

METROPOLITAN WASHINGTON'S FAIR SHARE HOUSING PLAN:

POTENTIALS AND LIMITATIONS

by

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Introduction

This is a paper about many things--housing, equal opportunity, regional planning, and less indirectly than one might think, the future of our metropolitan areas. All of these concerns and many more are embodied in the "fair share" concept and in the forty or more fair share plans throughout the country. Though specific objectives vary from plan to plan, one common objective is shared by all: providing lower income groups with potential mobility in the housing market. Because housing opportunities for lower income families have been primarily limited to the central cities of our large metropolitan areas, this objective is most often referred to as "opening up the suburbs." Fair share works toward this objective by seeking to distribute lower income housing throughout all parts of the metropolitan area.

This paper presents a case study of one such plan, the Metropolitan Washington Council of Governments' Fair Share Housing Plan. Because it is a case study, and not a general investigation of all fair share plans, the Washington findings should not be taken as indicative of the fair share experience in other areas.

The overall purpose of this study is to evaluate the Washington effort as a process and a plan reflecting regional considerations and as a device for providing lower income groups the mobility so long denied them. The concept of "potential mobility" is an integral part of this paper and provides the primary criterion against which the

efforts of Washington's plan are evaluated. An understanding of this concept is crucial to understanding not only the purpose of this paper, but the intent of fair share plans themselves. Potential mobility refers to the degree of geographic choice which lower income families have in selecting housing. The relocation of lower income families from the central city to the suburbs (or elsewhere) is not the fair share intent. Rather, fair share is designed to give lower income families a greater degree of geographic choice by providing housing opportunities throughout all parts of the region. Therefore, Washington's plan is not evaluated in terms of how much mobility it has created, but in terms of how much potential for mobility it has created.

Chapter One provides background on the variety of public and private forces which have created the all too familiar urban/suburban dichotomy. Particular attention is given to the dual nature of the housing market, offering a wide range of choice for most, and only limited choice for the poor and minorities. The origins, effects, and enforcers of the dual market are discussed in a chronological context.

Chapter Two traces the origins of the fair share concept. Beginning with early calls for regional planning, the chapter discusses several legislative and legal actions which have strengthened the regional housing perspective. The chapter concludes with a discussion of the Dayton, Ohio Fair Share Plan, the first such plan in the nation.

Chapter Three documents the events leading up to the adoption of the Washington plan and provides an overview of the plan's five year history. The allocation formula itself is the subject of Chapter Four. The chapter discusses the mechanics of the formula and the external considerations which influence the formula.

Chapter Five describes the implementation process and graphically depicts assisted housing opportunities in the metropolitan area. Chapter Six provides a critical examination of the limitations and potentials of the plan. The chapter evaluates the plan both as a product and a process, and discusses those factors which limit the effectiveness of the plan.

Chapter Seven provides the concluding comments and offers observations on Washington's housing situation and the future of fair share.

Summary

In January, 1972 the Metropolitan Washington Council of Governments (COG) adopted a fair share plan for the purpose of allocating assisted housing among its sixteen member jurisdictions. The primary objectives of the plan were to avoid further undue concentrations of low and moderate income housing and to provide lower income families with housing opportunities in the area's suburban jurisdictions where many lower income jobs were being created. At the time almost all such housing was concentrated in the center of the area, with almost 60 percent in the District of Columbia alone.

With the exception of Prince George's County and Alexandria, few suburban jurisdictions had put forth much effort to help meet the region's lower income housing needs. The underlying principle of the plan, therefore, was that all jurisdictions should accept their "fair share" of lower income housing, with that share determined by an allocation formula. The formula contained a variety of supply and demand factors as well as a special modifying factor which served to allocate a large percentage of units to those affluent suburban jurisdictions which had very little assisted housing. This skewed distribution, COG believed, would result in a balance of assisted housing opportunities throughout the entire region. HUD was so impressed with this local initiative that then-Secretary Romney promised a bonus of funds to encourage the plan.

However, things did not go exactly as intended. First, former President Nixon's January, 1973 moratorium on all federal housing programs suspended the fair share plan less than three months after the first implementation procedures had been adopted. Later, Washington was granted an exemption to the moratorium.

The passage of the 1974 Housing and Community Development Act and the Section 8 Housing Assistance Program which it created again interrupted the plan. Specifically, the level of funding allocated to the D.C. area for assisted housing under the Act was drastically lower than previously experienced. In response to the decrease in funding, the District threatened to withdraw from the plan unless the formula was revised to increase its allotted share of assisted housing funds. The formula was revised and adopted in April, 1976.

Aside from the revision of the formula, a critical factor which kept the District in the plan was the bonus of funds which HUD awarded localities as an incentive for supporting fair share plans. These bonus federal funds, or "carrots" as they are sometimes called, have been the single most important factor in keeping the plan intact. In the past, this bonus has usually made up the difference between the District's level of funding under fair share and what it would be if funds were allocated directly to the District by the HUD Area Office. Without the bonus, the District would immediately withdraw from the fair share plan.

However, the District's support of the plan would not be so tenuous if one of the original objectives of the plan had actually been achieved--if the suburbs had actually been opened to the central city's poor. This unachieved objective is due primarily to the spiraling housing costs throughout the metropolitan area. Many of the area's moderate income families, particularly in the suburbs where housing costs are highest, literally have been priced out of the housing market and now must compete with lower income families for the relatively scarce assisted housing units. As long as assisted housing in suburban areas is totally inadequate to meet even the needs of resident moderate income families, it will not be a real alternative for non-resident lower income families. Estimates of the total number of households in need of assistance in the area range from 250,000 to 300,000.

The failure of the plan to provide lower income families with potential mobility is no fault of the plan itself, nor of the Council of Governments. Moreover COG has accomplished a great deal in developing the plan and holding it together against such odds.

If the housing needs of the area's residents are ever to be met, and if fair share is to achieve the objectives for which it was designed, the cost of housing in the area must be brought under control. This will be no easy task.

The fair share plan, whatever its limitations, represents an important step toward comprehensive planning on a metropolitan basis, and as such is a symbolic success for advocates of regional planning and equal opportunity, and a particular victory for the Metropolitan Washington Council of Governments.

Chapter One

THE DISTRIBUTION OF HOUSING OPPORTUNITIES

Who benefits from fair housing laws and other efforts to provide equal opportunity in housing?

The obvious and immediate beneficiaries are, of course, minority group families, who, in an open housing market, gain the benefits of a free housing choice long denied them. But fair housing is of vital importance to us all. The dual housing market has bred a variety of ills from which our whole society is suffering: the physical decay and financial insolvency of our cities; the irrational proliferation of jurisdictions in metropolitan areas separated from each other by race and income; and the racial alienation and distrust that makes us strangers to each other. This is the legacy that the present generation has inherited from the past. It is we who will determine which legacy we leave our children.¹

A few years ago Ford Motor Company moved its facility in Edgewater, New York to Mahwah, New Jersey, a low-density, prosperous community in Bergen County. Ford was quite content with the move to Mahwah where there was ample room for industrial expansion and lower taxes. Mahwah, in turn, welcomed the facility and the tax revenues it would generate, but did not greet the plant's employees quite as warmly. At the time of the Hearing Before the U.S. Commission on Civil Rights in Washington, D.C. (1971),² only 2 percent of the plant's 4200 employee work force had been able to find housing in the township. The majority of the work force commuted to work each day from other jurisdictions, with round trips of 70 miles per day not at all

uncommon.³ The long trips, the expense, the delays, and the lack of dependable transportation made it difficult for those employees who wanted to keep their jobs. The obvious question is why they did not move closer to their jobs . . . and the answer is, there just was not any housing they could afford.

Mahwah is one of the largest townships in New Jersey, though the 1970 population of the township itself was only around 10,000. In 1971 over seventy-five percent of the land in this sparsely settled area remained vacant. Over 50 percent of the land was zoned for one and two acre residential lots. Between 20 and 25 percent of the land was zoned for future industry. Approximately one percent of the land in the entire township was zoned for multi-family development, making housing for low-to-moderate income families all but non-existent.⁴

The story of Mahwah, the Ford plant, and its employees is not an uncommon one in America today. Our racially and economically segregated pattern of residency is a phenomenon deeply implanted in society, its roots nurtured over time by a variety of public and private forces. In theory it is the home builder, the real estate broker, the mortgage lender and the individual owner who determine where housing will be built, how it will be financed, and to whom it will be sold or rented. In practice, however, government at all levels has been a key participant. The home builder must adhere to local building codes, zoning, and other ordinances. The real estate broker must be licensed by the state and in theory must abide by an ethical code in his business relationships. Mortgage lending institutions are regulated by one or

more state or federal agencies.⁵ What emerges from this mesh of interdependent practices and policies is a dual housing market, offering unlimited opportunities for many and only limited opportunities for the poor and minorities.

Origins of the Dual Housing Market

The private housing industry has long operated on the assumption that residential segregation is an economic necessity, an assumption which is partly based on the racial prejudice of past and present generations. In 1922 the National Association of Real Estate Boards (NAREB), a powerful force in the industry, published a textbook used for training real estate brokers emphasizing that "the purchase of property by certain racial types is very likely to diminish the value of other property."⁶ The next year NAREB published two additional textbooks, one declaring black families a threat to property values and the other warning that "foreigners" were the most undesirable type of residents. Even as late as 1950 NAREB's code of ethics stated in part:

The realtor should not be instrumental in introducing into a neighborhood a character of property or occupancy, members of any race or nationality or any individual whose presence will clearly be detrimental to property values in the neighborhood.⁷

Just as the policies of the real estate industry reflected the racial prejudice of the day, the mortgage lending institutions often refused to finance builders who wanted to provide housing on a non-discriminatory basis or to make loans available to homebuyers planning

to buy into integrated neighborhoods. Though these policies were unofficial, they were very real. On what grounds did the lending institutions defend such practices? On grounds very similar to those of realtors--integrated housing was an unsound investment and to finance such housing would antagonize "valuable" customers.⁸

While the private sector promoted racial segregation through unofficial though effective means, the public sector often went so far as to mandate segregation in local ordinances. Between 1910 and 1917, zoning ordinances requiring block-by-block racial segregation were challenged and upheld in more than fifteen state courts.⁹ Finally, in 1917, the Supreme Court of the United States declared such ordinances unconstitutional in Buchanan v. Warley, though some were still being challenged into the 1950's. Justice Day, in writing the majority opinion, addressed the issues of racial discrimination and the limitations of the judicial system:

That there exists a serious and difficult problem arising from a feeling of race hostility which the law is powerless to control, and to which it must give a measure of consideration, may be freely admitted. But its solution cannot be promoted by depriving citizens of their constitutional rights and privileges.

