of laymen giving their services voluntarily and getting nothing in return.

Letter from Ken Bartlett, Chief Officer, Housing Policy Division, The Housing Corporation, to Otto Hetzel 2 (June 23, 1980) [hereinafter cited as Bartlett letter].

46. *Id.*

47. THE HOUSING CORPORATION, THE VOLUNTARY HOUSING MOVEMENT 2 (1979).

48. Housing Act, 1964, c. 46, part I, § 1.

that year. Doors opened for business early in January, 1965, with a board of eight and a staff of eight.<sup>49</sup>

The 1964 Act envisioned use of Housing Corporation funds for second mortgages to supplement loans from organizations serving functions similar to those performed by savings and loans institutions. These "building societies" were to finance two-thirds of the cost of a project.<sup>50</sup> As it turned out, however, building societies were not especially interested in this intended role.<sup>51</sup> In addition, other options appeared more attractive to potential tenants.<sup>52</sup>

It is significant that of the first eighty-six schemes under section 7 of the 1961 Act, only six were of a co-ownership nature.<sup>53</sup> By March 1966, 4,798 cost-rent dwellings had been approved as against 482 co-ownership.<sup>54</sup> At that time, the Housing Corporation could only fund new housing; and since housing is a "now" situation to those in need, it soon became clear that groups of would-be co-owners would not wait three years for their homes to be built. Cost-rent, both simpler and more quickly available, was much more attractive.

Despite these advantages of cost-rent housing, availability of option mortgages for co-ownership schemes in 1967 made them even more attractive.<sup>55</sup> A tenant who could afford cost-rent could also afford to participate in co-ownership schemes offering a share in the equity as well as lower costs from the option mortgage subsidy. Option mortgage subsidies permitted mortgagors to pay a lower rate of interest equivalent to the tax relief owners could receive on mortgage interest payments. Since promoting associations could present the same quality product at considerably less cost to the consumer, with the added bonus of the possibility of a cash payment upon transfers, it made economic sense to shift the schemes then under construction from cost-rent to co-ownership.<sup>56</sup>

Thus, the original cost-rent societies became sponsors of co-ownership societies; they turned over fully occupied co-ownership estates to the tenant/members but continued under the pre-existing agreements

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49. Bartlett letter, *supra* note 45, supp.

50. CULLINGWORTH, *supra* note 3, at 118-19.

51. *Id.*

52. *Id.*

53. Bartlett letter, *supra* note 45, supp.

54. *Id.*

55. CULLINGWORTH, *supra* note 3, at 118-19.

56. Bartlett letter, *supra* note 45, supp.

as managers.<sup>57</sup> While the transformation was complicated, it produced nearly 1000 societies and some 38,000 homes.<sup>58</sup> All of the units were marketed at their full economic cost.<sup>59</sup> Very few of these societies were run on a co-operative basis.<sup>60</sup> Most co-owners simply wanted a place to live; their interest in, and arguments about, their precise share of the equity arose only upon leaving.

Cost rents were also less attractive than subsidized (and thus lower-priced) council housing. Moreover, cost rents suffered at the time from increases in interest rates.<sup>61</sup> This further discouraged those persons who could not quite afford homeownership yet did not want to look to local government for housing.

The unwillingness of building societies to participate ended the experiment with co-ownership schemes by 1970.<sup>62</sup> The Conservative government, however, soon developed a new role for housing associations,<sup>63</sup> envisaging "a special place" for them in housing policy with government "encouragement and support."<sup>64</sup> Associations were to be included in that sector of the housing market which would be subject to rent control under "fair-rent" provisions.<sup>65</sup> The new Act would thereby qualify association tenants for rent allowances.<sup>66</sup> Theoretically, associations would obtain higher rental income and eligible tenants would experience little hardship from rent increases.<sup>67</sup> New projects would also receive a subsidy to offset any deficits aris-

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57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

61. CULLINGWORTH, *supra* note 3, at 118.

62. *Id.* at 119.

63. The new role appeared in the White Paper, FAIR DEAL FOR HOUSING, CMND. No. 4728 (1972).

64. *Id.* at 16-17.

65. "Fair rent" is the name given to rents established by British rent control schemes. Local rent officers determine these rents.

66. The Housing Finance Act, 1972, c. 47, part I, §§ 18, 19, established rent allowances to provide additional funds for low-income tenants in private rentals. Rent rebates, a similar program, apply to council housing.

67. Allowances are subject to a ceiling, somewhat higher in high-cost areas like London. Tenants must pay the difference between rents charged and allowance payments. While the goal is that tenant contributions will not exceed a certain percentage of their income, the amount paid by low-income tenants in such areas may well exceed these percentages.

ing from fair rent limitations on rental income.<sup>68</sup> The Housing Corporation would have authority to fund all types of associations,<sup>69</sup> and local governments would continue to make loans as long as they could nominate tenants for at least half the units produced.<sup>70</sup> These provisions were incorporated in the Conservative government's 1972 Housing Act,<sup>71</sup> and survived that Act's later repeal,<sup>72</sup> as Labour substantially incorporated them into its 1974 Act.<sup>73</sup> The Housing Act of 1974 formed the basis for the current housing association movement.

The impetus for the voluntary housing movement in the 1970s was the decline of the private rental sector in Britain. Its steady reduction to only fifteen percent of the housing market from a ninety percent share at the turn of the century<sup>74</sup> reflected the increasing roles undertaken by local government as landlord and by developers for sales housing. Rent controls and lack of tax incentives for landlords effectively dried up the private rental sector.<sup>75</sup> In addition, house prices dramatically increased in the early 1970s, creating demands for public sector building and for municipalization,<sup>76</sup> the purchase by local government of units from private landlords to add to the public rental stock. Tenure choices dwindled to private homeownership or public-sector rental. One solution seemed to lie in a broad expansion of the housing association movement.

To accomplish this expansion, government provided major subsidies to housing associations.<sup>77</sup> Both political parties found such support acceptable, though for differing reasons. The Conservatives wished to prevent a monopoly of rental housing by municipal authorities.<sup>78</sup> The Labour position was more complicated. In essence, Labour preferred non-profit rentals to private slumlords or

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68. FAIR DEAL FOR HOUSING, *supra* note 63, at 16.

69. *Id.*

70. *Id.*

71. Housing Finance Act, 1972, c. 47.

72. *See* Housing Act, 1974, c. 44.

73. *Id.*

74. SECRETARY OF STATE FOR THE ENVIRONMENT AND SECRETARY OF STATE FOR WALES, HOUSING POLICY: A CONSULTATIVE DOCUMENT para. 8.09 (1977).

75. CULLINGWORTH, *supra* note 3, at 37.

76. *Id.*

77. *Id.* at 122.

78. *Id.* at 121.

homeownership.<sup>79</sup> Labour viewed the housing association as a supplement, not an alternative, to municipal housing. As stated in 1974 by Anthony Crosland, the Secretary of State for the Environment:

[I]t is utterly misconceived to regard the voluntary housing movement as in any sense an alternative to municipal renting. Local authorities alone have the capacity and responsibility to tackle the major housing needs in their areas, and they will become the principal suppliers of rented accommodation. Housing associations can and will have a growing role in supporting local authorities, particularly in meeting special needs and in the worst areas of housing stress. They also have a role in the extension of social ownership of rented accommodation. But in all this they must complement and supplement local authorities, not supplant or compete with them. I also see a role for housing associations in developing and experimenting with new forms of tenant participation in the management of their dwellings. This is an area in which they could provide a much needed stimulus.<sup>80</sup>

Nevertheless, under the Labour government, associations became a major component in the housing scene, with emphasis on rehabilitation in improvement areas and provision of housing for the elderly and groups with special needs.<sup>81</sup> The Conservative government which took over in 1979 has indicated that housing associations will continue to play a significant if not primary role in their prior areas of emphasis.<sup>82</sup>

A significant contribution of the 1974 Act to association growth was a new subsidy system in the form of a Housing Association Grant (HAG).<sup>83</sup> Such a grant covers the difference between the projected rental income and the cost of building plus the anticipated operating costs for the project.<sup>84</sup> To ease the transition from older subsidy schemes, which might have created difficulties under the new rent procedures, a Revenue Deficit Grant was made available at the discretion of the Secretary of State if an association incurred an over-

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79. *Id.* at 121-22.

80. 873 PARL. DEB., H.C. (5th ser.) col. 48-49 (1974).

81. CULLINGWORTH, *supra* note 3, at 129.

82. *State's Grip on Housing Associations Loosened*, London Times, Sept. 13, 1980, at 2.

83. Housing Act, 1974, c. 44, part III, § 29.

84. *Id.*

all deficit.<sup>85</sup> Deficits could also occur under the new subsidy system because of the theoretical and actual impact of fair rent controls on anticipated project rental income. In particular, rent increases were severely limited even though utility, maintenance, and other operating costs escalated during the current inflationary period.<sup>86</sup> The 1980 Conservative housing legislation has alleviated this problem by permitting larger and more frequent rent increases in accordance with the fair rent as actually determined.<sup>87</sup>

The HAG is a very substantial grant supporting seventy-five to over ninety percent of a given project's development and operating costs.<sup>88</sup> Rental income, therefore, is expected to pay only a rather small portion of the total costs. Since the HAG is provided as a capital grant on completion of construction,<sup>89</sup> its sufficiency depends on the accuracy of theoretical predictions of future income and operating costs. A Grant Redemption Fund is set up in the 1980 housing legislation to draw back any rental income surpluses.<sup>90</sup> While housing association rents will still be somewhat higher than those in council houses because of the different rent-fixing schemes applying to the two sectors,<sup>91</sup> the true subsidies for identical houses will be less for housing associations. This inequality results from the "rent pooling" that usually occurs with council housing.<sup>92</sup>

The Housing Act of 1974<sup>93</sup> contained three interrelated policy elements that helped transform housing associations into a major force in the English housing scene.

First, the government established a central promotional and monitoring institution, essential to structuring the new governmental policy. The Housing Corporation, which had been established in 1964

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85. *Id.* § 23.

86. NFHA, THE RESPONSE OF THE NATIONAL FEDERATION OF HOUSING ASSOCIATIONS COUNCIL TO THE GOVERNMENT'S CONSULTATIVE DOCUMENT ON HOUSING POLICY 15-16 (1977) [hereinafter cited as NFHA RESPONSE].

87. NFHA, A GUIDE FOR HOUSING ASSOCIATIONS TO THE NEW HOUSING BILL 11-12 (1980) [hereinafter cited as NFHA GUIDE].

88. See King letter, *supra* note 18; THE HOUSING CORPORATION, ANNUAL REPORT 1978-1979, at 8 [hereinafter cited as 1978-1979 REPORT].

89. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. IX, § 5.

90. Housing Act, 1980, c. 51, part VIII, § 131.

91. NFHA GUIDE, *supra* note 87, at 11-12.

92. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. V, paras. 7, 10-11. See text at notes 273-77 *infra*.

