SHAPIRO, DANDRIDGE, AND RESIDENCE REQUIREMENTS IN PUBLIC HOUSING

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I. INTRODUCTION

Recently the United States Supreme Court has been faced with the question of the constitutionality of residence requirements imposed by the states as a prerequisite for obtaining welfare benefits. The 1969 landmark decision of *Shapiro v. Thompson*[1] applied the "compelling governmental interest" equal protection standard to such residency requirements for public assistance. This standard made it easy for the Court to strike down the requirement, and at first blush it appeared that such requirements were on the way out. However, a few months later, the Court may have revitalized the validity of these residency requirements with its decision in *Dandridge v. Williams*.[2] Although that case involved maximum grant limitations, rather than residency requirements, it is likely to have widespread ramifications in the whole field of public assistance and welfare. By applying the "reasonable basis" standard of equal protection, it now appears very difficult for the Court to hold classifications which are likely to discriminate against the poor as violative of the fourteenth amendment.

A more detailed examination of these decisions and their ramifications follows.

II. EQUAL PROTECTION STANDARDS: *Shapiro* AND *Dandridge*

In *Shapiro* the United States Supreme Court held that a durational residence requirement, as a prerequisite to the receipt of public assistance, was unconstitutional on two separate grounds. First, it established a class of people who could not receive the same benefits that other citizens received, and since there was no compelling state interest requiring such classification, it was violative of the equal protection clause of the fourteenth amendment. Secondly, and perhaps

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1. 394 U.S. 618 (1969).

2. 397 U.S. 471 (1970).

most important, the Court held that the residence requirement infringed on a constitutionally protected right to travel.

In reaching its decision, the Court rejected the appellants' contention "that a mere showing of a rational relationship between the waiting period and . . . admittedly permissible state objectives . . . ."[3] would support the classification. Rather, the Court held that there must be some compelling governmental interest to support the classification.[4] Mr. Justice Brennan, writing for the Court, stated:

> The waiting-period provision denies welfare benefits to otherwise eligible applicants solely because they have recently moved into the jurisdiction. But in moving from State to State or to the District of Columbia appellees were exercising a constitutional right, and any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a *compelling* governmental interest, is unconstitutional.[5]

This broad statement seems to suggest, at the very least, that a durational residence requirement of any sort will be unconstitutional unless it is justified by a compelling governmental interest. A more expansive reading would seem to suggest that any governmental action which tends to penalize the exercise of the right to travel would be unconstitutional unless supported by a compelling governmental

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3. 394 U.S. at 634.

4. It is difficult to state precisely the origin of the compelling governmental interest test. However, it is clear that it was recognized as early as 1944 when the Supreme Court decided Korematsu v. United States, 323 U.S. 214 (1944). In that case, Mr. Justice Black, speaking for the Court, stated:

> It should be noted, to begin with, that all legal restrictions which curtail the civil rights of a single racial group are immediately suspect. That is not to say that all such restrictions are unconstitutional. It is to say that courts must subject them to the most rigid scrutiny. Pressing public necessity may sometimes justify the existence of such restrictions; racial antagonism never can.

Id. at 215.

Since that time the Court has applied the test on numerous occasions, primarily in cases involving classifications based solely on race, but also in cases involving voting rights and education. *See, e.g.*, McLaughlin v. Florida, 379 U.S. 184 (1964); Reynolds v. Sims, 377 U.S. 533 (1964); and Brown v. Board of Education, 347 U.S. 483 (1954).

Finally, it is important to note the distinction between the traditional test and the compelling governmental interest test. In the former, a classification must have some reasonable relation to some legitimate state interest. In contrast, under the latter theory, a classification need not be invidious to be declared invalid. Furthermore, it can have some reasonable relation to some legitimate state interest and, nevertheless, be invalid. *See* Note, *Developments in the Law—Equal Protection*, 82 HARV. L. REV. 1065, 1130 (1969).