With racially exclusionary zoning declared unconstitutional, a private exclusionary device, the racially restrictive covenant, came into widespread use. A typical covenant read in part:

. . . hereafter no part of said property or any portion thereof shall be . . . occupied by any person not of the Caucasian race, it being intended hereby to restrict the use of said property . . . against the occupancy as owners or tenants of any portion of said property for resident or other purposes by people of the Negro or Mongolian race . . .¹⁰

The use of restrictive covenants became so fashionable as a means of assuring segregation that in 1937 a leading national magazine awarded ten communities a "shield of honor" for their extensive use of covenants against the "wrong kind of people."¹¹ The extensive use of such covenants is exemplified in another article which reported that by 1940, approximately 80 percent of all property in both Los Angeles and Chicago carried covenants excluding Negroes.¹²

To be effective as a means of racial segregation, restrictive covenants must, of course, be enforced. Rising to the occasion, neighborhood associations across the country were formed to make certain that covenants were honored in their community. Sometimes those who dared break the covenant appealed to the Courts to declare them illegal. However, it was not until 1948, after thirty years of legal sanction, that the Supreme Court declared enforcement of racially restrictive covenants unconstitutional in Shelley v. Kraemer. Though legally unenforceable, racially restrictive covenants still exist today.¹³

The federal government did not get involved directly in housing until the 1930's, and when it did, it did very little to alter the policies and practices of the private housing industry. The new federal legislation was greatly influenced by the lobbying of private housing interests, and the new agencies were staffed by industry representatives who brought with them their long established discriminatory practices. A case in point is the Federal Home Loan Bank Board (FHLBB). Created in 1932 to give assistance to savings and loan

associations, FHLBB reflected the segregationist attitudes of the private industry. In 1940 it published articles on how neighborhoods were to be rated: white neighborhoods were to be given high ratings; mixed and minority neighborhoods were to be given low ratings.¹⁴

In 1933 the Home Owners Loan Corporation (HOLC) was created to assist in the refinancing of small home mortgages, mortgages which, in that year, were being foreclosed at an average of 1000 per day. While HOLC was successful in refinancing more than 1 million homes during its first three years of operation, fewer than 25,000 belonged to non-whites. Moreover, when HOLC acquired houses in white neighborhoods, black families were not permitted to buy them.¹⁵

Perhaps the most important housing legislation rising out of the depression was the creation of the Federal Housing Administration (FHA). FHA's mortgage insurance program was created to protect the mortgage lender from loss due to the borrower's inability to pay off the mortgage. This incentive to the lender quickly made FHA a leader in the housing field and, as a result, the typical home financing vehicle--the long term, low-interest, high-loan-to-value ratio, fully amortized loan--was established.¹⁶

FHA's policies and practices also contributed to racial segregation. In 1959 it was estimated that less than 2 percent of the housing built in the post-war housing boom had been available to minorities.¹⁷ For nearly fifteen years after its creation FHA's Underwriting Manual warned of the infiltration of "inharmonious racial groups."¹⁸ "If a neighborhood is to retain stability, it is necessary

that properties shall continue to be occupied by the same racial classes."¹⁹ When racially restrictive covenants were ruled unenforceable by the Supreme Court in 1948, civil rights groups joined with the U.S. Attorney General in putting pressure on FHA to stop insuring properties with such restrictions. However, it was not until 18 months after the Supreme Court decision that FHA bowed to the pressure, refusing to insure mortgages on properties with restrictive covenants filed after February 1950.²⁰

Effects of the Dual Market

FHA's role in promoting the growth of the suburbs was perhaps just as important in supporting residential segregation as its policies and practices. FHA's mortgage insurance, the home financing prototype it helped create, and the massive highway construction projects of the 30's made new homes outside the city affordable and within a short commute to jobs in the city, setting the stage for the suburban growth that would follow after World War II.

During the war, a great influx of rural poor, both white and black, began pouring into the city in search of employment. After the war, middle class whites began their exodus to the new outlying communities. At the same time, the influx of rural poor continued.

Once this pattern of movement started, the process of urban/suburban stratification accelerated as fears, prejudices, and economic and social aspirations fed upon each other. As the white middle class fled the city, leaving vacancies behind, neighborhoods became

economically and racially mixed as non-whites and the new urban poor moved into the vacated housing. Not knowing what to expect, yet fearing the worst, those whites left behind soon fled also, fulfilling the prophecy that racial and economic integration was a threat to property values and neighborhood stability.

Business and industry also joined the exodus to the suburbs. Between 1948 and 1967 in the central cities of the 38 largest SMSAs, jobs for production workers declined 17 percent, while increasing 58 percent in the suburbs.²¹ As the white middle class left and industries began to follow, the cities were forced to raise taxes in a futile attempt to make up for lost revenues. The result: the increasingly higher taxes made the suburbs with their relatively low taxes and ample room for expansion so attractive that more and more industries left.

The exodus of affluent whites from the cities had continued unabated, along with the large-scale movement of jobs and wealth. The new suburbs have enjoyed an era of unparalleled prosperity, while the central cities have strained to answer growing demands for services for the urban poor and, ironically, suburban commuters.²²

In the last half of the 60's in the 40 largest metropolitan areas, 85 percent of the new job opportunities were in the suburbs. Between 1920 and 1970 (in the 40 largest SMSAs) manufacturing jobs increased by 2,080,000 jobs, while the central cities themselves actually lost 29,000 manufacturing jobs.³⁴ Neil Gold, co-director of the Suburban Action Institute, said in testifying before the U.S. Commission on Civil Rights:

It seems to me when you put together the general sense of what's happening, the outmigration of jobs, and when you look rather carefully at . . . what kinds of jobs are leaving the cities, you see that it is precisely those jobs which low-income, moderate-income and minority workers must have in order to survive, so what's really at stake in the failure to allow minority people and low- and moderate-income people to live throughout metropolitan areas is in a sense a denial of equal employment opportunities to these groups.²⁴

In Baltimore between 1955 and 1965, 82 industries relocated to the surrounding suburbs. Taking into account movement to and from other regions and births and deaths of firms, the city suffered a net loss of 338 manufacturing firms in that period.²⁵ A 1968 study found that in one area of the city about 25 percent of the labor force was either unemployed or underemployed, while at the same time jobs were available along the beltway.²⁶

The same is true all over the country: between 1951 and 1967, St. Louis County gained 75,000 jobs in manufacturing and 47,000 jobs in wholesale and retail trade. During the same period, the city of St. Louis lost 50,000 manufacturing jobs and 35,000 jobs in wholesale and retail trade.²⁷

In Washington, D.C. where the federal government is the largest single employer, the same outward movement of job opportunities has occurred. Beginning with the Atomic Energy Commission's move to Germantown, Maryland in 1958, federal employment opportunities have steadily moved to the Virginia and Maryland suburbs. Between 1963 and 1968 alone, at least 42 components of 18 federal agencies employing over 14,000 workers moved out of the District. More recently, 12,000 jobs left the District when the Navy Department moved to Arlington. When

the Public Health Service (an HEW component) moved to Rockville in 1970 it took 5000 jobs with it, and 2200 jobs were involved in the U.S. Geological Survey's move to Reston.²⁸

Testifying at an open meeting of the U.S. Commission on Civil Rights' District of Columbia Advisory Committee in May 1970, former D.C. City Council Chairman John Hechinger described the impact on the District of the exodus of federal agencies:

- 1) It causes the departure of middle-class technical and professional families, mostly white but black as well, who follow their jobs. The District is then left more and more to the poor, who are predominantly black.
- 2) This causes the departure of the private industries and businesses that service the Federal agencies and their suburban employees.
- 3) This causes the process of flight to the suburbs to feed upon itself, and accelerate like an avalanche. Individuals who don't need to move do so to escape blacks, or rising taxes, or declining schools, or deteriorating neighborhoods.
- 4) . . . those to whom the city is left . . . demand more in services--education, welfare, training, health facilities, and so forth--and are less able to afford them than those who leave.²⁹

However, Mr. Hechinger failed to point out that not only does this exodus adversely affect the city as a whole, but many lower income individuals employed by these agencies must either give up their jobs or make great sacrifices to keep them. One lower level HEW employee estimated that when her agency moved to a Maryland suburb that her commuting time would be 5 to 6 hours round trip.³⁰

The General Services Administration (GSA), the landlord of most federal agencies, adopted policies in 1969 to deal with the employment accessibility problems of lower income federal employees.

Under these policies GSA was to avoid locations lacking adequate housing for low-to-moderate income employees or locations which were not easily accessible. However, GSA really did not adhere to its own policies. In response to GSA's continued failure to consider the employment accessibility problem in site selection, former President Nixon issued an Executive Order in February 1970 stating that GSA must incorporate the following factors in its site selection process to the greatest extent possible:

- 1) the impact a selection will have on improving social and economic conditions in the area, and
- 2) the availability of adequate low and moderate income housing, and adequate access from other areas of the urban center.³¹

Yet the suburban relocation of employment opportunities would not have such an adverse effect on lower income persons if there were available housing near the new job sites or if there were adequate transportation from the city to the suburbs. However, housing opportunities for lower income families are very limited in most suburban areas, and public transportation is geared toward the suburban commuter.

Enforcers of the Dual Market

Over the years public and private housing policies have changed and are no longer as blatantly discriminatory. Still, the poor and minorities find the suburbs almost as inaccessible as ever. Racially exclusionary zoning and restrictive covenants have given way to fiscal or "snob" zoning. Despite an official (recent) policy of the National

Real Estate Association banning discrimination, real estate salesmen too often use "steering" tactics and the control of listings to keep neighborhoods racially and economically homogenous. Referendum requirements, zoning, and other obstacles often serve to keep public and subsidized housing out of the suburbs. If anything, the racial and economic dichotomy between the central city and suburbs has grown even wider in recent years.

In the real estate industry racial segregation is still a primary market concern. Local real estate firms usually have control over the listings of homes for sale and often "hold back" when passing along listings to black realtors or to realtors who cannot be trusted to maintain the racial integrity of area neighborhoods.