93. Housing Act, 1974, c. 44.

to promote housing association activity through supplemental loans, became administrator of the new subsidies to housing associations.<sup>94</sup>

Second, a mechanism was needed to control the associations and to prevent abuse of the subsidies. The Act gave the Housing Corporation responsibility for administering a new system of registration to insure that the associations receiving funds under the Act were qualified and trustworthy.<sup>95</sup> The registration scheme included power to investigate the activities of associations and to take remedial action when necessary.<sup>96</sup> Only registered associations could obtain Housing Association Grants, and the Housing Corporation would continuously monitor registrants to insure that they used funds in the public interest.<sup>97</sup> In addition, the government maintained effective control on use of subsidies through detailed advance review of individual projects by the Housing Corporation and, until late 1980, by the Department of Environment (DoE).<sup>98</sup> The Act guarded against excessive costs by requiring that projects meet cost yardsticks applicable to all public construction.<sup>99</sup>

Finally, the Act authorized financial aid through local authorities as well as the Housing Corporation.<sup>100</sup> The government anticipated that twenty-five per cent of HAGs would come from local authorities by way of central government funds provided them for housing construction.<sup>101</sup>

### III. CONTROL: PUTTING PUBLIC FUNDS TO PROPER USE

Loans and grants originating from the central government constitute over ninety-nine percent of the capital finance of housing associations.<sup>102</sup> The "fair rent" system that limits lower-income tenant rents makes requisite these high levels. To keep these rents at tolerable levels, grants must cover a very high percentage of the total costs, including operating expenses.

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94. *Id.* part I.

95. *Id.* part II, § 13.

96. *Id.* part II.

97. *Id.*

98. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. I.

99. *Id.* at vii, § 14.

100. Housing Act, 1974, part II, § 67.

101. *See* NFHA, A BASIC GUIDE TO HOUSING ASSOCIATION GRANTS (1979).

102. THE VOLUNTARY SECTOR, *supra* note 9, at 2.

In 1979, public funding to housing associations exceeded £600 million.<sup>103</sup> The magnitude of this funding makes control an important issue. It may be the most difficult problem the voluntary housing movement faces because the nature of associations as independent decisionmakers conflicts with the concept of tight government control. Government must find a proper balance which allows adequate safeguard of the public interest without stifling the independence that distinguishes housing associations.

A. *Registration: More Than a Rubber Stamp?*

Registration is the first control aimed at insuring the proper use of housing association grants and loans. A determination of competency and trustworthiness is the initial basis for an association's registration.<sup>104</sup> The Housing Corporation is responsible for maintaining a registry of approved associations; only registered associations are eligible to receive HAGs.<sup>105</sup> A Housing Association Registration Advisory Committee, established by the 1974 Act<sup>106</sup> and existing until 1979, assisted in developing criteria for the following statutory requirements.

First, the association must be previously registered as a charity or society under the Industrial and Provident Societies Act of 1965.<sup>107</sup> The same provision mandates that housing associations be non-profit organizations.<sup>108</sup>

Second, the association must be under the control of responsible, experienced people who can be trusted to handle public funds.<sup>109</sup> The constitution or rules of the association must vest control in a committee of management or similar group having no conflict between the association's interests and their personal financial affairs.<sup>110</sup> Although earlier legislation had encouraged self-interest by board members to take advantage of their expertise,<sup>111</sup> the govern-

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103. *Id.*

104. REGISTRATION, *supra* note 21, at 1.

105. Housing Act, 1974, c. 44, part II, § 17.

106. *Id.* § 14.

107. Industrial and Provident Societies Act, 1965, c. 12. Additional restrictions and requirements may be found in the Housing Act, 1974, c. 44, part II, § 13.

108. Housing Act, 1974, c. 44, part II, § 13.

109. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. IV, § 2.

110. *Id.* § 2(3).

111. *See* text at notes 45-46 *supra*.

ment decided by 1974 to prohibit committee members from entering into contracts with and taking professional fees from the association.<sup>112</sup> The 1974 provision thus seeks to insure that the committee makes its decisions in the interest of the association, free from the influence of possible personal gain for committee members. Until 1980, an association could only receive registration if a majority of the committee had no such conflicts. Prohibited conflicts included contractual relationships with any firm in which a committee member or his or her family were involved as partners or directors, owned collectively in excess of ten percent of share capital, or had an interest in at least ten percent of distributed benefits.<sup>113</sup>

The 1980 housing legislation<sup>114</sup> banned all conflicts, regardless of the level of involvement. Exceptions had been allowed because of the fear that totally restricting such involvements would prevent many competent and highly experienced people from serving on committees.<sup>115</sup> While a total prohibition of conflicts may be necessary for associations to be entrusted with public funds, the changes in this policy reflect the problem of balancing the need for control with the desire to have a skilled independent organization active in solving local housing problems. Even in the absence of legislation requiring it, many associations have avoided all financial conflicts of interest among committee members,<sup>116</sup> and have required disclosure where such self-dealing has occurred.<sup>117</sup>

Third, the housing association must maintain proper financial control and accounts of its operations. It must use appropriate book-keeping procedures, make annual reports, and demonstrate financial stability.<sup>118</sup> The rules of the association must prohibit the distribution of surplus funds or assets to members of the association or its committee members, or members of their families.<sup>119</sup> The overhead of the association, including salaries, must be reasonable in relation

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112. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. IV, § 2(3).

113. *Id.*

114. Housing Act, 1980, c. 51, part VIII, § 126, sch. 16.

115. *See* REGISTRATION, *supra* note 21, at 11-12.

116. *Id.*

117. DEPARTMENT OF ENVIRONMENT, Cir. 170/74, HOUSING ACT 1974—HOUSING CORPORATION AND HOUSING ASSOCIATIONS para. 15 (1974) [hereinafter cited as DoE, HOUSING ACT 1974].

118. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. IV, § 3.

119. *Id.* § 3(3).

to the size and activity of the association.<sup>120</sup> Such a standard requires the Housing Corporation to determine whether staff salary levels are appropriate. This presents another difficult judgment that reduces an association's discretion and calls for weighing the cost of maintaining a well-qualified staff against the need for economical use of public funds.

Fourth, the association should be capable of efficient management. In accordance with its size and activity level, an association must show that it has access to skills relevant to the provision and management of housing.<sup>121</sup> A showing of qualified staff, a past record of successful project execution, or access to qualified outside consultants can satisfy the requirement.<sup>122</sup>

Fifth, the housing association must justify its appropriateness for registration in terms of its proposed role and scope of activity in relation to plans of other associations and to housing needs in its intended area of operation.<sup>123</sup> This requirement relates more to the problem of coordination than control, and is meant to prevent duplication of effort and to promote efficient use of limited resources.<sup>124</sup>

Finally, the association must apply for registration in the form provided by the Corporation. The application constitutes an agreement to comply with the registration requirements in the future and to aid the Corporation in monitoring that compliance.<sup>125</sup>

The Housing Corporation reported in 1976 that the registration process was a success.<sup>126</sup> According to the Corporation, the chief benefit of registration was that associations carefully scrutinized themselves and, in cooperation with the Corporation, adjusted their structure and methods of operation to conform to the registration criteria.<sup>127</sup> The Corporation reported that the thorough screening of registered associations insures a basic level of trustworthiness that warrants the provision of public funding.<sup>128</sup>

Most associations were registered in an initial surge of over 2,000

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120. *Id.* § 3(5).

121. *Id.* § 4.

122. *Id.*

123. *Id.* § 5.

124. The problem of coordination is dealt with in more detail in Part IV, *infra*.

125. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. IV, § 6.

126. REGISTRATION, *supra* note 21, at 3-6.

127. *Id.* at 3-4.

128. *Id.* at 4.

applications.<sup>129</sup> Among the 111 rejected,<sup>130</sup> the most frequently unsatisfied requirement was the demonstration of a need for the proposed role of the association (ninety-nine applicants).<sup>131</sup> Other reasons for rejection related to conflict of interest of committee members (fifty-four applicants), managerial skills (twenty-six applicants), and financial control (only four applicants).<sup>132</sup>

Clearly the initial registration process was regarded as a "coarse sieve." Furthermore, registration may have permitted the Housing Corporation to exercise more control than if no registration were required. Despite the Corporation's favorable report, however, some observers doubt the adequacy of registration scrutiny.<sup>133</sup> Effective examination of applicants may be more realistic now that the initial surge is over. Formation of new associations is waning: during the year ending March 31, 1978, only 287 associations were registered,<sup>134</sup> and in the following year, 162 registrations resulted from 185 applications.<sup>135</sup>

#### B. *Monitoring: Keeping Things on the Level*

After registration, the supervision and control of housing associations continue in the form of ongoing monitoring by the Corporation. The 1974 Act empowers the Corporation to remove members of the management committee or officers of an association; to directly control the financial transactions of the association; to take charge of its assets or place them in more reliable hands; and to dissolve an association and wind up its affairs.<sup>136</sup>

The monitoring function got off to a slow start because of the registration overload accompanying the system's introduction.<sup>137</sup> The Corporation instituted in-depth monitoring visits in 1977, but made only seventy such visits by the end of 1978.<sup>138</sup> The Corporation plans an increase in the frequency of visits (it intends to make about 250

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129. *Id.* at 2-3.

130. *Id.* app. B.

131. *Id.*

132. *Id.*

133. NFHA RESPONSE, *supra* note 86, at 12.

134. 1977-1978 REPORT, *supra* note 6, at 14.

135. 1978-1979 REPORT, *supra* note 88, at 20.

136. Housing Act, 1974, c. 44, part II, §§ 19-20.

137. See REGISTRATION, *supra* note 21, at 22.

138. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, viii, para. 7.

relatively detailed visits per year, plus spot audits of all of the approximately 950 associations receiving public funds<sup>139</sup>) with a corresponding decrease in the depth of scrutiny.

Monitoring problems accompanied association reports of annual accounts to the Corporation and its scrutiny of them.<sup>140</sup> Until a computer system was installed, the Corporation's inability to inform associations about their indebtedness delayed audits and account submissions.<sup>141</sup> The Public Accounts Committee of the House of Commons has recommended a crackdown on lateness or failure to submit such reports. The Corporation has strengthened its staff to meet the increased workload.<sup>142</sup> In addition, the 1980 legislation for the first time requires accounts submitted within six months of the end of the accounting period.<sup>143</sup>

During fiscal year 1977-78, the Corporation made thirty monitoring visits; two revealed a need for further investigation of possible mismanagement or misconduct under section 19 of the 1974 Act.<sup>144</sup> Six additional section 19 inquiries began during the same year based on information the Corporation received during the course of its ordinary contacts with associations.<sup>145</sup>

The approach to monitoring may be crucial as the following commentary illustrates:

One of the issues which is emerging from monitoring is the actual substance of the monitoring. Inevitably when carried out by low calibre staff monitoring has to consist of administering a check list and becomes a slightly naive, standardised examination of the details of procedures. It is yet further interference in what is supposedly a "voluntary" movement which tends in the normal bureaucratic way to inhibit initiative, stifle enthusiasm and so on. Arguably monitoring should concentrate on the overall *performance* of the association. The question is, is it achieving results? Is it housing the poorest people? Is it producing schemes quickly and economically? The *means* of achieving these ends may be different but what is important is the achievement of the goal which too often appears to be getting lost in the

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139. *Id.*

140. *Id.* para. 8.

141. Bartlett letter, *supra* note 45, at 2-3.

142. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, ix, para. 9.