5. 394 U.S. at 634.

interest. However, shortly after *Shapiro,* the Court decided *Dandridge,* in which it upheld a "maximum grant"[6] provision of the Maryland Aid to Families with Dependent Children (AFDC) program, which cast doubt on the extent of the holding in *Shapiro.*

In *Dandridge,* the appellees were AFDC recipients, who brought an action to enjoin the use of the maximum grant regulation, contending that it constituted an invidious discrimination against them because they had large families and that it was, therefore, violative of the equal protection clause of the fourteenth amendment. Appellants argued that the traditional equal protection test[7] should apply, and under that test, the regulation was rationally supported and justified by several legitimate state interests, particularly in that it encouraged gainful employment. The lower court held that the regulation was violative of the equal protection clause of the fourteenth amendment,[8] but the Supreme Court reversed, stating that:

> In the area of economics and social welfare, a State does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some "reasonable basis," it does not offend the Constitution simply because the classification "is not made with mathematical nicety or because in practice it results in some inequality."[9]

Thus, in *Dandridge,* the Court returned to the traditional equal protection test and apparently halted a trend toward full protection of the poor through equal protection of the laws,[10] a position for which

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6. Essentially, the AFDC regulations provide that a certain amount is paid for each child, for instance $30.00 per month. However, this is then limited by a maximum grant provision which provides, in effect, that the maximum amount any one family may receive is, for example, $250.00 per month. Thus, a large family would receive nothing for the tenth or greater child, and only $10.00 per month for the ninth, because the maximum grant had been reached.

7. *See* Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61 (1911). Essentially, the traditional test is that if there is some reasonable basis for the classification, it will not be invalidated.

8. Dandridge v. Williams, 297 F. Supp. 450 (D. Md. 1968), *rev'd,* 397 U.S. 471 (1970).

9. 397 U.S. at 485.

10. It is interesting to note that *Shapiro* and *Dandridge* were decided during a period when the Supreme Court was in turmoil. It could perhaps be argued that the different make-up of the Court had an important bearing on the two decisions, and may have caused the apparent difference in result. However, this the position is difficult to support after analysis of the split in the decisions. In *Shapiro,* Justice Brennan wrote the majority opinion, Justice Stewart wrote a separate concurring opinion, and Chief Justice Warren, and Justices Black and Harlan, dissented. In *Dandridge,* Justice Stewart wrote the majority opinion; Justices Bren-

several commentators had argued.[11] It could perhaps be argued that *Dandridge* was an isolated case, and that it has not stifled development of a new constitutional protection of the poor. Such a contention could be supported by citing recent Supreme Court cases which have held that it is a violation of equal protection to deny a person a divorce solely because he cannot afford the court filing fees,[12] or to imprison a person because he cannot pay a court-imposed fine.[13] However, even if this position is correct, the decision in *Dandridge* has created confusion in the lower courts, and has made ambiguous what was, perhaps, clear before. This confusion can be seen by reviewing recent cases on one particular issue: whether a durational residence requirement as a prerequisite to application for, and admission to, public housing is constitutional.

III. Housing and Residency Requirements

A. History

The national housing program began in earnest with the adoption of the Public Housing Act of 1937.[14] The Department of Housing and Urban Development (HUD) administers the federal program, and issues regulations and guidelines which local agencies must follow if they wish to receive federal funding. However, local agencies retain a great deal of responsibility in the administration of the program.[15] The local agencies have responsibility for the establishment

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nan, Douglas, and Marshall dissented. Thus, Justice Stewart was in the majority in *both Shapiro* and *Dandridge*.

The only difference in Court make-up was the position of Chief Justice. In *Shapiro,* Chief Justice Warren, joined by Justice Black, dissented. In *Dandridge,* Justice Black was joined by Chief Justice Burger in a separate concurring opinion. Thus, the votes of Chief Justice Warren and Chief Justice Burger were consistent, as were the votes of Justices Black, Harlan, Brennan, Douglas, and Marshall. Justices Stewart and White were the swing votes and were, at least seemingly, inconsistent.