Another real estate practice which serves to promote racial segregation is "steering"--showing white customers available homes only in white neighborhoods and black customers available homes only in predominantly black or changing neighborhoods. This real estate practice has been exposed time and time again using "dummy" customers. This relatively common technique very often shows quite different treatment of each race, even when the customers' income and education are approximately the same.³²

However, the real estate brokers and builders are only responding to the racial prejudice still engrained in many Americans. The racial composition of an area is still an important market factor. When asked what the effect was of having sold 4 or 5 homes out of a development of 200 to blacks, Eliot M. Alport of the Eliot Construction Co. of St. Louis replied:

They had definitive adverse effect . . . The problem was that if we sold a home, apparently as I understand it, to a black customer on Lot A, when the next customer came along, he, having a choice of lots just as the black customer did, he chose not to be on lot--the lot on either side of that black customer, nor the lots across the street from the customer, nor the lots behind the customer, so that all of a sudden one sale to the black customer meant that we had anywhere from 5 to 10 lots which our white customers preferred not to be associated with.³³

While these real estate practices are aimed primarily at minorities, they are a part of a larger set of forces which operate to maintain both racial and economic segregation. A disproportionate number of the urban poor are black; therefore, any discussion of the mismatch between lower income jobs and housing opportunities must address both racial and economic discrimination. Practices which are aimed primarily at excluding blacks usually serve to also exclude lower income whites--and vice versa.

Restrictions which limit or exclude low-income housing in suburbia have both racial and economic motivations behind them. Such restrictions not only assure that minority and lower-income groups will not invade the racially, socially, and economically homogenous suburbs, but also assure open space, uncrowded schools and streets, and more favorable tax revenues. The most common such restriction is large lot or "fiscal" zoning. By setting large minimum lot sizes the locality can avoid not only the economic burden of providing services to a more dense development, but can exclude lower-income families who demand more public services and are in less of a position to pay for them. National Land and Investment Company v. Kohn was one of the first cases in which "fiscal" zoning was struck down by the courts.

The Court, in striking down an ordinance prescribing a four-acre minimum lot size, said in part:

A zoning ordinance whose primary purpose is to prevent the entrance of newcomers in order to avoid burdens, economic or otherwise, upon the administration of public services and facilities cannot be held valid. (The Court added) . . . Zoning is a tool in the hands of governmental bodies which enables them to more effectively meet the demands of evolving and growing communities. It must not and cannot be used by those officials as an instrument by which they may shirk their responsibilities. Zoning is a means by which a governmental body can plan for the future--it may not be used as a means to deny the future.³⁴

While large minimum lot sizes is one way of excluding lower-income families, a much more blatant and effective method is to exclude multi-family development. By excluding apartments, localities can, in effect, exclude lower-income families. In the Appeal of Girsh, the Pennsylvania Supreme Court struck down an ordinance having the effect of prohibiting apartments. Citing National Land, the court rejected the practice of fiscal zoning and indicated that the evidence demonstrated that the township had in effect decided to zone out the people who would be able to live there if apartments were available.³⁵

Most "fiscal" zoning ordinances are justified on grounds ranging from the desire to protect the aesthetic or environmental character of the area to avoiding the strain which would be put on public facilities if higher density were allowed. Whatever the justification or intent, the effect is to limit housing opportunities. While the Appeal of Girsh hinted at regional concerns, Oakwood at Madison, Inc. v. Madison, a 1971 New Jersey case, firmly established regional housing needs as a proper consideration of local zoning. In that case,

an ordinance adopted by the township in furtherance of a policy to "curb its population growth" and "stabilize tax rates" by imposing minimum lot size and floor area requirements, was struck down for its failure to promote the general welfare which, the court said, did not stop at each municipal boundary. The court said in part:

In pursuing a valid zoning purpose of a balanced community, a municipality must not ignore housing needs, that is, its fair proportion of the obligation to meet the housing needs of its own population and of the region. . . . Large areas of vacant and developable land should not be zoned, as Madison Township has, into such minimum lot sizes and with such other restrictions that regional as well as local housing needs are shunted aside.³⁶

However, just because such practices as fiscal zoning and exclusion of apartments have been struck down by the courts, they have not been eliminated. While cases involving such practices have set precedents for future litigation, "enforcement" of the rulings has been on a case-by-case basis. The lack of any real mechanism for addressing regional housing needs and the issue of exclusion prompted the most ambitious challenge to exclusionary zoning yet undertaken-- Commonwealth of Pennsylvania v. County of Bucks. Defendants in the case were fifty-four separate municipalities, the Bucks County Planning Commission, and the Bucks County Housing Authority. Complainants were the Commonwealth of Pennsylvania, resident and nonresident persons of low and middle incomes, and black and non-English speaking minorities. The individual plaintiffs charged that the county's exclusionary zoning ordinances denied them housing opportunities and sought to have the court order the County and its agents to take specific actions to

provide for low and moderate income housing throughout the county.

The court dismissed the complaints, stating that the issues involved were political in nature and required a solution which was beyond the competence of the court to formulate, direct, or administer. The court felt that any attempt to formulate a remedy on a county-wide basis would require it to:

. . . assume the awesome task of becoming a super planning agency with no expertise in the field; and as such the Court would be required to make immediate and basic 'initial policy determinations of a kind clearly for nonjudicial discretion,' and to carry out this tremendous responsibility with an entire 'lack of judicially discoverable and manageable standards for resolving it.'³⁷

While fiscal zoning, including the exclusion of apartments, serves to limit the availability of private market low and moderate income housing, other local ordinances restrict the availability of public and subsidized housing. Much of the housing offered on the private market, including apartments, is beyond the reach of many low income families. Sometimes the only alternative for these families is public or subsidized housing. (See Appendix A for a brief description of housing programs mentioned.)

However, the requirement that localities approve the creation of a public housing authority before public housing can be built has made such housing in suburban jurisdictions almost non-existent. Moreover, HUD will not approve an application for public housing unless the local government first approves the application and agrees to exempt the project from local property taxes. Therefore, suburban jurisdictions can exclude public housing simply by refusing to approve

the creation of a public housing authority, or if one has been approved, by refusing to approve applications for housing.

In many areas local government "approval" of a housing authority follows only after the passage of a referendum by public vote. A variation on this requirement is a referendum to approve the construction of a particular public housing project, a requirement that was challenged in James v. Valtierra. The case arose in San Jose, California, where the local government's plan to provide low-income housing was defeated at the polls. A 1969 study revealed a need for 14,500 low-income units and in response, the San Jose city council had approved the construction of an initial 1000 units on a scattered site basis throughout the city. However, the California State Constitution requires that low-rent public housing be approved by the majority of those voting at a community election. When San Jose's plan was defeated by local citizens, the state requirement was challenged on the grounds that it violated the equal protection clause of the 14th Amendment in that other types of housing were not subject to public approval. Initially a three-judge federal court enjoined enforcement of the provision, ruling that the referenda requirement denied low-income citizens equal protection under the law. However, in a five to three vote, the U.S. Supreme Court reversed this decision, apparently basing its decision on the following elements: 1) California has long used public referenda in guiding public policy; 2) public housing was only one of several issues subject to a referendum; 3) the public housing referendum requirement insured that the people in a community would

have a voice in a decision which "may lead to larger expenditures of local governmental funds for increased public services and to lower tax revenues"; and 4) the Court found no indication that the referendum requirement was racially motivated.³⁸

Justice Thurgood Marshall, in dissenting, said in part:

It is far too late in the day to contend that the Fourteenth Amendment prohibits only racial discrimination; and to me, singling out the poor to bear a burden not placed on any other class of citizens tramples the values that the Fourteenth Amendment was designed to protect.

Fair housing advocates considered the Valtierra decision to be a major setback. Some feared that the decision could mean that economic discrimination in housing does not, in the Court's view, constitute a violation of the equal protection clause, limiting 14th Amendment attacks on exclusionary practices to those involving racial discrimination. More optimistic interpreters viewed the case more narrowly, contending that because of the specific facts in the case, particularly California's long referendum history, it should not be considered precedent setting.³⁹

The rent supplement program is another potential means of giving low-income families greater housing choice. However, federal guidelines require that before any rent supplement housing can be built there must be a "workable program for community improvement" and local approval must be given. The effect of both conditions is to allow the community through its own inaction to exclude rent supplement housing.⁴⁰

While the authority to "veto" public and rent supplement housing was granted to localities by Congress, some localities completely on their own "initiative," have gone so far as to require a referendum before even subsidized housing can be built. One such ordinance in Parma, Ohio apparently grew out of a desire to exclude blacks. When the ordinance was adopted in 1974 it was immediately challenged in court. The case charged Parma, a Cleveland suburb, with discriminatory exclusion of lower income minority residents of Cleveland through the adoption of ordinances requiring referendum approval before subsidized housing could be built, and through the prohibition of housing higher than 35 feet. The complainants alleged a history of racial discrimination in Parma, including anti-black statements by city officials, and that the ordinances grew out of a public meeting concerning a proposed Section 236 project in which officials gave oral assurance that no black people would live in Parma. Immediately following the public hearing the ordinances were adopted and the building permit for the 236 project was denied.

In February 1974 the Court dismissed the complaint on the grounds that the ordinances, particularly the referendum ordinance, had not yet been applied and the case, therefore, was not "ripe" for adjudication. The challenge to the denial of the building permit was held to be properly raised for adjudication. Chief Judge Battisti said regarding the ordinances: "(S)hould the remaining allegations be proven and if affirmative relief is granted, it may be necessary in fashioning appropriate relief for the court to deal with these

ordinances."⁴¹ The case was appealed to the U.S. Supreme Court which in turn remanded the case back to the lower court for further consideration in light of the Court's ruling in a similar case, Warth v. Seldin. That case involved a challenge to the zoning ordinance of Penfield, New York, a suburb of Rochester. The plaintiffs charged Penfield with excluding persons of low and moderate income. However, the Court dismissed the case on the grounds that the plaintiffs themselves were not personally damaged by the ordinance. In so doing, the Court in no way considered the legality of the ordinance itself, but only the class of plaintiffs which have legal standing in such cases. The Court said in part:

(E)ven when the plaintiff has alleged injury sufficient to meet the "case or controversy" requirement, this Court has held that the plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties.⁴²

Thus the legality of referendum requirements for subsidized housing has still not been established.

Conclusion

"The dual market," "stratification," "exclusion," and "mismatch between job and housing opportunities" are words and phrases which are easy to understand and whose meanings are all too clear. The origins of the conditions described by the words can be found on the pages of countless texts, government documents, and legal reports. Yet solutions are harder to find.