143. Housing Act, 1980, c. 51, part VIII, § 124(3).

144. 1977-1978 REPORT, *supra* note 6, at 14.

145. *Id.* at 14-15.

desire to have detailed control.<sup>146</sup>

The Board of the Corporation decides when to institute an inquiry and appoints an investigator to make a report.<sup>147</sup> If the Board concludes that there has been misconduct or mismanagement, it gives the association and the parties involved an opportunity to respond, and it observes additional procedures to safeguard individual rights.<sup>148</sup>

Of thirteen inquiries instituted by the end of 1978, six were considered serious enough to warrant police investigation, though half of these resulted in a clean bill of health.<sup>149</sup> Some resulted in minor reforms, while others revealed that mismanagement had existed for years.<sup>150</sup>

Sanctions have included appointments by the Corporation of additional committee members, removal of committee members, freezing of association assets in bank accounts, restriction of association transactions without Corporation approval, transfer of assets to other registered housing associations, and winding up of associations.<sup>151</sup>

With over 2,900 associations registered<sup>152</sup> and subject to the sanctions of the Corporation, it seems remarkable that only thirteen inquiries were made prior to 1979. The Corporation apparently deals with many potential mismanagement problems informally through training and assistance.<sup>153</sup> Further, the extensive, even excessive, controls over associations' activities have probably prevented substantial problems. For example, most of the subsidy applies to the capital cost of the building; in addition, limits apply on the amount expendable on acquiring individual properties. Each stage of the development process faces detailed scrutiny, *e.g.*, loan, tender, and design approvals. Money is advanced to the association only against certificates issued by consultants,<sup>154</sup> and must be passed on to the contractor under the terms of contract. When the HAG is paid, associations have a residue mortgage to repay from the rents.<sup>155</sup> This

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146. King letter, *supra* note 18, at 1.

147. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. I, § 8.

148. 1977-1978 REPORT, *supra* note 6, at 14.

149. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. II, §§ 6, 7.

150. *Id.* paras. 6, 11-18.

151. 1977-1978 REPORT, *supra* note 6, at 14-15.

152. King letter, *supra* note 18, at 1.

153. 1978-1979 REPORT, *supra* note 88, at 21.

154. King letter, *supra* note 18, at 2.

155. *Id.*

tight control of the building process means that there is relatively little opportunity for impropriety.<sup>156</sup>

An additional statutory control on association transactions is the requirement of Section 2 of the 1974 Act restricting the disposal of assets by registered housing associations.<sup>157</sup> The Corporation must first consent, and generally it has consented only when the sale serves some public function, such as when land is sold to a local authority under Compulsory Purchase Order, or for public utility easements.<sup>158</sup> To reduce paperwork, the Corporation has authorized some of these routine public transfers under General Consents; other sales require individual consents.<sup>159</sup> These controls are meant to insure that assets acquired with public funds remain in use for the public benefit.

### C. *Individual Scheme Scrutiny: Under the Magnifying Glass*

Probably the most controversial control mechanism is the requirement of individual approval for each subsidized housing scheme undertaken by associations.<sup>160</sup> The objective of these reviews is to insure that the scheme in question meets a need which justifies substantial subsidy, and that the scheme is designed to comply with cost standards for the efficient use of public funds.<sup>161</sup>

The Housing Association Grant is the basic means of providing subsidies to housing associations.<sup>162</sup> Loans from either the Housing Corporation or local authorities finance projects supported by such grants.<sup>163</sup> After completion of a project, the association receives the grant as a capital sum<sup>164</sup> which reduces the loan debt to a level that, allowing for operating expenses, can be serviced out of the project's rents and other income.<sup>165</sup>

Since the grant is calculated from estimates of future income and

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156. *Id.*

157. Housing Act, 1974, c. 44, part II, §§ 21-25.

158. 1977-1978 REPORT, *supra* note 6, at 15.

159. *Id.*

160. See THE VOLUNTARY SECTOR, *supra* note 9.

161. DoE, HOUSING ACT 1974, *supra* note 117, para. 36.

162. See text at notes 83-84 and 88 *supra*.

163. DoE, HOUSING ASSOCIATIONS AND THEIR PART IN CURRENT HOUSING STRATEGIES para. 2.8 (1978) [hereinafter cited as CURRENT HOUSING STRATEGIES].

164. See note 89 *supra*.

165. Housing Act, 1974, c. 44, part III, §§ 29-30.

operating expenses,<sup>166</sup> the 1974 Act also authorized the payment of a Revenue Deficit Grant for associations which incur deficits in their annual revenue accounts.<sup>167</sup> Such grants, discretionary on the part of the Secretary of State, cover unavoidable revenue and development costs which exceed allowances. For example, a subsequent government decision to phase in rent increases for sitting tenants<sup>168</sup> strained the initial HAG formula described above.<sup>169</sup> In addition, a defect in the original legislation<sup>170</sup> can prevent the true cost of service charges from being recovered.<sup>171</sup> These two examples alone account for sixty percent of the revenue deficit grants paid.<sup>172</sup>

This subsidy structure provides no inherent incentives for efficiency. "Value for money" is the phrase used in England to label the issue of cost efficiency. For HAGs, the approach used to achieve efficiency is solely regulatory.

The DoE promulgates regulations defining eligible costs and setting expenditure limits.<sup>173</sup> Cost limits and standards should be realistic without unduly reducing flexibility and innovation. Cost yardsticks can create problems if they are not updated in a timely manner. Limits must be revised or "indexed" to keep pace with rising costs beyond the control of associations. Recently, the limit on sums available for rehabilitation projects has been increased by ten percent to compensate for elevated costs and further increases are under consideration.<sup>174</sup>

The importance of setting and revising cost limits lies in the effect on life cycle costs of housing, including maintenance and repair. A higher initial capital expenditure can reduce operating costs and extend the useful life of a given housing unit.<sup>175</sup> If corners are cut to

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166. See note 89 *supra*.

167. See note 85 *supra*.

168. Increases were limited to about \$1.70 per week per annum, regardless of the registered or re-registered rent.

169. See text at note 84 *supra*. The 1980 legislation, however, allows somewhat greater rent increases than had previously been allowed. See Housing Act, 1980, c. 51, part II, sch. 10.

170. Housing Act, 1974, c. 44, part III.

171. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. IX, paras. 3, 10.

172. Housing Act, 1974, c. 44, part III, § 32.

173. *Id.* § 29(5).

174. NFHA, ANNUAL REPORT 4 (1978).

175. *Id.* Higher construction standards may likely generate savings in several areas, e.g., energy costs (with significance broader than simply that for the individual

save on capital costs, this failure to build to higher standards will probably result in the need for capital infusions within four or five years.<sup>176</sup> The housing problem, however, calls for a long-term solution. To prevent such short-sighted restrictions on capital expenditure, a National Federation of Housing Associations report<sup>177</sup> recommends the separation of property acquisition cost from the cost of subsequent work, and the provision of a variable element for repair costs.

Depth and repetition of scheme scrutiny have raised a more serious problem. Associations must submit detailed proposals for approval by the local authority, on the planning side, and by the lending authority (either the local authority or the Corporation).<sup>178</sup> The law has also required approval by the Department of Environment, but in 1980 the Minister announced elimination of this requirement.<sup>179</sup> Even individual unit rehabilitation projects have normally been subject to ten separate approvals between locating a site and commencing construction.<sup>180</sup>

Differences of opinion arising between the public bodies over details of a scheme must be resolved before the project may proceed.<sup>181</sup> Review by authorities has been so detailed that on one occasion, an association corresponded with a regional Corporation officer for some time regarding whether an eighteen inch working surface beside a stove was necessary.<sup>182</sup> In another case, after reviewing plans for eight weeks, the DoE regional office recommended a reduction in the number of cupboard shelves from three to two for a total saving of £8.<sup>183</sup>

Such close review and detailed changes are not appropriate to the independent role of the housing associations. Moreover, the resulting

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tenant) and management costs (through reduced tenant dissatisfaction and rent arrearage).

176. King letter, *supra* note 18, at 2.

177. NFHA, ANNUAL REPORT (1978).

178. NFHA RESPONSE, *supra* note 86, § III, para. 63.

179. *State's Grip on Housing Associations Loosened*, London Times, Sept. 13, 1980, at 2.

180. THE VOLUNTARY SECTOR, *supra* note 9, at Annex II.

181. NFHA RESPONSE, *supra* note 86, § III, paras. 63-64.

182. THE VOLUNTARY SECTOR, *supra* note 9, at 15.

183. *Id.*

delays are costly. The 1980 legislation<sup>184</sup> calls for a direct grant to cover administrative costs, a change from the previous subsidy of a one to two percent surcharge on capital costs.<sup>185</sup> In addition, the DoE has incurred costs for salaries and overhead both at the Regional and Central office approval levels.<sup>186</sup> As noted, however, these costs of double review have now been terminated.<sup>187</sup>

One study concludes that since the HAG scheme began, the time from designation of initial site interest to loan approval has increased considerably, although overall pre-contract time has remained relatively constant.<sup>188</sup> It is also apparent that housing associations are subject to a uniquely high level of sometimes conflicting scrutiny.<sup>189</sup> The costs of delay include inflation, interest payments after property acquisition, repair of deteriorating vacant property, and loss of rental income.<sup>190</sup>

A situation in which reviewers required deletions meant to save about £1,000 per unit illustrated the false economy of too close a review of project schemes. By the time the project was re-tendered for bids, the contract price had actually risen £400.<sup>191</sup>

"Penny wise and pound foolish" has been the criticism of excessive scheme scrutiny. As well as wasting money, these reviews reward conformity; there is an incentive to design and execute projects in a standardized format to obtain faster approvals. This result defeats the idea of the association as a creative, independent entity. With so many levels of review, the morale of housing association staff can only suffer from the extensive outside interference.<sup>192</sup> Individual approval of projects is one step in the control process which appears to be seriously out of balance with the rest. Although registration and monitoring supposedly serve to insure trustworthiness, associations obviously have not been trusted.

In 1980, the government finally recognized that it could avoid needless duplication of work by delegating the task of in-depth scru-

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184. Housing Act, 1980, c. 51, part VIII, § 121.

185. NFHA RESPONSE, *supra* note 86, § III, para. 64.

186. *Id.*

187. *See* note 179 and accompanying text *supra*.

188. NFHA STUDY, *supra* note 12, at 67.

189. *See* THE VOLUNTARY SECTOR, *supra* note 9.

190. *Id.* at 14-15.

191. *Id.* at 15.

192. *Id.* at 3-4.

tiny to one body.<sup>193</sup> That role fell most appropriately to the Housing Corporation because of its experience with individual associations. Furthermore, the Corporation's assumption of this responsibility seems to comport with Parliament's original intention.<sup>194</sup> If any phase of the control process called for a 'rubber stamp' approval, it was the DoE's review of schemes recommended by the Corporation, since the Corporation was supposed to be the Department's agent.<sup>195</sup>

The Housing Corporation has attempted to institute "streamlined procedures" for housing associations doing rehabilitation work.<sup>196</sup> Some requirements for advance approval seemingly could be changed to subsequent reviews in areas where standards are clear enough to be readily followed. Associations could avoid much delay if the Corporation performed detailed checking *after* the fact whenever possible; this task could be part of the Housing Corporation's monitoring function.