11. *See generally,* Aloi & Goldberg, *Racial and Economic Exclusionary Zoning: The Beginning of the End?,* 1971 Urban L. Ann. 9; Michelman, *Foreword: On Protecting the Poor Through the Fourteenth Amendment,* 83 Harv. L. Rev. 7 (1969); Note, *Developments in the Law—Equal Protection,* 82 Harv. L. Rev. 1065 (1969).

12. Boddie v. Connecticut, 401 U.S. 371 (1971).

13. Tate v. Short, 401 U.S. 395 (1971).

14. 42 U.S.C. §§ 1401-14 (1964). The Act has been amended on a number of occasions, but most extensively in 1949 and 1959.

15. The Act's declaration of policy, as it presently reads, is as follows:

> It is declared to be the policy of the United States to promote the general welfare of the Nation by employing its funds and credit, as provided in this

of eligibility requirements;[16] they often have created durational residence requirements. However, some local authorities have apparently never established such requirements, while others have abandoned them and still others continue to use them.[17] The requirements can be for any length of time, but they usually tend to be limited to one or two years.[18] However, at least one local agency had a five year requirement.[19]

The effect of a residence requirement as a prerequisite to admission to public housing is obvious; it prevents newcomers from obtaining public housing. More precisely, since wealthy immigrants usually do not qualify for public housing and usually do not want it, it prevents only poor newcomers from obtaining such housing.[20]

B. Non-federally Funded Projects

In *King v. New Rochelle Municipal Housing Authority*,[21] plaintiff brought an action to enjoin enforcement of the defendant's residence requirement and for a declaratory judgment that the requirement was unconstitutional. The requirement in question was established by the defendant housing authority under a state statute which allowed local agencies to adopt their own admission standards. The requirement provided that a family must have at least one member who had

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chapter, to assist the several States and their political subdivisions to alleviate present and recurring unemployment and to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of low income, in urban, rural nonfarm, and Indian areas, that are injurious to the health, safety, and morals of the citizens of the Nation. In the development of low-rent housing it shall be the policy of the United States to make adequate provisions for larger families and for families consisting of elderly persons. It is the policy of the United States to vest in the local public housing agencies the maximum amount of responsibility in the administration of the low-rent-housing program, including responsibility for the establishment of rents and eligibility requirements (subject to the approval of the Authority), with due consideration to accomplish the objectives of this Act while effecting economies.

Id. at § 1401.

16. *Id.*

17. *See* Shoshinski, *Public Landlords and Tenants: A Survey of the Developing Law*, 1969 DUKE L.J. 399, 421 n.98 (1969).

18. New York City Housing Authority—two years; Chicago Housing Authority—one year; Boston Housing Authority—one year. *Id.*

19. *See* King v. New Rochelle Municipal Housing Authority, 314 F. Supp. 427, 428 (S.D.N.Y. 1970).

20. Arguably the problem is irrelevant since nearly all local agencies have a greater demand for such housing than they have supply, and therefore have long waiting lists.

21. 314 F. Supp. 427 (S.D.N.Y. 1970).

been a resident of the *city* for five years before he could *apply* for admission to public housing. The project in question had been built with state funds and was subsidized by the state, but it did not receive federal funding; therefore, it was not subject to federal legislation.[22]

The district court held that, in light of *Shapiro,* the five year residence requirement was unconstitutional. The court went on to say that "[a]lthough the Court [in *Shapiro*] expressed no view on the validity of residence requirements other than of welfare benefits, it referred to 'food, *shelter,* and other necessities of life.' "[23]

The defendant argued that the requirement did not deter interstate travel since it was merely a city requirement. In answer to this argument, the court indicated that there was no distinction between interstate and intrastate travel. District Judge Wyatt went on to state:

> Defendants contend that unlike welfare payments public housing facilities are physically limited, and cannot be divided among all eligible claimants. This purported distinction ignores the thrust of plaintiffs' claim. Plaintiffs do not demand immediate admission to public housing, nor do they contest the Authority's undoubted power to establish a fair and orderly system of priorities (including the use of waiting lists) among qualified applicants. . . . What is challenged, rather, is the distinction made between applicants who have lived in New Rochelle for a shorter period. In light of *Shapiro,* such a distinction is impermissible, absent a compelling governmental interest.
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> No compelling interest has been suggested to support the discrimination. It is argued that if all residents are accorded an equal opportunity to apply for public housing, long-time residents whose present "life patterns" bind them to the community will suffer because the waiting lists will increase. This purported justification was rejected in *Shapiro;* the Court held impermissible

22. This fact is particularly important in light of some rather unclear dicta in Rosado v. Wyman, 397 U.S. 397 (1970). *Rosado* involved a claim by New York AFDC recipients that the state had violated federal legislation by reducing its payments. The Court held for the plaintiffs on purely statutory grounds but it stated: "New York is, of course, in no way prohibited from using only *state* funds according to what ever plan it chooses, provided it violates no provision of the Constitution." *Id.* at 420.

This statement may mean just what it says, and nothing more; however, it may imply that serious constitutional questions will be raised if a state refuses to provide any aid. Furthermore, it most certainly implies the obvious, *i.e.,* that the same constitutional standards apply to non-federally funded programs as do to federal programs.

23. 314 F. Supp. at 431.

> a state's interest in protecting its long time residents from a decrease in welfare benefits due to an influx of indigent newcomers . . . .[24]

Finally, the court held that, so far as public housing was concerned, the existence or non-existence of federal funding was irrelevant to application of the constitutional standard for residence requirements.[25] Thus, *King* relied almost solely on *Shapiro* in holding that a durational residence requirement as a prerequisite to admission to purely state funded public housing was unconstitutional. According to this court and general principles of law,[26] whether there is federal funding is irrelevant to the problem.[27]

C. Federally Funded Projects

Cole v. Housing Authority of the City of Newport[28] was a class action seeking "declaratory and injunctive relief against a two-year durational residency requirement for admission to federally financed public housing."[29] The defendant housing authority was a public corporation, which owned and operated public housing projects financed by the federal government and the City of Newport. Plaintiff Cole was an unwed mother of two children; her only income was a monthly AFDC check in the amount of $197.50.[30] At the time of the suit, she was paying $110.00 monthly rent for a two room, non-publicly owned apartment.[31] She applied for public housing but was rejected because she failed to meet the two year residence requirement.

The district court held that the residence requirement was invalid on two grounds;[32] first, that it violated the Federal Public Housing Act,[33] and second, that it was unconstitutional under *Shapiro*. With respect to the federal statute, the court stated:

> Certainly, [42 U.S.C.] § 1401 seeks to preserve broad powers of control, consistent with the statute, in local authorities in order to carry out cooperative federalism, one of the underlying philoso-

24. *Id.*
25. *See* note 22 *supra.*
26. *See* Rosado v. Wyman, 397 U.S. 397, 420 (1970).
27. It should be noted that *King* was decided almost three months after the decision in *Dandridge.*
28. 312 F. Supp. 692 (D.R.I.), *aff'd,* 435 F.2d 807 (1st Cir. 1970).
29. *Id.* at 694.
30. *Id.* at 695.
31. *Id.*
32. This decision was rendered only ten days after the ruling in *Dandridge,* and therefore it is unlikely that *Dandridge* was considered.
33. 42 U.S.C. § 1401-14 (1964).

phies of the statute. However, the eligibility requirements referred to in § 1401 most probably include those specifically defined in § 1402 (1). Nowhere in the act is it indicated that residency requirements of a durational sort are permissible means of "effecting economies." Nowhere in the considerable legislative history of the federal housing laws are durational residency requirements even mentioned. . . . Given this silence and the indisputable fact that residency requirements frustrate the purposes of the Act by denying otherwise qualified low-income persons access to public housing and by lessening applicant pressure and thereby lessening pressure to clear slums and build still further public housing, the court is persuaded that the regulation must be declared violative of the statute.[34]