Some progress has been made: In 1968 Congress incorporated fair housing legislation into the body of civil rights laws. Thirty-three states and thousands of municipalities have adopted fair housing laws of their own. Massachusetts has enacted a quota system for low and moderate income housing for each town in the state, and several municipalities require that large developments include a specified percentage of low-to-moderate income housing.⁴³ Though these signs are encouraging, they are only a beginning.

In recent years a new phrase has been floating around academic circles, planning commissions, and federal offices . . . "Fair Share." But what does fair share mean? Will it work? What are its potentials? And, what are its limitations?

Chapter One--Footnotes

¹U.S. Commission on Civil Rights, Understanding Fair Housing (Washington, D.C.: U.S. Government Printing Office, 1973), p. 18.

²In 1969, the U.S. Commission on Civil Rights decided to conduct a study of metropolitan area development and its social and economic impact on urban minorities. Public hearings were conducted in St. Louis, Baltimore, and Washington, D.C., between January 1970 and June 1971 in which the Commission documented the problem with the testimony of more than 150 witnesses from all walks of life.

³U.S. Commission on Civil Rights, Above Property Rights (Washington, D.C.: U.S. Government Printing Office, 1972), p. 10.

⁴U.S. Commission on Civil Rights, Equal Opportunity in Suburbia (Washington, D.C.: U.S. Government Printing Office, 1974), p. 25.

⁵Understanding Fair Housing, p. 3.

⁶Ibid.

⁷Ibid.

⁸Ibid.

⁹Ibid.

¹⁰Ibid.

¹¹Ibid.

¹²Ibid.

¹³Ibid.

¹⁴Ibid.

¹⁵Ibid., p. 5.

¹⁶Ibid.

¹⁷Ibid.

¹⁸Ibid.

¹⁹Ibid.

²⁰Ibid.

²¹Manpower Report of the President, (Washington, D.C.: 1974).

²²Equal Opportunity in Suburbia, p. 1.

²³Ibid., p. 25.

²⁴Ibid.

²⁵Ibid., p. 11.

²⁶Ibid., p. 12.

²⁷Ibid., p. 11.

²⁸Ibid., p. 48.

²⁹Ibid., p. 10.

³⁰Ibid., p. 12.

³¹Ibid., p. 48.

³²Ibid., p. 18.

³³Ibid., p. 24.

³⁴National Land and Investment Company v. Kohn, 419 Pa. 504, 215 A.2d 597 (1965).

³⁵In re Appeal of Girsh, 437 Pa. 237, 263 A.2d 395 (1970).

³⁶Oakwood at Madison, Inc. v. Madison, 117 N.J. Super. 11,283 A.2d 353 (1971).

³⁷Commonwealth of Pennsylvania v. County of Bucks, Court of Common Pleas of Bucks County, 22 Bucks Co. Rep. 179 (1972); appeal dismissed, 8 Pa. Cmwlth. 295, 302 A2d 897 (1073); aff. S.Ct. of Pa., August 1, 1973, cert. den. 42 U.S.L.W. 3386 (U.S. Jan. 8, 1974).

³⁸Understanding Fair Housing, p. 21. James v. Valtierra, 402 U.S. 137 (1971), rev'g Valtierra v. Housing Authority, 313 F. Supp. 1, (N.D. Cal. 1970).

³⁹National Committee Against Discrimination in Housing and the Urban Land Institute, Fair Housing and Exclusionary Land Use, (Washington, D.C.: The Urban Land Institute, 1974), p. 21.

⁴⁰Fair Housing and Exclusionary Land Use, p.15.

⁴¹Fair Housing and Exclusionary Land Use, p. 24. Cornelius v. City of Parma; United States v. City of Parma, Ohio, 374 F. Supp. 730 (N.D. Ohio 1974).

⁴²Warth v. Seldin, 422 U.S. 490, 45 L Ed 2d 343, 95 S Ct 2197.

⁴³Understanding Fair Housing, p. 17.

Chapter Two

ORIGINS OF THE FAIR SHARE CONCEPT

The term "fair share" has become shorthand in housing and civil rights circles for the planned allocation of subsidized housing units to all jurisdictions within a metropolitan area.¹ Integral elements of fair share include a regional housing plan, an allocation formula, and an implementation strategy. David Listokin in his book Fair Share Housing Allocation defines fair share as "a plan which typically determines where housing, especially low- and moderate-income units, should be built within a region according to such criteria as placing housing where it will expand housing opportunity, where it is most needed, and where it is most suitable."²

The nation's first fair share plan was in Dayton, Ohio. At the time of that plan's adoption in 1970, ninety-five percent of all the subsidized housing in the five-county Miami Valley region was in the city of Dayton itself. In response to the lack of lower income housing opportunities in the region's suburban localities the Miami Valley Regional Planning Commission devised a fair share allocation plan that has served as a model for the 40 or more fair share plans which exist today. (The Dayton plan is discussed in more detail later in this chapter.)

The fair share concept has two basic origins: 1) the increasing shift to regional or metropolitan planning, and 2) the growing

commitment to reverse the economically and racially segregated residency pattern of our large metropolitan areas. This pattern has resulted not only in a fiscally stagnant central city but a mismatch between job opportunities, which have been increasingly moving to suburban areas, and lower income housing opportunities, which traditionally have been limited to the central city. Edward L. Holmgren and Ernest Erber, writing for HUD Challenge, call this pattern "metropolitan malformation":

For a long time most of them (planners) saw metropolitan functional deficiencies mainly as transportation problems and were preoccupied with planning urban expressways and center city parking garages. Meanwhile the mass migration of upwardly mobile whites from city to suburb continued, and the housing they left behind was absorbed by growing racial ghettos. The rising demand of the minorities for equal opportunity in employment, housing, and education, which found a massive voice in the civil rights movement of the 1960's, forced the nation, among other things, to face the consequences of discrimination in housing, especially racial segregation furthered by selection of ghetto sites for public housing. The civil rights/housing movement's advocacy of a site-selection policy that assured equal opportunity for all to live in city or suburb merged with the growing awareness of regional planners that balanced location of housing should be a regional concern.³

The Regional Approach to Planning

A regional or metropolitan approach not only to housing but to other facets of planning as well, has long been advocated, primarily in response to the political fragmentation in most metropolitan areas.

In 1968 Robert Anderson wrote:

The assumption of urban isolation which prompted state legislatures to vest land use control powers in numerous local governments was of doubtful validity when planning and zoning began. Clearly, the problems of community development have overrun

municipal boundaries and a new emphasis on integration is essential to the orderly development of urban land.

The fragmentation of power to control land use has survived the physical development of metropolitan areas. . . . Aside from the apparent inefficiency, dealing with common problems through as many as 100 separate legislative authorities and administrative complexes, the division of power has resulted in competition and conflict. These difficulties have limited the effectiveness of land use planning and control.⁴

Early planners such as Alfred White, Charles D. Norton, Graham Taylor, and Russell Van Nest Black all advocated an expanded approach to planning over the local, piecemeal approach.⁵ Writing in 1925, Lewis Mumford expounded the merits of regional planning:

Regional planning asks not how wide an area can be brought under the aegis of the metropolis, but how the population and civic facilities can be distributed so as to promote and stimulate a vivid, creative life throughout the whole region--a region being any geographic area that possesses a certain unity of climate, soil, vegetation, industry and culture. The regionalist attempts to plan such an area so that all its sites and resources, from forest to city, from highland to water level, may be soundly developed, and so that the population will be distributed so as to utilize, rather than to nullify or destroy its natural advantages. It sees people, industry, and the land as a single unit.⁶

Yet such early calls for a regional approach to planning did not go entirely unheard. During the 1920's, regional advocates saw the creation of such bodies as the Los Angeles County Regional Planning Commission, the Chicago Regional Planning Association and the Committee on the Regional Plan of New York. The latter body, along with such early planners as Charles D. Norton, Frederick Law Olmstead, and Edward H. Bennett, produced the landmark study, The Regional Plan of New York and Its Environs.⁷

The 1930's saw the federal government becoming involved in and encouraging regional planning in the creation of the Tennessee Valley

Authority and a National Planning Board. Regional efforts resumed after World War II, particularly those centered around large-scale transportation plans such as those in Detroit, San Francisco, Chicago, and the Pennsylvania-New Jersey regions.⁸

During the 1950's and on into the 60's, other regional bodies were created, including the Delaware River Basin Commission, the Appalachian Regional Commission, and the mushrooming councils of governments (COGs). Still, regional planning was the exception rather than the rule. In addition, a lack of power often prevented those bodies which were in existence from actually implementing their plans. COGs in particular lacked any real power because they were only voluntary associations of regional governments.⁹

The Role of the Federal Government

More recently the federal government, through legislation, has encouraged regional planning (particularly in housing) and through its funding requirements has given regional bodies a certain degree of leverage: The 1954 Housing Act authorized the Section 701 program to encourage (through subsidy) the creation of local comprehensive plans. Many communities have taken advantage of 701 funds either to provide a more rational basis for decision making or to make themselves eligible for other federal subsidies which require a comprehensive plan. In 1968 Congress required that Section 701-funded planning include a housing element which considered regional land use and housing needs:¹⁰

Planning carried out with assistance under this section shall include a housing element as part of the preparation of comprehensive land use plans and this consideration of the housing needs and land use requirements for housing in each comprehensive plan shall take into account all available evidence of the assumption and statistical bases upon which the projections of zoning, community facilities, and population growth are based; so that the housing needs of both the region and the local communities studied in the planning will be adequately covered in terms of existing and prospective immigrant population growth.¹¹

The 701 housing element requirement led to research which provided data for later regional housing plans. Perhaps more important, it drew attention to and documented the growing urban/suburban dichotomy and the lack of lower-income housing opportunities in suburban areas. In some instances HUD used the requirement to force planning bodies to formulate allocation strategies. For example the Southwestern Wisconsin Regional Planning Commission (SEWRPC) formulated a fair share plan after HUD threatened to withhold a portion of its planning funds because the Commission had not undertaken an adequate regional housing study.¹² Commenting on the implicit intent of the housing element requirement one observer concluded:

In its circulars and more specifically, orally, HUD directives to agencies preparing plans with federal funds granted under Section 701 of the Housing Act pointed toward metropolitan allocation plans as the proper way to satisfy the law's housing element requirement.¹³