Critics of the current system argue that the Housing Association Grant subsidy should be changed.<sup>197</sup> They point out that the current grant may be too generous because it is based on a projection of rental income at current levels, and actual rent increases may provide a windfall to the association.<sup>198</sup>

The problem is that the HAG system gives a once-and-for-all grant which writes off a large part of the capital cost. The outstanding loan is fixed, which means that over the life of the scheme the costs of repayment fall in *real* terms. In contrast, the levels of rent can be expected to rise at least in line with the increase in average earnings. Therefore, there will be a growing real gap between the repayment of the loan and the rental incomes. Some of the gap will be narrowed by increases in management and maintenance costs, which are likely to move up at roughly the same rate as rents. Nevertheless, since management and maintenance costs are included in the initial calculation of the HAG and it is only the net rent that has to be earmarked for repaying the loan, there could be a growing surplus. Not only will rents rise, but they will increase relative to the grant and the loan

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193. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. II, para. 4.

194. *Id.* at x, para. 13.

195. *Id.* at vii, para. 2.

196. NFHA RESPONSE, *supra* note 86, § III, para. 65.

197. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, at ix, para. 12.

198. *Id.*

repayment.<sup>199</sup>

One answer to this situation is the Grant Redemption Fund that the 1980 legislation created,<sup>200</sup> which will draw back excessive accumulations where rising rental income exceeds expenses. In practice, the government is likely to draw back surpluses only if the association fails to apply the surpluses to provision of housing.<sup>201</sup> The surpluses, therefore, could give associations an element of independence as long as they use the funds to further their housing responsibilities.

A suggested alternate method of subsidy would provide an annual grant to the association based on its total activities.<sup>202</sup> Proponents contend that this method would eliminate the need for scheme-by-scheme scrutiny.<sup>203</sup> The value of eliminating detailed review of associations with less than excellent "track records" must be weighed against the desirability of a weakened control function.

Even if the subsidy is altered, housing associations will probably remain "riskless" operations so long as they comply with governmental standards. Otherwise, association activity would severely diminish or even cease.<sup>204</sup> Considering government's tight rein on subsidy availability and use, it does not seem feasible to ask associations to assume the risks of factors beyond their control which may seriously affect either income or costs.

#### D. *Internal Control: Committee Responsibility and Public Accountability*

With all of the external checks on housing associations, it is easy to overlook the fact that the first line of control is really the internal structure of associations. Recently, concern has focused on various aspects of internal control. While ultimate responsibility for association actions rests in the committee of management,<sup>205</sup> the committee's control is limited by its access to information and its level of sophistication about the issues involved. The conflict of interest restrictions are likely to render ineligible a number of knowledgeable

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199. King letter, *supra* note 18, at 3.

200. Housing Act, 1980, c. 51, part VIII, § 131.

201. King letter, *supra* note 18, at 3.

202. NFHA RESPONSE, *supra* note 86, § III, para. 74.

203. *Id.*

204. *Id.* at para. 71(ii).

205. NFHA, GROWING PAINS: COPING WITH THE PROBLEMS OF GROWTH IN HOUSING ASSOCIATIONS 15 (1978) [hereinafter cited as GROWING PAINS].

persons. Thus financial reporting requirements have been added to the number of formal controls that ensure financial responsibility.

The accountability of associations also extends to the social and political aspects of their activity.<sup>206</sup> This is particularly true of associations whose growth and activity make them a major influence in the areas in which they operate, but the need applies to all associations because of their collective impact on the national housing scene.<sup>207</sup> The objective is to make associations more responsive to local housing needs in general and in particular to the needs of their tenants.<sup>208</sup> The public's right to expect such responsiveness flows from the associations' receipt of public funds.

The first means of increasing responsiveness was to fully disclose association activities and policies to the organizations with which they deal, the people they house, and the communities in which they operate.<sup>209</sup> The 1978 recommendations of the Housing Corporation have now been incorporated in a new "Tenant's Charter" in the 1980 legislation, that applies to associations and most public sector landlords.<sup>210</sup>

In general, the legislation requires disclosure and consultation with tenants.<sup>211</sup> For instance, an association will now have to publish its tenant selection policies.<sup>212</sup> It should also publish annual reports and accounts, housing policies, composition of the committee and the membership, number of staff and salaries, information on current work and future development, method of awarding contracts, and contractors and professionals employed by the association. It must disclose the financial interests of its committee members under the Housing Act of 1974.<sup>213</sup>

Associations should use public meetings, open houses, or similar activities as part of a consultation process to increase popular awareness and to include tenant views on management decisions.<sup>214</sup> Such activities are likely to increase political support of the voluntary

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206. THE HOUSING CORPORATION, Cir. 3/78, IN THE PUBLIC EYE para. 2.

207. *Id.* at para. 7.

208. *Id.* at paras. 2 and 20.

209. *Id.* at paras. 8-13.

210. *See* Housing Act, 1980, c. 51, part I, ch. II.

211. *Id.* §§ 41, 43, 44.

212. *Id.* § 44(1)(a).

213. THE HOUSING CORPORATION, *supra* note 206, at para. 9.

214. *Id.* para. 12.

housing movement.<sup>215</sup> In addition, associations should establish closer links with local authorities and other voluntary bodies.<sup>216</sup>

Broadening the membership of associations and management committees could increase responsiveness. The Corporation suggested maintaining a balance of interests by dividing the membership of an association into three blocks: tenants, local authorities and community groups, and individually interested people.<sup>217</sup> The Corporation also recommended delegation of management to area committees if an association has grown too large for the committee to maintain contact with the tenants, staff, and community.<sup>218</sup> Alternatively, such an association could delegate some responsibilities to subcommittees.<sup>219</sup>

The concept of tenant participation has become a major focus for the public sector.<sup>220</sup> Associations will have a duty to consult tenants when changing policy or practices or creating new programs involving management, maintenance, improvement, or demolition.<sup>221</sup> Only changes in rents or service will not require consultation.<sup>222</sup> Associations must inform affected tenants of changes and of the availability of consultation arrangements and give the tenants an opportunity to express their views.<sup>223</sup>

Because housing associations exist to provide for their tenants' needs, associations should answer to the tenants they house as well as to the general public whose money they spend.<sup>224</sup> These new consultation rights could work in a number of ways. For example, tenants willing to accept the responsibility could become members of associations and committees.<sup>225</sup> Other recommended means of achieving tenant input include encouraging the formation of tenant associa-

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215. *Id.* para. 22.

216. This idea is discussed at greater length in relation to the need for coordination, *infra* Part IV.

217. THE HOUSING CORPORATION, *supra* note 206, at paras. 17-18.

218. *Id.* at para. 19.

219. *Id.*

220. NFHA RESPONSE, *supra* note 86, § III, paras. 68-70.

221. NFHA GUIDE, *supra* note 87, at 8-9.

222. *Id.* at 8.

223. *Id.* at 8-9.

224. THE HOUSING CORPORATION, *supra* note 206, at para. 20.

225. *Id.* On the other hand, the Corporation fears that complete control by tenants might divert the association from its other responsibilities. *Id.*

tions, consulting tenants about design and management, or even delegating management responsibilities to tenants.<sup>226</sup> Some experimentation is occurring in the formation of management cooperatives by tenants with the support of the association, which will allocate a budget from its income to the tenant cooperative.<sup>227</sup> Tenants thus make most of the management decisions themselves.

#### IV. COORDINATION: CLOSE CONTACT AND MUTUAL COOPERATION

The British scheme for administering housing association activities requires extensive coordination. Inherent problems of coordination exist when more than one organization is attacking the housing problem. Figure "A" is a simplified diagram illustrating the flow of funding to housing associations. Under the 1974 Act, one quarter of association funding was to come from local authorities and the other three quarters through the Housing Corporation.<sup>228</sup> While this system complicates financing arrangements, its advantage lies in offering an alternative should one source become exhausted.<sup>229</sup> More importantly, this dual system promotes a balance of interest between national and local goals.<sup>230</sup>

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226. *Id.* at para. 21.

227. *Id.* Although many tenants prefer a traditional landlord-tenant relationship, some tenants may wish to assume management responsibilities, such as maintenance of common areas. The Corporation backs a management cooperative pilot program.

228. CURRENT HOUSING STRATEGIES, *supra* note 163, at para. 2.8.

229. *Id.* Since all funding starts with the Department of Environment, this advantage is probably of minor significance.

230. *Id.*

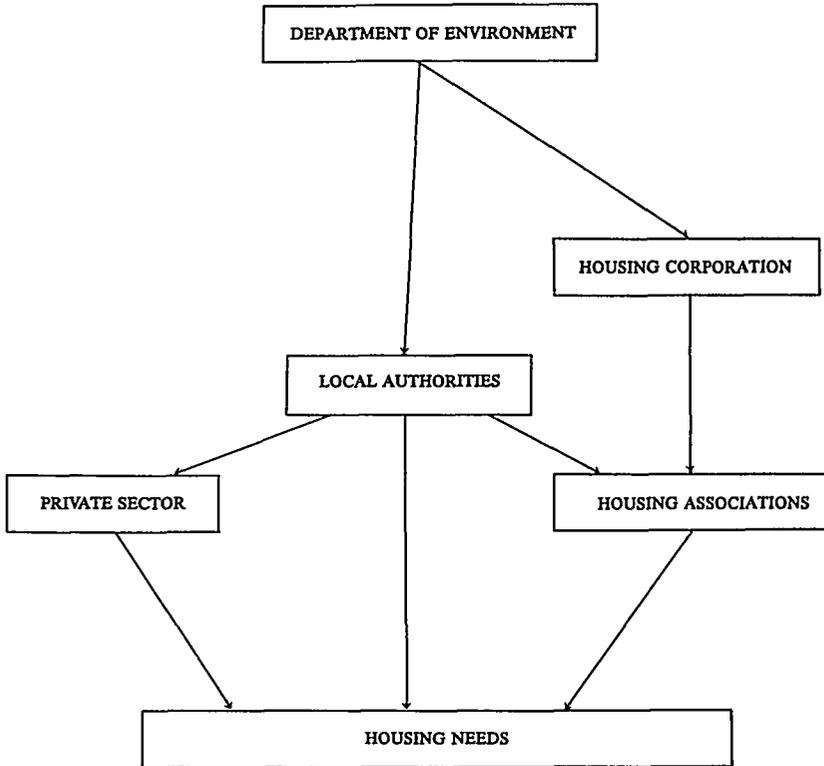


FIGURE "A"  
SIMPLIFIED DIAGRAM OF HOUSING ASSOCIATION FUNDING

A local authority and several independent housing associations may each be actively engaged in housing activities within the same geographic area. The Housing Corporation or the local authority may independently develop and fund housing association schemes. There was concern that this could lead to duplication of effort or, worse, competition among various associations and the local authority in such activities as acquisition of property.<sup>231</sup>

The Housing Corporation has developed a coordination mechanism for this problem. Before the Housing Corporation develops its programs and makes its allocations to associations each year, the Corporation's Regional Officers hold regular meetings and consult

231. NFHA RESPONSE, *supra* note 86, § 1, para. 29.

with the National Federation and every local authority.<sup>232</sup> Associations also consult with local authorities when making their bids for allocations of housing subsidies. The Corporation registers all construction sites or rehabilitation properties which receive Corporation funding to prevent abortive competition among associations.<sup>233</sup> The local authority receives copies of the registration. Similarly, local authorities are to notify the Housing Corporation when an association has approached them for funding.<sup>234</sup> Under Section 2 of the 1974 Act,<sup>235</sup> a mortgage grant requires the Corporation's consent at the purchase stage. Since the mortgage application gives full details, the Housing Corporation knows which local authority is funding which association(s) and to what extent.<sup>236</sup>

While the main purpose of registration under the 1974 Act is to facilitate control, it also begins the process of coordinating the activities of housing associations and all the other actors in the housing field.