After reaching this conclusion, the district court, nevertheless, went on to hold that the requirement was unconstitutional, relying on *Shapiro*.[35] The defendants argued that the residence requirement involved did not fall within the ruling in *Shapiro*. They contended that it did not infringe on plaintiffs' right to travel because most people in the city satisfied their need for housing by resorting to the private market; thus, if private housing was available in the city, the Newport Housing Authority was not hindering plaintiffs' right to travel. The court dismissed this contention as sheer sophistry, stating, *inter alia,* that "the private market is inadequate *as a matter of law*."[36] (Emphasis added) The court relied on a federal statute,[37] a state

34. 312 F. Supp. at 695-96.

35. *Id.* at 703. Justice Brandeis, in his concurring opinion in Ashwander v. TVA, 297 U.S. 288 (1936), stated:

> The Court will not pass upon a constitutional question although properly presented by the record, if there is also present some other ground upon which the case may be disposed of. . . . Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter.

Id. at 347.

Although this is not an iron-clad rule, and although the Supreme Court itself often does not follow it when it feels that it is important not to, it would seem that it would nevertheless apply to lower federal courts.

36. 312 F. Supp. at 697.

37. 42 U.S.C. § 1441 (1964) provides:

> The Congress declares that the general welfare and security of the Nation and the health and living standards of its people require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family, thus contributing to the development and redevelopment of communities and to the advancement of the growth, wealth, and security of the Nation.

statute,[38] and a Newport city council resolution,[39] all of which indicated, in one way or another, that the private market was not meeting the housing needs of the nation, state, or city.

The court concluded that the Newport residence requirement was almost identical to that in *Shapiro* in that it applied to an essential of life, it inhibited freedom of travel, and it served only one purpose, discouraging in-migration of the poor to the area.[40]

Although the *Cole* and *King* decisions appear to presume that the compelling governmental interest, equal protection standard applies in public housing residence requirement cases, it would seem that this is subject to question; this may, in fact, be the most crucial issue in the cases.[41] The Supreme Court has suggested that laws which tend to penalize or inhibit the exercise of constitutional rights will be viewed with suspicion.[42] If a durational residence requirement as a prerequisite to admittance to public housing does not penalize or inhibit the right to travel (or other constitutional rights), the traditional equal protection standard should apply, and it may be that such a requirement is rationally related to a legitimate state interest, even if it is not justified by a compelling governmental need.[43] In *Dandridge*, the Supreme Court apparently concluded that no constitutional right was being penalized or inhibited by the maximum grant regulation, and that the traditional standard should apply. This

38. R.I. GEN. LAWS ANN. § 45-25-2 (1956) provides:
It is hereby declared that unsanitary or unsafe dwelling accommodations exist in various cities of the state . . . ; that these conditions cannot be remedied by the ordinary operations of private enterprises . . . .

39. Newport City Council Resolution No. 473, Resolution Authorizing and Directing Submission of Application for Reservation of Low-rent Housing and for a Preliminary Loan Authorizing Co-operation Agreement, *quoted in* 312 F. Supp. at 698:
Whereas the Housing Authority of the City of Newport, Rhode Island has found and hereby determines that there is a need for low-rent housing to meet needs not being adequately met by private enterprise within its area of operation.

40. *Id.* at 703.

41. *See* Shapiro v. Thompson, 394 U.S. 618 (1969), where the court suggested that some residence requirements might be valid because they were either justified by a very crucial state interest or did not penalize the right to travel. *Id.* at 638 n.21.