Section 701 is not the only federal assistance requiring that regional concerns be taken into consideration. By 1972 the Advisory Commission on Intergovernmental Relations found over two dozen federal development programs requiring a metropolitan or regional approach. All of these programs required review and comment by an areawide

comprehensive planning body before they could be funded in any locality by the federal government.¹⁴

These federal requirements were in part responsible for the tremendous growth of regional planning entities such as councils of governments and regional planning commissions. These bodies grew in power as they were assigned more important review responsibilities. Section 204 of the 1966 Demonstration Cities and Metropolitan Development Act (The Model Cities Program) required regional planning bodies to review applications for certain public-facility grant programs. The 1968 Intergovernmental Cooperation Act (Title IV) extended the review powers of the regional bodies to all federal categorical grant programs:

All viewpoints--national, regional, State, and local shall, to the extent possible, be fully considered and taken into account in planning federal and federally assisted development programs and projects. State and local government objectives, together with the objectives of regional organizations shall be considered and evaluated within a frame work of national public objectives, as expressed in Federal law, and available projections of future national conditions and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

To the maximum extent possible, consistent with national objectives, all Federal aid for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including but not limited to housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.¹⁵

In late 1968 the President directed the Office of Management and Budget (OMB) to establish procedures to guide the review required by the new legislation. In 1969 OMB issued circular A-95 which called

for the designation of multijurisdictional bodies as "clearinghouses" to review and comment on local applications for federal aid in terms of how they related to and conformed with statewide or areawide comprehensive plans, the extent to which proposals duplicated or conflicted with other projects or activities, and the environmental impact of the proposal. While a negative comment by a clearinghouse does not automatically prevent the application from being approved, it is a primary consideration.¹⁶ The review process is detailed below:

Step 1: A potential applicant for federal funds is informed by the federal agency that it must notify state and regional (or metropolitan) clearinghouses about the project for which it intends to apply for assistance.

Step 2: Applicant notifies clearinghouses; including a summary description of the project.

Step 3: State clearinghouses notify state agencies which may be affected by the proposed project; regional and metropolitan clearinghouses do the same for local government agencies.

Step 4: State and local agencies notify clearinghouses of interest, if any, in conferring with applicant about project.

Step 5: Clearinghouses notify applicant of their interest or the interest of state and local agencies in holding a conference to explore the project in greater detail. This must be done within 30 days of step 2. If there is no interest on the part of clearinghouses or state and local agencies in holding a conference, the applicant's obligations under PNRS (Project Notification and Review System) are satisfied at this stage.

Step 6: A conference is held between the applicant and the appropriate agencies to explore the project in greater detail and identify and resolve possible conflicts.

Step 7: If conflicts are not resolved, the clearinghouses must notify the applicant that they will have comments to accompany the application submitted in Step 8.

Step 8: Applicant submits application (or adequate project description) to clearinghouses, which have 30 days for comment.

Step 9: Clearinghouses submit their comments, as well as those of state and local agencies, to applicant within the 30-day period, prescribed in Step 8.

Step 10: Applicant submits application to federal agency, with comments from clearinghouses and state and local agencies. If there are no comments, applicant submits a statement that requirement for review and comment has been followed.

Step 11: Federal agency considers application and attached comments and informs clearinghouses of actions taken.¹⁷

The scope of the A-95 review process has been expanded since its adoption in 1969. In 1972 clearinghouses were directed to consider the civil rights implications of proposed actions. In the same year, twenty-two HUD programs for Housing Production and Mortgage Credit also became subject to the A-95 review process. In addition, aid administered by the Farmers Home Administration, the Economic Development Administration, Health, Education and Welfare, and other agencies now require clearinghouse review. At present, almost 140 federal aid programs are subject to the review process.¹⁸

However, A-95 has not been without its problems. The criteria used in the review process have often been vague, and some clearinghouses have only gone through the motions of review. Moreover, some federal agencies have not given full consideration to the comments passed on them by the clearinghouses. However, the review powers under A-95 have helped, at least symbolically, to institutionalize regional planning and have given regional planning bodies greater power in enforcing their plans. Commenting on the merits of regional review, Dale Bertsch, Executive Director of the Miami Valley Regional Planning Commission, said:

We see regional review as the most important single tool we have. We have a great number of county and municipal planning agencies in our area, which have the administrative capabilities of handling zoning and subdivisions which are looked upon by planners as the primary implementation tools. So, when 204 came along and, in turn, A-95, we attempted to capitalize on it and make it an effective tool for implementing and guiding priorities in our region.¹⁹

The Role of the Courts

While the federal government has done a great deal to promote a regional approach to housing, the courts have also been a significant force. A recent court decision in Hartford, Connecticut involving the housing assistance plan requirement of the Housing and Community Development Act of 1974 and A-95 review promises to add yet another degree of leverage to the powers of regional clearinghouses and their attempt to provide regional housing opportunities for all groups.

In August, 1975, the City of Hartford, its city council, and two city residents brought suit against HUD for approving the applications for Community Development (CD) funds of several of the outlying suburbs. The '74 Act requires that communities applying for funds under the Act must first submit an approved housing assistance plan which addresses not only the existing need but also the need for those "expected to reside" within the jurisdiction. One of the major goals of the Act is to encourage steps to end economic segregation of lower income groups. Moreover, the Civil Rights Act of 1968, Title VIII, requires that all federal agencies, through their programs, act affirmatively to provide fair housing and end economic segregation. Hartford contended that the suburban jurisdictions, in their CD

applications, had not met the requirements set down in the legislation, and therefore HUD acted improperly in approving the applications. Hartford was critical of several aspects of the applications:

- 1) Maximum consideration for the use of funds was not given to benefit low and moderate income households as specified in the Act.
- 2) Some applications were not complete in several respects, such as the required signed assurances or the housing assistance plan.
- 3) The housing assistance plans frequently contained inadequate or no assessment of lower income households expected to reside in the communities based on current employment or projected employment.
- 4) Applications frequently contained inadequate assessments of housing needs or assessments contrary to other available facts and data.
- 5) Applications frequently identified housing goals which were not consistent with nor apparently took into consideration the housing needs identified or believed to exist.
- 6) Applicant communities were not required to present affirmative action plans, or were never investigated when evidence existed of prior discrimination within that community.²⁰

The 1970 population of the Hartford region was 664,000, of which 8.11 percent were minority residents. While only 23.8 percent of the regional population lived in Hartford itself, 85.7 percent of the region's minority population lived there. The 1970 central city median income was \$6,475 as compared to \$11,630 in areas outside the central city. As of June, 1976, sixty-one percent and seventy-one percent of the subsidized and public housing, respectively, was in Hartford itself. The need for more is overwhelming: of the city's housing stock, which comprises 30 percent of the region's total, 60 percent was without adequate plumbing and 72 percent lacked complete kitchen facilities in 1970.²¹ Small wonder then that Hartford was outraged when HUD approved applications from suburban jurisdictions which in no way addressed regional housing needs.

Through participation in the A-95 review process, Hartford had reviewed the applications from the nine entitlement suburban communities in the region and made negative comments on seven of these applications. The comments were passed along to the regional clearinghouse, the Capitol Regional Council of Governments, which made negative comments on only one of the applications. However, negative comments were also made by other groups, including the Connecticut State Division of Human Rights and Opportunities.²² Still HUD approved the applications.

The court ruled in favor of Hartford, finding that HUD had abused its discretionary power. A crucial consideration in the court's decision was a memorandum issued on May 21, 1975 by David Meeker, Assistant Secretary for Community Planning and Development at HUD, informing communities that "expected to reside" data was not required for approval of first year grant applications. However, the court said that while the Secretary of HUD was permitted to waive all or part of regulations under certain conditions, those regulations describing and requiring the housing assistance plan were not waiverable. Moreover the "expected to reside" requirement is the keystone of the spatial deconcentration objective of the '74 Act, and the Meeker memorandum which allows suburban communities to obtain funding without taking steps to expand low and moderate income housing opportunities amounts to "effectively gutting the enforcement provision of the Act."²³

One of the defendant communities did submit an expected to reside figure which the plaintiffs claimed to be inconsistent with

other available data. Again the court ruled that while the Secretary of HUD had the authority to approve or deny the application, she had not considered relevant facts and thus there was an error in judgment. The court found that HUD had failed to obtain generally available information required for a proper review and stated that HUD had a duty to do more than accept any "expected to reside" figure. Thus the court concluded that the Secretary had abused her discretionary power in approving the applications and enjoined all seven communities from receiving any CD funds.²⁴

The ramifications of the Hartford decision are clear: HUD is now carefully examining housing assistance plans as part of the CD application and local jurisdictions are taking the requirement much more seriously.

In Gautreaux v. Chicago Housing Authority, a case recently heard by the Supreme Court, the Court condemned public housing policies that created racial concentrations and held that federal courts can order HUD to provide low-income housing in white suburbs. At the time that the suit was brought almost eleven years ago and to a lesser extent today, public housing in the area was not only almost entirely limited to the central city (Chicago), but to the predominantly black neighborhoods of Chicago. Originally a lower court banned site selection policies which resulted in racial discrimination within the city limits. However the Circuit Court of Appeals in 1974 extended this ruling to the metropolitan scale and in April, 1976, the Supreme Court agreed that "the metropolitan area is a single relevant locality

for low-rent housing purposes and that a city-only remedy will not work."²⁵

One of the most significant cases involving regional housing needs and one directly related to the fair share concept, is Southern Burlington County NAACP v. Township of Mount Laurel. Mount Laurel is a large rapidly developing township located near affluent Cherry Hill, New Jersey, approximately 20 miles from Camden and Philadelphia. The population of the township doubled between 1950 and 1960, and doubled again between 1960 and 1970. In response to the rapid growth, Mount Laurel revised its zoning ordinances, increasing minimum lot sizes and designating large portions of its undeveloped land for industrial use. The new zoning was challenged on the grounds that it limited housing opportunities for low and moderate income families. In 1972 the trial court ruled in favor of the plaintiffs and in 1975 the New Jersey Supreme Court upheld the lower court decision.²⁶

With the court condemning the exclusionary zoning and calling for each municipality to provide for its share of a region's housing need, one zoning expert termed the case the most significant since Euclid,²⁷ while another described it as one of the "most significant state court decisions regarding exclusionary land use litigation."²⁸

Reasoning that zoning as an exercise of the police power must be directed to satisfying not only the local general welfare, but the regional welfare as well, the court said:

It is plain beyond dispute that proper provision for adequate housing of all categories of people is certainly an absolute essential in promotion of the general welfare required in all land use regulations. Further the universal and constant need

for such housing is so important and of such broad public interest that the general welfare which developing municipalities like Mount Laurel must consider extends beyond their boundaries and cannot be parochially confined to the claimed good of the particular municipality.²⁹

While the Mount Laurel decision echoed somewhat the same regional welfare concerns as Oakwood at Madison, it goes one step further in stressing regional considerations and in particular, the fair share perspective:

We conclude that every municipality must, by its land use regulations, presumptively make realistically possible an appropriate variety and choice of housing. More specifically, presumptively it cannot foreclose the opportunity of the classes of people mentioned for low and moderate income housing and in its regulations must affirmatively afford that opportunity, at least to the extent of the municipality's fair share of the present and prospective need therefor.