In the initial surge of registration applications pursuant to the Act, the majority of rejections were based upon the proposed role of the association in question.<sup>237</sup> Some associations had no current housing stock or definite projects and could not demonstrate a need for their existence.<sup>238</sup> When potential conflicts of purpose and scope appeared in registration applications, the Corporation often deferred determinations to allow the associations to consider mergers or similar arrangements.<sup>239</sup>

Registration is, however, only a preliminary step in both control and coordination. Some associations, for example, are growth-oriented and expand beyond their original objectives. Others may develop conflicts or duplications of effort during their operations that the Corporation could not foresee from broad statements of purpose in registration applications. Yet, to require more specific coordination at registration could so restrict the role of individual associations as to destroy the element of flexibility.

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232. Bartlett letter, *supra* note 45, at 4.

233. *Id.*

234. *Id.*

235. Housing Act, 1974, c. 44, part I, § 2.

236. Bartlett letter, *supra* note 45, at 4.

237. REGISTRATION, *supra* note 21, at 14-15.

238. *Id.*

239. *Id.*

The encouragement of mergers or amalgamations at this stage has some merit, but they too can be overdone;<sup>240</sup> some larger associations function very well, but smaller organizations have their place. Whereas coordination problems could be avoided by allowing only one association to register in any given locale, such restriction of association activity would defeat the fundamental advantages of flexibility, independence of action, and provision of alternative housing. Only two housing providers, the association and housing authority, would exist for each locality, with each association compelled to act within the same area as its corresponding local authority.

Housing associations have successfully used "zoning"—the restriction of their activities to separate areas—to avoid conflict. Sometimes, however, "zoned" and "unzoned" associations operate in the same location.<sup>241</sup> If several registered associations operate in the locale of a given authority, and some associations operate across the territories of two or more local authorities, the parties must maintain a flow of information to avoid conflict.

DoE oversees all association activities, but is too remote to provide any operations coordination.<sup>242</sup> The National Federation of Housing Associations gathers and disseminates information and represents the interests of associations at the national level, but it also is usually too remote from operations.<sup>243</sup> The Housing Corporation again seems to be the logical coordination vehicle because of its more direct funding role.

Liaison among associations has improved as local and regional groups of associations have formed intermediate level organizations and the National Federation has sponsored conferences and seminars.<sup>244</sup> One liaison group, the London Housing Associations Committee, regularly meets with representatives of the London Boroughs, the National Federation, the London Regional Office staff of the Corporation, and the London Regional staff of the DoE.<sup>245</sup>

In 1977, the DoE introduced the Housing Investment Program

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240. NFHA RESPONSE, *supra* note 86, § I, para. 30.

241. GROWING PAINS, *supra* note 205, at 18.

242. *Id.*

243. Although the National Federation operates on the national level, it is instrumental in fostering local liaison. NFHA RESPONSE, *supra* note 86, § I, paras. 29-30.

244. *Id.* at para. 29.

245. Greater London Council, Note to the Controller of Housing, Visit by Professor Hetzel 2 (June 15, 1979).

(HIP) concept for controlling capital expenditures by local authorities.<sup>246</sup> Under this system, local authorities prepare an annual request for funds. Until 1980, the request was divided into three blocks, one for expenditure by the local authority itself, another for grants to private parties, and a third for allocation by the authority to housing associations.<sup>247</sup> Under the 1980 legislation,<sup>248</sup> only one central government allocation will occur.<sup>249</sup> The absence of a specific category for associations, along with the deep cuts in funds for local authorities, may substantially reduce local authority support for housing association work.

The local authority naturally consults with housing associations to which it expects to allocate funds, regarding the amount of such funds and the nature of work the associations will undertake.<sup>250</sup> Associations receiving substantial funding from local authorities normally develop a close working relationship with them, but there is an apparent need for more cooperation.<sup>251</sup>

Some local governments have not easily accepted housing associations. A DoE report in 1978<sup>252</sup> reflects the problem:

Because we certainly believe that housing associations have a significant if subordinate and supplementary role in the public housing sector, we wish to encourage their use by local authorities. But we are not blind to the difficulties. Whilst, generally, very good relationships exist, some local authorities view housing associations with misgivings and make little use of them; and on the other hand some housing associations prefer to seek Housing Corporation finance rather than local authority finance, thus limiting their involvement with the authority. This wariness may spring from a view that the local authority can or should meet the full need for rented housing in the district, but often it derives from a mutual lack of knowledge and trust. . . .<sup>253</sup>

To a great extent the roles housing associations play depend upon their relationship with local government. The competence of both

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246. CURRENT HOUSING STRATEGIES, *supra* note 163, app. I.

247. *Id.* § 3.2.

248. Housing Act, 1980, c. 51, part VI.

249. Bartlett letter, *supra* note 45, at 4.

250. CURRENT HOUSING STRATEGIES, *supra* note 163, § 4.1.

251. *Id.*

252. *Id.* § 1.4.

253. *Id.*

local government and housing associations can vary greatly, as can local government policy regarding who should provide housing. The national funding now available through the Housing Corporation has changed the prior dependency of associations on local government as a funding source. Nevertheless, local government has such a strong lever in its planning permission powers that it is unlikely an association could proceed where local government opposes its actions. Two factors, however, have tended to reduce the tensions between local government and associations.

First, the extremely deep cuts in public expenditures have forced even the most aggressive local governments to look to other forms of financial support to meet their housing goals.<sup>254</sup> This has been especially true for rehabilitation programs in improvement areas. Most local governments attempting to deal with areas of major housing deterioration and social stress have readily used associations to purchase, repair, and improve tenanted units.<sup>255</sup>

Second, local government can nominate tenants to units developed or rehabilitated by associations,<sup>256</sup> whether the scheme is financed by the local government or the Housing Corporation. In general, persons designated by or acceptable to local government are tenants in fifty percent of housing association units.<sup>257</sup> To some degree, nomination rights would seem to depend on whether the association is supplementing or complementing the work of local government.<sup>258</sup> A complementary role should justify the associations' selection of tenants who are generally outside the scope of responsibility assumed by local government.

Since an independent perspective is one characteristic of associations, it is beneficial for local authorities to communicate with area associations when formulating housing strategy and determining housing requirements. Such communication is desirable whether or not any given association will in fact receive funding through the lo-

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254. NFHA RESPONSE, *supra* note 86, app. II.

255. See 1977-1978 REPORT, *supra* note 6, at 9.

256. See THE HOUSING CORPORATION, HOUSING ASSOCIATION TENANTS 16 n.1 (1979).

257. NFHA RESPONSE, *supra* note 86, § 1, para. 10.

258. "Supplementing" the work of local governments means doing simply that which a local authority would do. "Complementing" can be defined as fulfilling needs considered to be outside the local authority's field of responsibility. CULLINGWORTH, *supra* note 3, at 128.

cal authority.<sup>259</sup> Formulation of an area strategy should occur against a background of ongoing dialogue among the parties concerned. Once an overall plan exists, local authorities can develop in detail their requests for central government funds to be allocated to associations. With both sides participating, an association can see where its own objectives fit into the total picture.<sup>260</sup>

A parallel process should occur when the Housing Corporation allocates its own funds to associations. That is, the Corporation regional office should be aware of developments in the HIP formulation, and the local authority and the Corporation should agree on which associations should receive support from each or both of them.<sup>261</sup> As part of its national responsibility, the Housing Corporation may have to consider whether it should override any local authority decisions affecting associations. For instance, should it fund rehabilitation by associations in response to requests from local residents when the local authority has declined to declare stress areas and may be considering clearance rather than rehabilitation? Other such variances between national and local objectives may arise, requiring sensitive handling by the Corporation in its role as an instrument of national policy.

The funding applications of local authorities and the Housing Corporation converge in the DoE regional office.<sup>262</sup> Whereas coordination between authorities and associations could theoretically take place at this "central" location, it seems more efficient to achieve coordination at the local level. The Housing Corporation and DoE should base their approvals on conformity with national objectives and standards after local problems have been dealt with at the local level.<sup>263</sup>

In contrast to the issue of control, coordination involves the information flow between organizations. The goal is to achieve close contact and mutual cooperation. Groups may accomplish this informally in areas in which only a few associations operate under a single authority; but more complicated situations may necessitate a formal mechanism.<sup>264</sup>

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259. CURRENT HOUSING STRATEGIES, *supra* note 163, § 3.10.

260. *Id.*

261. *Id.* § 3.13.

262. *See id.* § 3.

263. *See id.* § 4.

264. *Id.* § 4.2.

Most larger, active local authorities have appointed one officer to be responsible for contacts with associations.<sup>265</sup> Such focused coordination, if it does not preclude direct contact between the association and other authority officers,<sup>266</sup> seems preferable to ad hoc meetings between individual associations and local authorities. The contact officer can gather information enabling the authority to determine which associations it should invite to meet specific identified needs.<sup>267</sup>

In addition, representatives from the local authority, the area housing associations, the National Federation, and the Housing Corporation could form a liaison group similar to the London Housing Associations Committee.<sup>268</sup> It might also be useful to include a representative of the DoE regional office. Where many associations operate in the same area, a committee of local associations could appoint a few representatives to the liaison group.<sup>269</sup>

The right of local authorities to nominate tenants for association housing creates another coordination problem.<sup>270</sup> One study indicated that eighteen percent of new housing association tenants come from local authority housing, and over twenty-five percent of new tenants are nominated by local authorities.<sup>271</sup> Who will nominate which tenants can be a major area of conflict, although this problem seems to have abated through local negotiations.<sup>272</sup>

Another area of coordination concerns rent comparisons between associations and local authorities. A Rent Officer determines "fair rent" rates which govern both housing associations and the private

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265. *Id.* § 4.3.

266. *Id.*

267. *Id.* § 4.5.

268. *Id.* See also note 245 and accompanying text *supra*.

269. CURRENT HOUSING STRATEGIES, *supra* note 163, § 4.6.

270. Part of the cooperation between local authorities and housing associations should occur in the determination of who will be housed in the mix of available subsidized housing. DoE intends that housing associations should to some extent accommodate local authority nominations of tenants to housing association units. DoE, HOUSING ACT 1974, *supra* note 117, at para. 31.

271. These figures exclude "sitting tenants," who become tenants by reason of being occupants of existing housing at the time the association acquires it. THE HOUSING CORPORATION, HOUSING ASSOCIATION TENANTS, paras. 5.8 and 5.11 (1979).