42. Sherbert v. Verner, 374 U.S. 398 (1963).

43. A careful reading of *Cole* may lead one to believe that the court found no rational relationship between the residence requirement and any *legitimate* state interest. At best, the decision is unclear on this point.

would seem to support the contention that the applicable standard is the crucial issue.[44]

In *Lane v. McGarry*,[45] the district court held that a one year residence requirement as a prerequisite to application for public housing in Syracuse, New York, was not violative of the equal protection clause or the plaintiffs' right to freedom of association under the first amendment of the United States Constitution. In so holding, the court placed primary consideration on the applicable equal protection standard and concluded that the traditional standard should apply. In reaching this conclusion, the court stated:

> While theoretically, any durational residential classification could be found to have an effect on the right to travel, i. e. some one or few persons might refrain from traveling because of it, such classification does not necessarily result in a penalty being imposed "upon the exercise of the constitutional right of interstate travel."
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> The insubstantiality of the impact of the classification on the right to travel is a factor to be considered in determining whether that right is being penalized. . . . To construe the impact of the resolution in issue here as anything other than insubstantial is fanciful and "far more theoretical than real."[46] (Footnotes omitted)

The court quoted at length from *Dandridge*, particularly the language to the effect that in areas of "economic and social welfare," the traditional equal protection standard applies.[47] The court concluded that the residence requirement was reasonably justified because it gave preference to those whose work and life patterns bound them to the area.[48] The court also held that the requirement was not violative of the United States Housing Act.[49] Finally, the court cited *Cole* and stated that it was "constrained to respectfully differ from it."[50]

In developing its rationale, it would appear that *Lane* relied pri-

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44. Although the Court in *Dandridge* did not discuss it, equal protection of the laws is a constitutional right. Therefore, any state action which tends to penalize or inhibit it would be viewed with suspicion, and state action which denies one state aid equivalent to that received by others would require justification by a compelling governmental interest.

45. 320 F. Supp. 562 (N.D.N.Y. 1970).

46. *Id.* at 564.

47. *See* note 7 *supra* and accompanying text.

48. This is essentially the same argument rejected in *Cole* and *King*.

49. 42 U.S.C. §§ 1401-14 (1964).

50. 320 F. Supp. at 564.

marily on Chief Justice Warren's dissenting opinion in *Shapiro* and the majority position in *Dandridge*. It may be argued that it put too much emphasis on a dissenting opinion, and in so doing failed to apply the law as developed in *Shapiro*. However, the *Lane* court apparently recognized that the Supreme Court may have done the same thing in *Dandridge*.

There is one final decision that must be considered, that of the First Circuit Court of Appeals affirming the district court decision of *Cole v. Housing Authority of the City of Newport*.[51]

Unlike the district courts in *Cole* and *King*, the court of appeals here found the question of what equal protection standard to apply to be the crucial issue. The court dealt at length with this issue and developed a very tightly reasoned interpretation of *Shapiro*. Recognizing that the Court in *Shapiro* did not make clear the "amount of impact" that a residence requirement must have on the right to travel before it must be justified by a compelling governmental interest, the court concluded "that *Shapiro* stands for the proposition that a rule penalizing travel requires a justification of a compelling state interest."[52] It went on to find that the term "travel" was used "in the sense of migration with intent to settle and abide."[53] This interpretation would allow requirements which comparatively disadvantage those who travel to a state to take advantage of benefits and have no intent to remain. Thus, the court concluded that the two-year residence requirement penalized the right to travel, and therefore must be justified by a compelling governmental interest.

Although the housing authority apparently abandoned the contentions it had made in the lower court, and argued the illusionary value of residence requirements,[54] the court nevertheless concluded that

51. 435 F.2d 807 (1st Cir. 1970).
52. *Id.* at 810.
53. *Id.* at 811.
54. The court stated:

> This argument . . . . proceeds on the assumption that the presence or absence of a durational residency prerequisite for eligibility for public housing has in fact nothing to do with the motivation of people to migrate. But it nevertheless asserts that the voters *feel* that abolition of the requirement will serve as a magnet and that therefore they will vote down new applications if they think that newcomers will benefit to the prejudice of long-time residents. We are confronted with the assertion that if the two-year durational requirement were declared invalid, "voters in city governments elsewhere as well as at Newport would simply not approve new low-income public housing." Thus, the purpose and effect of the requirement are not to impair the right to travel, but to make the voters *think* the right to travel is being impaired, even though it is not.