The concept of fair share is coming into more general use through the expertise of the municipal planning advisor, the county planning boards and the state planning agency, a reasonable figure for Mount Laurel can be determined, which can then be translated into the allocation of sufficient land therefor on the zoning map.³⁰

The Dayton Plan

The first fair share plan of the kind mentioned by the court in the Mount Laurel decision was in Dayton, Ohio. In 1969 the Miami Valley Regional Planning Commission began a housing program for the five county Dayton area. The area's basic housing problems were found to be two-fold: first, there was a serious shortage of sound dwelling units in the region; and second, most of the existing housing for low and moderate income families was in the city of Dayton itself. In early 1970 a regionwide housing conference drew over 300 participants

including politicians, citizens, builders, housing sponsors, and managers.³¹ Out of this conference and the tireless efforts of the Commission staff came a regional allocation plan to distribute 14,000 low and moderate income housing units. The philosophy behind the plan is as follows:

Its underlying concept is that families and individuals of low and moderate means should have some choice in selecting a place to live just as others of greater financial resources do. Further, that the opportunity can be more than just that of choosing a different place to live; that in fact it can be the entre' to a better life in many respects far beyond physical shelter itself.³²

Ann Shafor, Deputy Director of Housing and Human Resources, describes the allocation process this way:

The entire region was broken down geographically into 53 'planning units' . . . Then the needed low- and moderate-income dwelling units were assigned to the planning units using a composite of numbers resulting from six calculation methods: (1) equal share, (2) proportionate share of the county's households, (3) proportionate share of the county's households making less than \$10,000 annually (or less than \$7,000 in the three more rural counties), (4) the inverse of 3, (5) a share based on the assessed valuation per pupil of the school districts covering the planning units, and (6) a share based on the relative overcrowding of the school districts.³³

In the weeks preceding the vote on the plan, public hearings were held throughout the area and MVRPC staff were on hand to explain and defend the plan. Opposition to the plan was, at times, very great, and Director Dale Bertsch and outspoken commission proponents often received threatening phone calls. However, the staff's patience, rational responses to irrational objections, and willingness to compromise kept the plan alive. One of the major compromises made was the elimination of approval for the staff to seek state legislation

authorizing the commission to override local zoning in carrying out the plan. Finally the Dayton plan was unanimously endorsed in September 1970 by the elected officials serving on the 42-member MVRPC, representing the 32 member municipalities and five member-counties of the region. But as Lois Craig points out, "it's one thing to get suburban officials to approve a distribution formula and another to get suburban residents to accept specific lower-income housing developments."³⁴

The major opposition to dispersal occurred in Montgomery County in which Dayton, itself, is located. Yet Montgomery County had a need for low-to-moderate income housing which was greater than all other counties combined.³⁵ A hearing concerning subsidized housing in the Montgomery County community of Miamisburg brought out 500 people, some armed with American Independent Party pamphlets protesting the scattering of "high rise slums" by MVRPC which could lead to "crime and vice so rampant" that citizens would be "afraid to open their doors in daylight."³⁶

The plan received considerable support from one of the two newspapers in the area, the Dayton Daily News and its editor, Jim Fain. Letters to the editor indicated that some people felt Fain to be too involved in the housing plan:

What right does Metro have to dump the scum of a five-county area and the cesspool of Dayton into Miamisburg or any other area? If Jim Fain wants subsidized housing how about putting it in Centerville to where he escaped in order not to put up with what he wants to force onto others?"³⁷

Even though several jurisdictions threatened to pull out of the Commission and many of the plan's early supporters were defeated in later elections, the Commission somehow held the plan together. The Commission's feat in the face of so much opposition is to a large degree due to the housing element requirement of 701 funding, the housing assistance plan requirement of the 1974 Community Development Act, and the review powers under A-95. Figures 2-1 and 2-2 graphically represent the spatial distribution of low and moderate income units in 1970 and 1973. During that period an estimated 4300 new units were built.³⁸

Since 1970 when the plan was adopted some 9000 units of assisted housing have been built or rehabilitated. Whereas in 1970 only 5 percent of the region's assisted housing was outside Dayton, today 40 percent is located outside the central city.³⁹

While the Dayton plan has made significant progress toward meeting the region's housing needs, not only for shelter itself, but for geographic opportunity, by far its greatest contribution is the example it has set for other areas to follow. One area which did follow Dayton's example is Washington, D.C. The remaining chapters will examine the Washington experience.

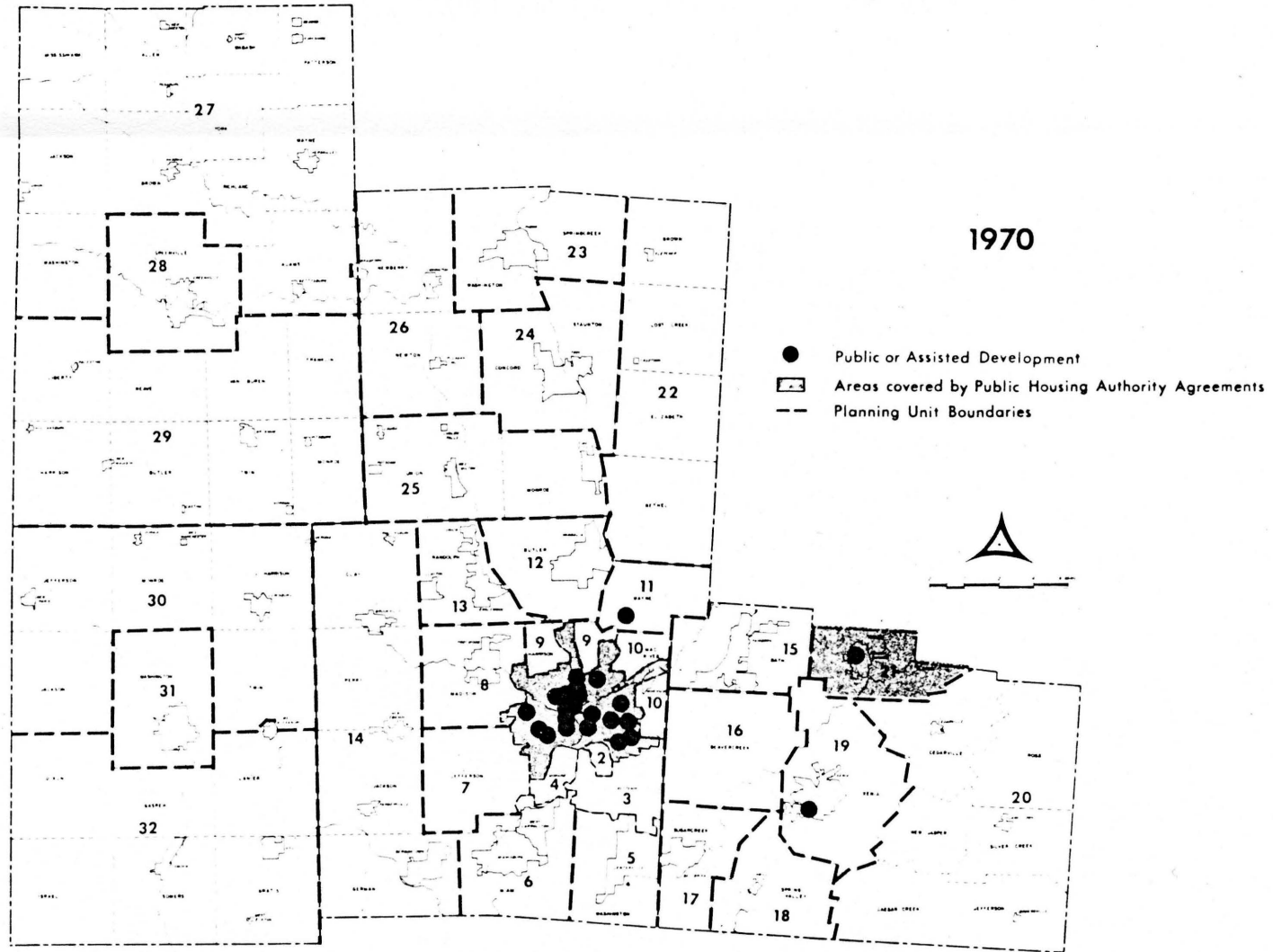


Fig. 2-1. Low and Moderate Income Housing in the Miami Valley Region.

Source: Miami Valley Regional Planning Commission, The Miami Valley Region's Housing Plan, p. 108.