272. See, e.g., NFHA RESPONSE, *supra* note 86, § I, para. 11.

sector. Local authorities, on the other hand, set their own rents.<sup>273</sup> Because local authorities normally have a stock of housing which is already paid for, they can pool rents to offset some of the impact of higher costs for new projects. In addition, they can further subsidize their housing programs with their own tax revenues.<sup>274</sup> Thus, local authority rents are often substantially lower than those set for housing associations.<sup>275</sup> As a consequence, a varying level of subsidy may be paid for housing a local authority applicant, depending on which body ultimately houses him.<sup>276</sup> Although in either situation the tenant will receive a substantial economic benefit, the Committee of Public Accounts admits that there is "an element of illogicality" in this situation which needs resolution.<sup>277</sup>

The National Federation of Housing Associations recommends that the Rent Officer continue to set new rents, but that his criteria include comparable rents in the public sector.<sup>278</sup> The Federation further suggests that associations retain some flexibility to make minor adjustments within prescribed average rent ranges.<sup>279</sup>

The 1980 legislation will permit associations to increase rents more rapidly than in the past.<sup>280</sup> Despite central government pressures on local authorities to raise council housing rents, the result of the new policies is likely to be a growing, not decreasing, gap between association and local authority rent levels.<sup>281</sup>

#### V. PAST PERFORMANCE AND FUTURE PROSPECTS: HOUSING ASSOCIATIONS CAN ACHIEVE RESULTS

Although housing association properties still represent a small percentage of the total housing stock, their contribution to growth has recently become more substantial.

For the year ending March 31, 1978, Housing Corporation-funded schemes added 17,091 new and 4,924 rehabilitated units to the hous-

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273. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. V, para. 7.

274. *Id.*

275. NFHA RESPONSE, *supra* note 86, § III, para. 80.

276. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, at x, paras. 14-15.

277. *Id.*

278. NFHA RESPONSE, *supra* note 86, § III, para. 87.

279. *Id.* at para. 88.

280. Housing Act, 1980, c. 51, part II, § 59.

281. King letter, *supra* note 18, at 3.

ing stock.<sup>282</sup> Completions by housing associations represented 16.1% of those in the public sector and 8.6% of all completions.<sup>283</sup> In calendar year 1977, new building starts by housing associations in Great Britain represented twenty-one percent of those in the public sector; approvals for association rehabilitation projects made up one-third of public sector rehabilitation.<sup>284</sup> Access to funds limits the ability of associations to provide units. Production has fallen recently because of rising costs and reduced funding,<sup>285</sup> nevertheless, associations have continued to produce. In fiscal year 1977-78, the balance of housing association scheme approvals shifted from new building to rehabilitation.<sup>286</sup> Having assumed their envisioned role in concentrated area improvement strategies and the reversal and prevention of urban decay, associations are now the major agents of rehabilitation in many urban areas.<sup>287</sup>

Housing association activity in specially designated housing rehabilitation area programs<sup>288</sup> was as high as sixty-six percent of their total activity in one region.<sup>289</sup> A very small proportion of this type of activity in the London region is attributable to agreements with local authorities. Under such agreements, the Housing Corporation concentrates association work on the periphery of special areas while local government handles work within the areas.<sup>290</sup>

The latest figures indicate that associations have maintained their record of activity, subject only to funding support. In the year ending March 31, 1980, the Housing Corporation approved loans for a total of 41,369 new and improved homes in England, Scotland, and

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282. 1977-1978 REPORT, *supra* note 6, at 6.

283. *Id.*

284. *Id.*

285. The Housing Corporation points out that it was able to utilize all available funds. In absolute numbers, more units were approved in 1977-78 than in the previous annual period, but the total activity was lower than had been anticipated. *Id.* at 5.

286. *Id.* at 9.

287. *Id.*

288. These special area improvement designations include Housing Action Areas, Priority Neighborhoods, and General Improvement Areas. Though they were only listed as categories in which housing association projects would be encouraged under the 1974 Act, these areas of acute housing stress have received increased priority. *Id.*

289. *Id.*

290. *Id.*

Wales.<sup>291</sup> For the 1981 financial year, the Corporation has received a cash allocation of £420 million (covering schemes approved in previous years, new schemes, and major repairs) and a limit of £368.4 million on the estimated cost of new approvals during the last year.<sup>292</sup> Were they all to be "fair rented" projects fully supported by HAGs, this would represent some 21,500 units in all.<sup>293</sup>

Production is not necessarily successful if it is achieved at too high a cost. To judge the cost efficiency of housing associations, the obvious comparison is with local authority housing. These two types of housing organizations have somewhat different mixes of properties, however, which makes meaningful comparisons difficult.<sup>294</sup> The majority of housing association units, having only one or two bedrooms, are smaller in size than a large proportion of local authority housing.<sup>295</sup> A lack of data restricts direct comparison,<sup>296</sup> but since both organizations must conform generally to the same space standards and cost limits, there is no reason to suppose that associations are any less efficient than local authorities in terms of capital costs of units.<sup>297</sup> With similar difficulties in obtaining comparable data, there is no indication of a significant difference in management costs between the two.<sup>298</sup> The raw data available indicate lower per unit costs on both capital expenditure and maintenance for housing association properties than for local authority properties.<sup>299</sup>

Development time is another measure of efficiency in which housing associations compare favorably. There appears to be no significant difference in construction time between local authority and association housing.<sup>300</sup> In terms of overall development time, however, housing association schemes average three and one-half years compared to five or six years for local authority projects.<sup>301</sup> To be fair, one should recognize that local authorities have additional diffi-

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291. Bartlett letter, *supra* note 45, at 5.

292. *Id.*

293. *Id.*

294. COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 5, app. V, paras. 2-4.

295. *Id.* at para. 2.

296. *Id.* at para. 3.

297. *Id.* at para. 10.

298. *Id.* at para. 6.

299. *Id.* at paras. 4 and 6.

300. *Id.* at para. 5.

301. NFHA STUDY, *supra* note 12, at 68.

culties<sup>302</sup> that contribute to their longer development times. Nevertheless, time is an important factor in housing delivery, and a project apparently can be completed faster by a housing association.<sup>303</sup> Limited data also indicate that association development takes only three months longer than does private sector development (thirty-five months as compared with thirty-two months).<sup>304</sup> This is a notably small difference given the complex approval process required for grant-aided projects.<sup>305</sup>

Housing associations respond to the needs of tenants who have special housing requirements that are not otherwise met. A large number of association dwellings accommodate the elderly.<sup>306</sup> Associations provide housing tailored to suit the needs of such other groups as the physically handicapped,<sup>307</sup> the mentally retarded,<sup>308</sup> and former psychiatric patients.<sup>309</sup> Specialized management and services required by these groups are part of the package which housing associations can furnish.<sup>310</sup> Hostels are another form of housing that associations provide.<sup>311</sup> One association in the London area even caters to the needs of artists, providing studio and residential accommodation.<sup>312</sup> A shortage of housing for single people and small families exists in Britain. Thus a large proportion of association housing is in the form of bedsitting rooms and one bedroom flats.<sup>313</sup> Associations meet numerous other special needs in terms of providing units to accommodate those with special requirements.<sup>314</sup>

Housing associations also provide flexibility in responding to the

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302. Local authority projects often involve compulsory purchase. *See, e.g., id.* §§ 3-4.

303. *Id.* at 69.

304. *Id.*

305. *Id.*

306. The Housing Corporation uses over one-half of new construction resources in providing accommodations for the increasing numbers of elderly in England. 1977-1978 REPORT, *supra* note 6, at 6.

307. *Id.*

308. *Id.*

309. *Id.*

310. MERSEYSIDE IMPROVED HOUSES, *supra* note 15, at 23-24.

311. 1977-1978 REPORT, *supra* note 6, at 6.

312. Greater London Council—Housing Dept., Note to the Controller of Housing, Visit by Professor Hetzel 2-3 (from the Assistant Director "R," 1979).

313. 1977-1978 REPORT, *supra* note 6, at 6.

314. *See* MERSEYSIDE IMPROVED HOUSES, *supra* note 15, at 23-24.

needs of individuals with regard to tenant selection.<sup>315</sup> Some associations fear that publicizing tenant selection criteria could lead to an undesirable rigidity.<sup>316</sup> Although it is difficult to evaluate the flexibility of tenant selection, a major survey found that housing associations gave tenancies to a significantly high proportion of single people and families with young children (particularly single parent families). The survey also found that most of those tenants had low incomes and came from inadequate or insecure housing.<sup>317</sup>

Another important element of housing associations is tenant-sensitive management. The attitudes of tenants provide perhaps the best barometer of this function. One study among tenants of a very large housing association found that ninety percent of those who had any future preference for a particular type of landlord would remain with the association because they thought management service was "personal, reliable and efficient."<sup>318</sup> Fifty-seven percent of all tenants had no criticism; in addition, many were familiar with the goals of the organization.<sup>319</sup> These results appear consistent with the goal of Merseyside Improved Houses (MIH), the subject of this survey, to insure that every tenant knows at least one staff member by name.<sup>320</sup>

The National Federation of Housing Associations has published the MIH tenant selection criteria as a guideline and example of good selection policy.<sup>321</sup> MIH has a primary goal of providing for those with greatest housing needs.<sup>322</sup> This goal conflicts to some extent with MIH's activity in Housing Action Areas (HAAs), which emphasizes restoration of the area rather than the characteristics of individuals housed.<sup>323</sup> A problem stems from the large number of properties acquired in HAAs with sitting tenants, and the MIH policy against displacing them.<sup>324</sup> Because acquiring vacant properties in HAAs is

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315. THE HOUSING CORPORATION, *supra* note 206, at para. 10.

316. *Id.*

317. THE HOUSING CORPORATION, HOUSING ASSOCIATION TENANTS para. 5.6 (1979).

318. A. THOMPSON, THE ROLE OF HOUSING ASSOCIATIONS IN MAJOR URBAN AREAS: A CASE STUDY OF MERSEYSIDE IMPROVED HOUSES 93 (1977) [hereinafter cited as MAJOR URBAN AREAS].

319. *Id.*

320. *Id.*

321. THE HOUSING CORPORATION, *supra* note 206, at Annex B.

322. See MAJOR URBAN AREAS, *supra* note 318, at 105.

323. *Id.* at 105-06.

324. *Id.* at 105-08.

difficult, MIH argues against confining activity to special planning areas when this interferes with the association's priority for tenant selection.<sup>325</sup> The judgment of MIH seems to be that people are more important than places, although both need attention in ultimately solving the housing problem.

Sensitivity to tenants' needs is of great concern, especially where association growth may cause management to become remote from those being housed. Recommendations to avoid such remoteness include maintaining a degree of personal contact with tenants,<sup>326</sup> providing written information (perhaps including a newsletter), and encouraging the formation of tenant groups to provide additional channels of communication.<sup>327</sup> Proper and efficient organization of management activity can prevent the scale of operations from interfering with quality in areas such as rent collection, repairs, and rehabilitation of property acquired with sitting tenants.<sup>328</sup>

Indications are that housing associations provide more responsive management than either the private sector or public landlord.<sup>329</sup> The numerical success and the quality of management discussed above show that associations do supply a viable "third choice" in the housing field.