Id. at 812.

there was no compelling governmental interest in a durational residence requirement as a prerequisite to application and admission to public housing.

Although it is only dicta and not a justification for the decision, the following statement of the court is perhaps indicative of the problem and the policy considerations that enter into its resolution.

> Even by a standard of rational relationship to a permissible goal, we doubt that the justifications put forth by the Authority could withstand judicial scrutiny. The goal of preventing an influx of outsiders is constitutionally impermissible. The residency requirement is not rationally related to the goal of planning. The objective of achieving political support by discriminatory means or by nourishing an illusion that means discriminate is not one which the Constitution recognizes. Nor do we believe the goal of promoting provincial prejudices toward long-time residents is cognizable under a Constitution which was written partly for the purpose of eradicating such provincialism. Certainly none of these interests counterbalances the fundamental individual right involved.[55]

It should be noted that the court is suggesting that even under the traditional equal protection standard, it is doubtful that the residence requirement could be upheld. And finally, the court's comments on provincialism are important for the light they shed on other housing problems.[56]

IV. Conclusion

In *Bower v. Vaughan*,[57] the Supreme Court upheld a lower court decision invalidating an Arizona law which allowed the director of a state mental hospital to return patients to their state of former residence if they had not lived in Arizona for at least one year. In addition, a North Carolina district court struck down a durational residence requirement for the state bar examination,[58] and a Florida

55. *Id.* at 813.

56. *See* Kit-Mar Builders, Inc., v. Zoning Bd. of Adjustment, 439 Pa. 466, 268 A.2d 765 (1970); National Land & Investment Co. v. Kohn, 419 Pa. 504, 215 A.2d 597 (1965). Both *Kit-Mar* and *National Land* involved the problems of exclusionary zoning, where the Supreme Court of Pennsylvania suggested that we must move away from provincialism and think in terms of regionalism. *See also* Aloi & Goldberg, *Racial and Economic Exclusionary Zoning: The Beginning of the End?*, 1971 Urban L. Ann. 9.

57. 400 U.S. 884 (1970), *aff'g* 313 F. Supp. 37 (D. Ariz. 1970).

58. Keenan v. North Carolina Board of Law Examiners, 317 F. Supp. 1350 (E.D.N.C. 1970).

district court held invalid a similar requirement imposed as a prerequisite to free medical care.[59]

In the field of public housing residence requirements, *Cole* and *King* clearly stand for the proposition that *Shapiro* is the most closely analagous governing principle. On the other hand, *Lane* stands for the proposition that *Dandridge* can be read as limiting *Shapiro*. It may be argued that since *Dandridge* did not involve the right to travel,[60] it is being misread when it is applied to the residence requirement situation. Nevertheless, there is language in the case which can be read in such a way as to be directly applicable to residence requirements which lessens considerably the justification necessary to support such a requirement.

When the Court's recent affirmance in *Bower* is considered along with the Court's willingness to break new ground in the field of "welfare" law,[61] it seems clear that *Dandridge* must have been a unique and isolated case. However, *Dandridge* is on the books and it will be up to the Supreme Court to clarify the confusion that it has created.

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59. Arnold v. Halifax Hospital District, 314 F. Supp. 277 (M.D. Fla. 1970).

60. At least, it did not involve the right to travel to the extent, or as directly, as did *Shapiro*.

61. *See* Goldberg v. Kelly, 397 U.S. 254 (1970); Rosado v. Wyman, 397 U.S. 397 (1970); King v. Smith, 392 U.S. 309 (1968).