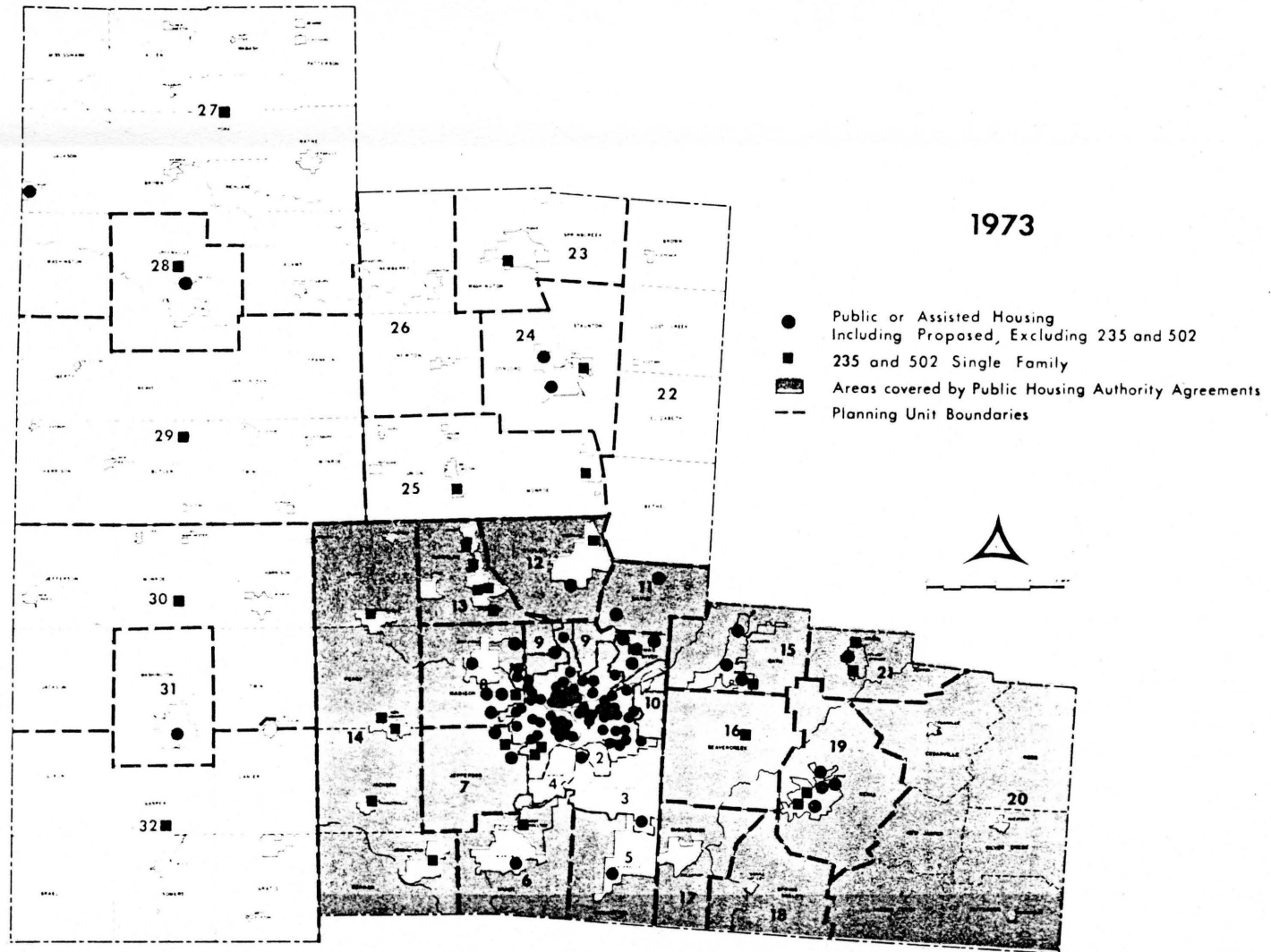


Fig. 2-2. Low and Moderate Income Housing in the Miami Valley Region.

Source: Miami Valley Regional Planning Commission, The Miami Valley Region's Housing Plan, p. 109.

Chapter Two--Footnotes

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³Holmgren and Erber, p. 23.

⁴Robert Anderson, American Law of Zoning, (Rochester: Lawyers Cooperative, 1968), pp. 336-37. (as cited in Listokin, p. 3.)

⁵Listokin, p. 3.

⁶From an article by Lewis Mumford published in Survey Graphic, (1 May 1925). (as cited in Listokin, p. 4.)

⁷Listokin, p. 4.

⁸Ibid.

⁹Ibid.

¹⁰Ibid., p. 6.

¹¹40 U.S.C. sec. 461 (a) (as cited in Listokin, p. 6.)

¹²Listokin, p. 6.

¹³Ernest Erber, "Metropolitan Housing Allocation Planning," Urban Land 33, no. 4, (April 1, 1974), p. 9. (as cited in Listokin, p. 7.)

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¹⁵82 Stat. 1103.

¹⁶Listokin, p. 8.

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¹⁸Listokin, p. 11.

¹⁹National Conference on Housing: Regional Issues and Strategies: Summary of Proceedings (Washington, D.C.: National Service to Regional Councils, 1971), p. 49. (as cited in Listokin, p. 11.)

²⁰Mary E. Brooks and Paul Davidoff, "More Cities Looking at Suburban Housing Plans," Practicing Planner (June 1976), p. 7.

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²²Ibid., p. 7.

²³Ibid., p. 8.

²⁴Ibid.

²⁵Sylvia Lewis, "Supreme Court Orders HUD to Disperse Public Housing," Planning (June, 1976), pp. 8-10.

²⁶Listokin, p. 19.

²⁷Norman Williams, "Mt. Laurel: A Major Transition in American Planning Law," Land Use Law and Zoning Digest 27, no. 6 (1975), p. 33. (as cited in Listokin, p. 19.)

²⁸Donald Priest, "A View from the Mount: Laurel and Criticisms for a Major Judicial Advance," Environmental Comment 23 (July 1975), p. 1. (as cited in Listokin, p. 19.)

²⁹Southern Burlington County NAACP v. Township of Mt. Laurel, 119 N.J. super. 164 (superior Ct., 1972).

³⁰Ibid.

³¹Lois Craig, "The Dayton Area's 'Fair Share' Housing Plan Enters the Implementation Phase," City (January-February 1972), p. 51.

³²Craig, p. 51.

³³Ibid., p. 50.

³⁴Ibid., p. 50.

³⁵The Miami Valley Region's Housing Plan, pp. 22-31.

³⁶Craig, p. 55.

³⁷Ibid., p. 53.

³⁸The Miami Valley Region's Housing Plan, p. 65.

³⁹HUD, Horizons on Display: The Dayton-Miami Valley Housing Opportunity Plan (January 1976), brochure.

Chapter Three

A "FAIR SHARE" PLAN FOR WASHINGTON

The Washington metropolitan area is not like any other American metropolis. The physical central city/suburban similarities which it does share with other cities are secondary to the unique position of Washington as the seat of the federal government. The constantly shining political spotlight and the enormous federal agencies set the mood and pace for L'Enfant's "Federal City" and surrounding areas.¹

It was primarily the expansion of the federal government, the area's largest employer, which was responsible for the incredible growth of the metropolitan area during the 1960's. Between 1960 and 1970 Washington was the fastest growing of the nation's twelve largest metropolitan areas, increasing its population by 39 percent. Prince William County on the outer edge of the metropolitan area tripled its population between 1960 and 1975.² However, the District itself dropped from 763,956 in 1960 to an estimated 722,300 in 1974, a decrease of 5.5 percent. (Table 3-1)

Again, because of the influence of the federal government, Washington is the most affluent of the nation's large metropolitan areas. Montgomery and Fairfax Counties are first and second in the nation in terms of median family income among counties of more than 50,000 population. Arlington County has the highest per capita income

TABLE 3-1
DISTRIBUTION OF THE POPULATION BY JURISDICTION
1960-1970-1974

	1960	1970	1960-70 Annual number	Average change percent	1974 ³	1970-74 Annual number	Average change percent
Total Washington Metro Area	2,109,182	2,908,901	79,962	3.8	3,061,000	33,800	1.2
D.C.	763,956	756,510	-745	-0.1	722,300	-7,600	-1.0
Total Maryland ¹	730,895	1,231,054	50,016	6.8	1,265,900	7,700	0.6
Montgomery Co.	340,928	522,809	18,188	5.3	569,000	10,300	2.0
P.G. Co.	357,395	660,567	30,317	8.5	642,600	-4,000	-0.6
Total Virginia ²	614,331	921,237	30,691	5.0	1,072,800	33,700	3.7
Alexandria	91,023	110,938	1,992	2.2	113,900	700	0.6
Arlington Co.	163,401	164,284	1,088	0.7	165,700	-1,900	-1.1
Fairfax Co.	275,002	455,021	18,002	6.6	557,500	22,800	5.0

¹Includes Charles County, not shown separately. (Not a part of the SMSA)

²Includes Fairfax and Falls Church Cities, and Loudoun and Prince William Counties, not shown separately.

³Rounded to the nearest 100.

SOURCE: Washington Center for Metropolitan Studies, Washington Region 74, p. 15.

of counties over 50,000 and the District of Columbia itself, though relatively poor when compared to many of the suburban jurisdictions, has the second highest median family income among large central cities.³ (Table 3-2) However affluence and high costs go hand in hand. In the D.C. area, the cost of housing, which is the average family's largest single expenditure, is the highest in the nation. Between 1970 and 1974 alone, the median value of owner-occupied units in the metropolitan area increased an unparalleled 71.58 percent, from \$28,034 to \$48,100. In that same period, the median amount paid for rental units, while not increasing as dramatically as owner-occupied, jumped from \$142 per month to \$190 per month. In 1974, median rents ranged from a low in the District of \$150 to a high in Montgomery County of \$230. (Table 3-3). Similarly, median values for owner-occupied units ranged from \$30,600 in the District to \$59,600 in Fairfax County.⁴ (Table 3-4).

One phenomenon which Washington shares with other large metropolitan areas is the increasingly poor and black central city surrounded by the "white noose." The incredible growth of the suburbs during the 1960's, and the suburban relocation of several Federal offices, created many job opportunities in the low and moderate income range. Yet the suburbs offered very little housing at a price which was commensurate with the wages offered by these new jobs. In response to what Holmgren and Erber called "metropolitan malformation" the Metropolitan Washington Council of Governments (COG) undertook a regionwide plan to help resolve this mismatch.