Along with their responsiveness in management and tenant selection, housing associations manifest flexibility in the design area. A measure of their sensitivity and creativity is the large number of design awards that association projects have received.<sup>330</sup> Moreover, association housing schemes incorporating innovative solar heating systems have furnished experimental data on energy efficiency to architects and environmental designers.<sup>331</sup>

In one case, an association scheme utilized financing and building code standards from the private sector,<sup>332</sup> which saved an estimated £2,000 in construction costs. An additional estimated £2,000 saving

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325. *Id.*

326. GROWING PAINS, *supra* note 205, at 7. Using resident managers or delegating liaison to particular tenants are examples of methods of maintaining contact.

327. *Id.* Tenant groups might include tenant associations or committees to investigate problems.

328. *See id.* at 9-10.

329. *See* MAJOR URBAN AREAS, *supra* note 318, at 93.

330. NFHA RESPONSE, *supra* note 86, § I, para. 25.

331. MERSEYSIDE IMPROVED HOUSES, *supra* note 15, at 26.

332. *Id.* at 27.

resulted from time saved in not having to obtain the detailed approvals required by DoE and the Housing Corporation for grant-aided projects.<sup>333</sup> The estimated saving of thirty percent per unit on this scheme should prove an interesting piece of information in the debate over housing standards and cost efficiency.<sup>334</sup> Furthermore, the project illustrates the dual public/private nature of housing associations, in that nothing prevents them from experimenting outside of the parameters of government aid.

Associations have shown considerable skill in marshalling public funds from sources beyond the statutory framework of association subsidies to implement a variety of unusual projects. Associations have used grants for historical preservation,<sup>335</sup> environmental cleanup,<sup>336</sup> and public labor subsidy,<sup>337</sup> and have helped other community groups to obtain public funds.<sup>338</sup>

Housing associations have become an instrument for the development of alternative forms of tenure. In the last few years, the government has taken three new initiatives with respect to the form of housing associations.<sup>339</sup> These are co-ownership, a variation of co-ownership called community leasehold, and housing cooperatives. Although still in an experimental state, they reflect interest by a sufficient number of advocates to justify governmental support.

Co-ownership, as now revived, has improved over the original scheme in terms of equity sharing. Current co-ownership financing entails a building society loan for one-half the cost, a HAG for one-sixth, and a second mortgage from the Housing Corporation for one-third.<sup>340</sup> The joint mortgage, reduced by the option mortgage factor, is paid from the co-owner's rent.<sup>341</sup> Although the estate remains with the association (society), a departing co-owner receives one-half of any increase in equity during his residence with a guarantee of no loss.<sup>342</sup>

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333. *Id.*

334. *Id.*

335. *Id.* at 28.

336. *Id.* at 32-33.

337. *Id.*, at 34.

338. *Id.* at 37.

339. See CULLINGWORTH, *supra* note 3, ch. 7.

340. *Id.* at 124.

341. *Id.*

342. *Id.*

The community leasehold allows buyers to purchase a portion of the lease, initially fifty percent, and to pay rent on the remainder.<sup>343</sup> Upon leaving, they are entitled to a proportionate share of any appreciation in the unit's value.<sup>344</sup> The society retains the leasehold and the buyer finances the portion he purchases with a building society mortgage.<sup>345</sup>

The British origin of the cooperative movement has not fully reflected itself in the housing field. The concept surely is attractive to those interested in neither council housing at subsidized rents nor the advantages of traditional homeownership.<sup>346</sup> The member's equity interest, however, will be limited to the par value of the share purchased without any rights to appreciation.<sup>347</sup> The concept involves commitment to shared management and a desire for community rather than individualized home ownership.

The government has performed several experiments with cooperatives, despite the apparent economic disincentive.<sup>348</sup> The Housing Corporation initially formed a Co-operative Housing Agency under the Corporation's Control to promote various types of cooperative housing.<sup>349</sup> The agency has now become a Co-operative Services Unit within the Corporation's Housing Policy Division.<sup>350</sup> Whether such experimental efforts will generate increased interest and major policy thrusts is not yet clear. These programs are in their early stages and constitute a small part of association activity,<sup>351</sup> as a factor in housing policy they currently have minimal significance. They reflect, however, the creative potential of the housing association movement and represent one more facet of the variety in housing choice that associations can provide.

Finally, housing associations have also demonstrated some useful

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343. *Id.* at 125.

344. *Id.*

345. *Id.*

346. *Id.* at 125-26. See DOE, FINAL REPORT OF THE WORKING PARTY ON HOUSING COOPERATIVES (1975).

347. CULLINGWORTH, *supra* note 3, at 125.

348. Several circumstances, such as dissatisfaction with the present focus of housing, converged to bolster interest in cooperative housing. Effective lobbying for alternative forms of tenure likewise sparked official interest. See *id.* at 126-27.

349. 1977-1978 REPORT, *supra* note 6, at 7 and 16-17.

350. Bartlett letter, *supra* note 45, at 5.

351. 1977-1978 REPORT, *supra* note 6, at 7 and 16-17.

alternatives to approaches taken by public sector council housing. Associations have avoided some of this sector's worst excesses, such as large local authority building programs with tower, high-rise blocks or vast estates. Typically, housing association structures are architect-designed and attractive;<sup>352</sup> estates rarely exceed one hundred houses and frequently are on a more human scale of about thirty.<sup>353</sup>

A number of new initiatives for associations will now be possible because of provisions in the 1980 legislation. As part of the revisions introduced by the Conservative government, non-charitable housing associations<sup>354</sup> will have to offer to sell their units to many sitting tenants.<sup>355</sup> Tenants will receive discounts of thirty-three to fifty per cent from appraised value, based upon length of occupancy.<sup>356</sup> The revisions also provide the right to obtain a mortgage from the Housing Corporation, limited only by the tenant's ability to repay.<sup>357</sup> Tenants can purchase the freehold of a house, or a 125-year lease for a flat.<sup>358</sup> "Shared ownership" will also be possible; the association will retain a part of the interest in the property with a consequent reduction in cost to the purchasing tenant.<sup>359</sup>

The 1980 legislation empowers and encourages associations to acquire and rehabilitate units for sale.<sup>360</sup> Rehabilitation costs less than new construction and allows associations to help revive run-down areas by introducing diversity of tenure as well as by improving and repairing the structures.<sup>361</sup> Associations will receive a grant of up to £5,000 per dwelling should there be an adverse gap between cost and sale price.<sup>362</sup>

One consequence of the government's sales policy is to free additional funds for the association's use. Proceeds of sales will first re-

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352. Scotland Housing Association, *Housing Finance Review* 1 (1975).

353. See REGISTRATION, *supra* note 21.

354. NFHA GUIDE, *supra* note 87, at 4.

355. Housing Act, 1980, c. 51, part I, § 1.

356. *Id.* § 7.

357. *Id.* § 9.

358. *Id.* §§ 1, 17, sch. 2.

359. *Id.* part IX, § 140, sch. 3, 18.

360. *Id.* part VIII, § 127.

361. NFHA GUIDE, *supra* note 87, at 20.

362. Housing Act, 1980, c. 51, part VIII, § 130.

deem outstanding loans and repay HAGs,<sup>363</sup> but associations can recycle any surpluses for housing purposes.<sup>364</sup> These funds should help to give associations greater independence of action.

Although the problems of control, coordination, and efficiency have not found final solution, housing associations have worked successfully at achieving their purposes. Even in the present period of more limited governmental support, they have been given a most meaningful role. Considering the complexity of housing problems and the fact that housing associations are made up of people with human frailties, the British voluntary housing movement seems to be doing a remarkably good job.

## VI. HOUSING ASSOCIATIONS IN AMERICA: A BEGINNING?

Whether the housing association concept will be viable in the United States is a question that could be answered in the coming years. Representative Bingham of New York introduced a bill<sup>365</sup> in the 96th Congress to establish a National Mutual Housing Corporation to promote the development of "mutual housing associations" in America. The bill defined these associations as private, not-for-profit corporations whose purpose is to develop and manage multi-family housing for low- and moderate-income people in inner-city areas.<sup>366</sup> Anticipated characteristics consist of a voluntary management committee, professional staff, and a meaningful consultation role for tenants.<sup>367</sup>

The proposed role for these housing associations in inner-city housing developments is reminiscent of the associations' role in improvement of urban areas in Britain.<sup>368</sup> While the term "mutual housing association" reflects an intent to include cooperative housing, cooperative projects represent but one of several models. Associations, as they are developed in the United States, may differ

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363. *Id.* § 131.

364. NFHA GUIDE, *supra* note 87, at 22-23.

365. H.R. 5111, 96th Cong., 1st Sess. (1979).

366. 125 Cong. Rec. H7166 (daily ed. Aug. 2, 1979) (remarks of Rep. Bingham) [hereinafter cited as CONG. REC. (Bingham)].

367. *Id.* at H7167.

368. *Id.* The concentration of housing association activity in area improvement programs is a direct attack on the deterioration of urban centers. See note 286-89 and accompanying text *supra*.

from traditional cooperative housing projects.<sup>369</sup> Cooperatives are clearly of limited attraction and utility, which explains why they are not the prevalent models in Europe.

The concept of mutual housing associations should be seen to encompass the functions presently carried out by housing associations in Britain. The current descriptions of the mutual housing association concept reflect a number of parallels, in terms of structure and rationale, with the development of the British associations.<sup>370</sup>

Housing associations are a response to rising construction costs and the breakdown of private market provision of residential housing in inner city areas.<sup>371</sup> As in Britain, the government is seeking alternative solutions to housing problems because public and private efforts have failed.<sup>372</sup> The bill contemplated a National Mutual Housing Corporation to promote the development of housing associations in much the same way that the Housing Corporation in England emerged to promote them. Because the housing association concept is new to America, the existence of a promotional body such as the Corporation would seem highly desirable.<sup>373</sup>

The Corporation could be an independent public entity whose task is to assist in the formation of housing associations by providing technical assistance, "seed" grants, and general information.<sup>374</sup> The Corporation would aid associations in applying for public funding under existing housing programs. It would also lead in developing both the role of associations and new Federal programs to support housing association activities.<sup>375</sup>

As proposed, the Corporation would be headed by a board of directors which would include the Secretary of HUD, the Chairman of the Board of Directors of the National Consumer Cooperative Bank, the Administrator of the National Credit Union Administration, two members from housing associations, two members from the general public with extensive experience in cooperative housing, one repre-

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369. See CONG. REC. (Bingham), *supra* note 366, at H7167.

370. *Id.* Emphasizing the resident's role, whether as tenant or cooperative owner, provides a number of alternative models for non-profit housing associations.

371. *Id.* at H7166.

372. *Id.*

373. *Id.* at H7167.

374. *Id.*

375. *Id.* at H7167-68.

sentative for credit unions, and one representative for consumers.<sup>376</sup> The President would appoint persons to fill the latter six of these positions.<sup>377</sup> The composition of the board seeks representation from a number of fields vital to the success of the concept, and apparently intends to promote the spread of information to other institutions.

Housing associations qualifying for assistance would be corporate bodies independent of the National Corporation.<sup>378</sup> Their operations would include the planning and development of housing projects and the raising of capital finance to execute projects.<sup>379</sup>

The model described in the legislation is a hybrid cooperative. It would give residents the option to purchase stock for an equity share in the association (which owns the project), or to become non-shareholding members and pay rent (allowing those who cannot afford capital investment to participate).<sup>380</sup> Membership in the association would insure responsible management; the similarities to cooperative housing are obvious.<sup>381</sup> Retaining ownership and management responsibility over projects in an association, whether or not a cooperative, prevents the "milking" of property for profits which can be a major problem with private sector housing in inner-city areas.<sup>382</sup> On the other hand, since the association is a private entity, the red tape of public housing is avoided.<sup>383</sup>

The proposed model of mutual housing associations could provide cost-rent to tenants, but limits tenants to those with at least moderate incomes unless subsidies are available. The bill views rental income as a source of financing for new projects.<sup>384</sup> Though subsidies through federal programs may become available, there is no large direct subsidy to the association as there is in Britain.<sup>385</sup> When subsidies issue from various programs, the problems of dealing with the

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376. H.R. 5111, 96th Cong., 1st Sess. (1979).

377. *Id.*

378. CONG. REC. (Bingham), *supra* note 366, at H7168.

379. *Id.* at H7166-67.

380. *Id.* at H7167.

381. *Id.*

382. *Id.*

383. *Id.*

384. *Id.*

385. *Id.* The mutual housing association is intended to generate its own capital finance, with the possible exceptions of seed grants and subsidies from other programs.

bureaucracy of the Department of Housing and Urban Development (HUD) arise.

Non-profit housing entities have operated sporadically in this country.<sup>386</sup> The existence of housing development corporations during the last decade and the continuing presence of traditional cooperatives attest to the resilience of this movement. Nevertheless, several ingredients have been missing. First, there has been no real national policy support. Occasional private, non-profit initiatives have received little response beyond simple recognition of their existence. Government public housing bureaucrats and self-interested profit developers have effectively restrained growth of the concept. Second, there has been no entity equivalent to the National Housing Corporation, an essential element in British policy. Neither a constituency building nor an effective monitoring and support function has been developed. Furthermore, a sufficient base has never formed, as in Britain, for a national federation to provide training and constituent representation.

Third, professional staffing was almost unheard of in efforts prior to the recent proposal. Reliance on untrained housing amateurs produced the predictable result of large numbers of failures by non-profit corporations.<sup>387</sup> While well-intended at the outset, the few skilled professionals who helped start a project did not get involved in the day-to-day management when things went wrong.<sup>388</sup> Since few initiators of a project went on to subsequent projects, experience was absent in each new endeavor; there was no learning curve at all. Fourth, a well-coordinated subsidy program has not existed to meet the specific needs of non-profit corporations. Tailoring programs to meet needs of non-profit developers has proved ineffective.<sup>389</sup> For example, there was no support for initial organization of the corpora-

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386. See NATIONAL COMMISSION ON URBAN PROBLEMS, BUILDING THE AMERICAN CITY, H.R. DOC. NO. 91-34, 91st Cong., 1st Sess. 134-48 (1968).

387. See A DECENT HOME, *supra* note 1, at 91.

388. See NATIONAL COMMISSION ON URBAN PROBLEMS, *supra* note 386, at 137-39.

389. Several American programs have financed non-profits: the § 202 direct loan program (providing guaranteed mortgages at below-market interest rates); the § 213(d) program (aimed at fostering cooperative housing); and the § 236 interest-reduction subsidy. All of these programs were available to non-profit housing "sponsors." "Tailoring," however, was generally limited to permitting 100%, rather than 90%, mortgage financing for non-profit sponsors. The willingness to dispense with an investment by non-profit groups does not necessarily provide sufficient incentives for construction, nor does it eliminate the need for pre-construction funds. Furthermore,

tion, and no provision for seed money; subsequent reimbursement requires that other funds be available initially. To be effective, a new program needs to address all four of these factors.

The mutual housing association proposal satisfies several of these ingredients, and may prove quite successful in developing co-ownership. With some expansion from the currently proposed structure, it could develop into a subsidy delivery system paralleling the success of the British housing associations with their many advantages. What appears necessary is experimentation with several models of housing associations to find the combination that would work best here. The present proposal resembles the phase immediately following the 1961 British legislation that fostered many successful cost-rent schemes.<sup>390</sup> Some of the cost-rent schemes in Britain however, have required substantial improvements and related capital outlays because of the low building standards used to make them economically viable.<sup>391</sup> The objective should be, as it was in the British program, to stimulate private commitment to effective production and management of units and to make public loans available for financing.

In section 316 of the 1980 Housing Act,<sup>392</sup> Congress acknowledged the potential of mutual housing associations to help "make multifamily housing in the United States more affordable." Congress also praised "the efforts being made in connection with the national demonstration program of mutual housing associations being undertaken by the Neighborhood Reinvestment Corporation and the National Consumer Cooperative Bank with the cooperation of the Department of Housing and Urban Development."<sup>393</sup>

The participants in this demonstration program are to transmit a report to Congress on their findings and conclusions along with legislative recommendations by September, 1981.<sup>394</sup> Although the early reporting date seems somewhat ambitious, the Senate and House Reports for the Act reflect an expectation that four associations should

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100% financing does not obviate the need for management and operating cost subsidies where projects involve families with low incomes. *See, e.g., id.* at 136-48.

390. *See* text at notes 42-44 *supra*.

391. King letter, *supra* note 18, at 2.

392. Housing and Community Development Act of 1980, Pub. L. No. 96-399, § 316(a), 94 Stat. 1645 (1980).

393. *Id.*

394. *Id.* § 328(b).

receive assistance through the demonstration.<sup>395</sup>

The advantage of the voluntary non-profit concept is its flexibility in providing both a form of homeownership and a professionally managed source of multi-family rentals. Such British ideas as equity sharing are quite consistent with the concept of mutual housing associations. Thus, the association can be a vehicle for a number of alternative approaches to tenure and management of housing.

The essential elements of the concept are a non-profit corporate structure which develops and owns properties it manages, a professional staff, and resident membership in the association (or limited equity ownership in the cooperative). A number of European approaches provide alternative models; the British model is especially relevant.

Although some observers suggest that resident investments could provide a source of seed money or investment capital,<sup>396</sup> that seems an unreasonable expectation given the intended resident target group of low- and moderate-income families. Labor unions or churches might initially fund associations in the United States as has occurred in Germany and Holland.<sup>397</sup> The National Consumer Cooperative Bank<sup>398</sup> and local government Community Development Block Grant<sup>399</sup> funds also represent possible sources for such support. The most appropriate approach would entail, as in Britain, financing and subsidies specifically tailored to support and tap the energies inherent in the voluntary, non-profit housing association movement.

Given the obvious need for governmental support for low- and moderate-income housing, housing associations offer an opportunity to reduce government's direct role. At the same time, voluntary housing associations increase the options for private initiative. Moreover, associations provide an alternative for serving low- and moderate-income families which is potentially cheaper than either private for-profit development or traditional public housing. Housing associations can rehabilitate inner-city areas and serve the needs of

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395. S. REP. NO. 736, 96th Cong., 2d Sess. (1980); H.R. REP. NO. 979, 96th Cong., 2d Sess. (1980).

396. See CONG. REC. (Bingham), *supra* note 366, at H7168.

397. See, e.g., The German Marshall Fund, Perspectives 1 (Oct. 1980).

398. National Consumer Cooperative Bank Act, 12 U.S.C. §§ 3001-3050 (Supp. III 1979).

399. Housing and Community Development Act of 1974, 42 U.S.C. §§ 5301-5319 (Supp. III 1979).

groups with special requirements, including the handicapped and the elderly.

The success of other Western countries with free-market economies in implementing housing association programs suggests the appropriateness of employing similar programs here. Whereas alternative models must be evaluated and viable demonstrations developed, the experience in Britain indicates that the private non-profit sector can and will respond rapidly to appropriate incentives. Freed from excessive government controls, this responsiveness can be harnessed to meet the housing needs of the increasing portion of our population that requires governmental financing to obtain a decent home in a suitable living environment.

## APPENDIX: HAG EXAMPLES

REHABILITATION OF A TYPICAL VACANT 2 BEDROOM TERRACE HOUSE	POUNDS	DOLLARS
ACQUISITION COSTS .....	£2,000	\$4,320
LEGAL FEES .....	200	432
ACQUISITION ALLOWANCES (Basic) .....	165	356.40
VACANT SUPPLEMENT .....	45	97.20
IMPROVEMENT COSTS .....	11,000	23,760
ARCHITECT'S FEES .....	1,100	2,376
IMPROVEMENT ALLOWANCES (Basic) ...	240	518.40
NEW TENANCY ALLOWANCES .....	75	162
BRIDGING INTEREST .....	350	756
CAPITALISED INTEREST .....	150	324
TOTAL COSTS.....	<u>15,325</u>	<u>33,102</u>
EXPENDITURE		
ANNUAL RUNNING COSTS		
REPAIRS AND MAINTENANCE .....	200	432
MANGEMENT .....	<u>110</u>	<u>237.60</u>
ANNUAL RUNNING COSTS .....	<u>310</u>	<u>669.60</u>
ANNUAL INCOME		
RENTS .....	375	810
LESS 4% VOIDS.....	<u>15</u>	<u>32.40</u>
	<u>360</u>	<u>777.60</u>
EXCESS OF INCOME OVER EXPENDITURE		
INCOME OF .....	360	
LESS EXPENDITURE .....	<u>310</u>	
NET INCOME .....	<u>50</u>	
To calculate the mortgage the net income in the 1st year i.e. £50 is capitalised over the thirty year loan period		
50 x 6.57969038 (From annuity tables based on 15% interest over 30 years) .....	<u>329</u>	
Therefore Housing Association Grant will be the total capital costs of	15,325	
Less the mortgage of .....	329	
i.e.	14,996	
Housing Association Grant = 98% .....	<u>£14,996</u>	<u>\$32,391.36</u>

NEWLY BUILT 2 BEDROOM HOUSE	POUNDS	DOLLARS
LAND COSTS.....	£1,000	\$2,160
BUILDING COSTS.....	15,000	32,400
PROF FEES.....	1,200	2,592
ALLOWANCES.....	1,000	2,160
CAPITALISED INTEREST.....	<u>1,000</u>	<u>2,160</u>
	19,200	41,472
EXPENDITURE		
MANAGEMENT.....	80	172.80
MAINTENANCE.....	100	216
HIGHER MANAGEMENT.....	<u>25</u>	<u>54</u>
	205	442.80
INCOME		
RENTS.....	550	1,188
LESS VOIDS.....	<u>22</u>	<u>47.52</u>
	528	1,140.48
INCOME.....	528	1,140.48
LESS EXPENDITURE.....	<u>205</u>	<u>442.80</u>
ANNUAL NET INCOME IN FIRST YEAR .	323	
323 x 6.66553194 (Based on 15% interest over 60 years)	2,153	
The total mortgage per unit is therefore.....	2,153	
Housing Association Grant required.....	17,047	
i.e. Capital Costs.....	19,200	
Less mortgage.....	2,153	
SUMMARY		
CAPITAL COST PER UNIT.....	19,200	41,472
MORTGAGE.....	2,153	4,650.48
HOUSING ASSOCIATION GRANT = 89% .	<u>17,047</u>	<u>36,821.52</u>

## **NOTES**