TABLE 3-2
 DISTRIBUTION OF FAMILY INCOME^a by JURISDICTION^b 1974
 WASHINGTON METROPOLITAN AREA

	Total Washington Metropolitan Area		District of Columbia	
	Number	Percent	Number	Percent
Total Families	756,400	100.0%	155,900	100.0%
Under \$4,000	31,100	4.1	17,300	11.1
\$4,000-\$4,999	17,000	2.2	9,000	5.8
\$5,000-\$7,999	46,300	6.1	17,600	11.3
\$8,000-\$9,999	53,000	7.0	14,200	9.1
\$10,000-\$11,999	58,500	7.7	14,800	9.5
\$12,000-\$14,999	82,100	10.9	13,000	8.3
\$15,000-\$24,999	212,200	28.1	27,300	17.5
\$25,000-\$34,999	98,700	13.0	9,300	6.0
\$35,000-\$49,999	41,800	5.5	3,600	2.3
\$50,000 and over	16,200	2.1	1,500	1.0
Not Reported	99,500	13.2	28,300	18.2
Median Income	\$16,900		\$10,800	

TABLE 3-2--Continued

	Maryland Portion					
	Total ^c		Montgomery County		Prince George's County	
	Number	Percent	Number	Percent	Number	Percent
Total Families	326,600	100.0%	145,800	100.0%	166,700	100.0%
Under \$4,000	7,200	2.2	1,600	1.1	4,700	2.8
\$4,000-\$4,999	4,500	1.4	1,100	0.8	3,400	2.0
\$5,000-\$7,999	14,900	4.6	4,200	2.9	9,900	5.9
\$8,000-\$9,999	22,700	7.0	9,400	6.4	12,600	7.6
\$10,000-\$11,999	24,500	7.5	5,900	4.0	16,800	10.1
\$12,000-\$14,999	42,000	12.9	14,200	9.7	24,400	14.6
\$15,000-\$24,999	98,800	30.2	41,500	28.5	53,600	32.2
\$25,000-\$34,999	45,500	13.9	27,000	18.5	17,200	10.3
\$35,000-\$49,999	18,000	5.5	13,800	9.4	4,200	2.5
\$50,000 and over	8,300	2.5	7,300	5.0	1,000	0.6
Not Reported	40,200	12.3	19,800	13.6	18,900	11.3
Median Income	\$17,800		\$21,400		\$15,400	

TABLE 3-2--Continued

	Virginia Portion							
	Total ^d		Alexandria		Arlington County		Fairfax County	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total Families	273,800	100.0%	29,600	100.0%	42,700	100.0%	144,800	100.0%
Under \$4,000	6,600	2.4	1,400	4.7	1,500	3.5	1,200	0.9
\$4,000-\$4,999								
\$5,000-\$7,999	13,900	5.1	2,700	9.1	2,600	6.1	5,100	3.5
\$8,000-\$9,999	16,000	5.9	3,000	10.1	3,700	8.6	6,200	4.3
\$10,000-\$11,999	19,200	7.0	2,900	9.8	3,500	8.3	9,000	6.2
\$12,000-\$14,999	27,000	9.9	3,500	11.8	5,100	11.9	12,600	8.7
\$15,000-\$24,999	86,100	31.4	7,500	25.3	12,600	29.4	47,400	32.7
\$25,000-\$34,999	43,900	16.0	2,700	9.1	4,000	9.3	29,100	20.1
\$35,000-\$49,999	20,300	7.4	1,300	4.4	2,700	6.4	13,700	9.5
\$50,000 and over	6,300	2.3	600	2.0	1,000	2.3	3,100	2.1
Not Reported	31,000	11.3	3,100	10.5	4,800	11.2	16,400	11.3
Median Income	\$19,100		\$14,100		\$16,000		\$21,000	

^aFamily income is not adjusted for inflation.

^bFigures for 1974 are rounded to the nearest 100.

^cIncludes Charles County, not shown separately.

^dIncludes Fairfax and Falls Church Cities, and Loudoun and Prince William Counties, not shown separately.

Source: Washington Center for Metropolitan Studies, Washington Region 74, pp. 38-39.

TABLE 3-3
 SELECTED CHARACTERISTICS OF HOUSING UNITS, 1960-1970-1974
 WASHINGTON METROPOLITAN AREA

	1960	1970	1974
Median (All Occupied Units)			
Rooms Per Unit	5.4	5.6	5.4
Persons Per Unit	3.4	3.2	2.5
Value of Owner-Occupied Units ^a	\$16,949	\$28,034	\$48,100
Amount Paid for Rental Units ^b	\$89	\$142	\$190
Percent of all Occupied Units which are ^c			
Owner Occupied	49.5%	46.3%	50.6%
Renter Occupied	50.5%	53.7%	48.5%
Not Reported	NA	NA	0.9%
1 or 2 rooms	8.7%	8.7%	7.4%
8 rooms or more	9.6%	16.2%	20.2%

^aFigures for median value rounded to the nearest \$100 for 1974.

^bFigures for median rent based upon Gross Rent data rounded to the nearest \$10 for 1974 (see definition).

^cFigures derived by the Washington Center for Metropolitan Studies.

Source: Washington Center for Metropolitan Studies, Washington Region 74, p. 55.

TABLE 3-4

SELECTED CHARACTERISTICS OF HOUSING UNITS BY JURISDICTION, 1974

WASHINGTON METROPOLITAN AREA

	Total Washington Metropolitan Area	District of Columbia	Maryland Portion		
			Total ^d	Montgomery County	Prince George's County
Median (All Occupied Units)					
Rooms Per Unit	5.4	4.2	5.7	6.3	5.3
Persons Per Unit	2.5	2.1	2.7	2.8	2.6
Value of Owner-Occupied Units ^a	\$48,100	\$30,600	\$46,300	\$55,100	\$39,200
Amount Paid for Rental Units ^b	\$180	\$150	\$200	\$230	\$180
Percent of all Occupied Units which are . . . ^c					
Owner Occupied	50.6%	32.5%	58.4%	63.7%	51.9%
Renter Occupied	48.5%	66.2%	40.9%	35.4%	47.5%
Not Reported	0.9%	1.3%	0.7%	0.9%	0.6%
1 or 2 Rooms	7.4%	18.4%	2.5%	2.0%	3.2%
8 rooms or more	20.2%	10.1%	21.5%	32.3%	12.8%

TABLE 3-4--Continued

	Virginia Portion			
	Total ^e	Alexandria	Arlington County	Fairfax county
Median (All Occupied Units)				
Rooms Per Unit	5.9	4.5	4.7	6.7
Persons Per Unit	2.7	2.1	2.0	3.1
Value of Owner-Occupied Units ^a	\$56,300	\$45,500	\$48,200	\$59,500
Amount Paid for Rental Units ^b	\$200	\$200	\$180	\$220
Percent of all Occupied Units which are . . . ^c				
Owner Occupied	55.0%	24.7%	34.1%	66.5%
Renter Occupied	44.3%	74.5%	66.2%	32.7%
Not Reported	0.7%	0.9%	0.7%	0.9%
1 or 2 rooms	4.8%	11.5%	9.2%	1.2%
8 rooms or more	26.1%	7.8%	10.0%	35.7%

^aFigures for median value rounded to the nearest \$100 for 1974.

^bFigures for median rent based upon Gross Rent data rounded to the nearest \$10 for 1974.
(See definition)

^cFigures derived by the Washington Center for Metropolitan Studies.

^dIncludes Charles County, not shown separately.

^eIncludes Fairfax and Falls Church Cities, and Loudoun and Price William Counties, not shown separately.

Source: Washington Center for Metropolitan Studies, Washington Region 74, p. 57.

The Fair Share Plan

In January of 1969 former D.C. Deputy Mayor Thomas W. Fletcher urged COG to undertake a major program in the field of metropolitan housing policy. Many of the lower paid jobs in the area were moving to the suburbs or being created there by the needs of both government and industry. Yet, housing opportunities for the low and moderate income labor forces were remaining concentrated at the center of the area. Not only did the District have most of the lower cost private market housing, but well over half of the area's public and subsidized housing was located in the District as well. Describing the possible adverse effects of the mismatch on suburban communities, Mr. Fletcher argued that it left the suburbs unable to supply the labor needed to maintain their economic growth and the diversification so badly needed in their tax bases. COG's Board of Directors responded by giving COG's housing program top priority.⁵

In 1969, in cooperation with the Metropolitan Congress of Citizens, COG held its first Annual Housing Conference. Largely as a result of the Conference, COG's 1969 Housing Report recommended that each local government "encourage the development of balanced communities with wide ranges of housing income levels supporting diversified economic growth."⁶ The 1970 Conference and resulting Report directed the COG staff to begin the development of a "fair share" formula which could be used to establish targets for housing production in terms of needs by family income levels, family composition and sub-area location.⁷

At the 1971 Conference a special panel was devoted exclusively to the fair share concept of balanced housing. The panel included a representative of the Miami Valley Regional Planning Commission who helped develop the nation's first fair share plan. The 1971 Housing Report identified the demand, supply, and locational factors which would need to be calculated into the fair share formula.⁸ The factors selected to be included in the formula reflect the following fair share principles:

- o "All residents of a local jurisdiction should have the opportunity to be accommodated in housing units which are comfortable, safe, and sanitary.
- o "All the residents of a local jurisdiction should have the opportunity to be accommodated in housing units of adequate size.
- o "Those persons who work in a local jurisdiction should have the opportunity to live there if they so desire.
- o "The number of households which should be accommodated in a local jurisdiction should be limited to those which could feasibly be absorbed in the jurisdiction, in terms of the amount of vacant land or unutilized housing stock in the jurisdiction.
- o "The number of low and moderate income households located in a local jurisdiction should be proportionate to the jurisdiction's ability to pay for the needed public services which accompany these units.
- o "Low and moderate income housing should be located within easy access of job opportunities.
- o "Overcrowding of low and moderate income housing should be avoided."⁹

In October of 1971, prior to the formula's adoption, George Romney, former Secretary of Housing and Urban Development, stated in a speech to the COG membership that

The Department would be happy to reward Metropolitan Washington with a bonus of housing units beyond what the area would normally receive as a means of encouraging the Council of Governments' efforts to establish a fair share plan on a 'real city' basis.¹⁰

Three months later in January, 1972, the COG Board of Directors unanimously adopted the Fair Share Housing Formula. (The formula is discussed in detail in the following chapter.) Secretary Romney, again expressing HUD's support for the plan, said in a letter to the Washington Post:

The recent action by the Metropolitan Washington Council of Governments in developing and approving a "fair share" housing plan is a giant stride toward achieving a balanced housing program for the "real city" of Washington, which includes the District and the adjoining communities in Maryland and Virginia. Such a balanced local program is a sound approach toward meeting the housing needs of people in various income levels. The U.S. Department of Housing and Urban Development will do everything possible to help make this locally initiated plan work for the benefit of the involved communities and their citizens.¹¹

Though the allocation distribution generated by the fair share formula provides an overall guidance mechanism, it is by no means a static, cut-and-dried indication of each jurisdiction's funding level in any given year. Rather, the implementation process is quite dynamic, reflecting a high degree of inter-governmental cooperation. The nature of Federal funding dictates a give-and-take approach to implementation. Because some jurisdictions receive such a small percentage of housing funds as generated by the formula, it is quite often necessary for one jurisdiction to "borrow" funds from another to make particular projects economically feasible, or to "hold harmless" existing commitments.¹² Implementation procedures are adopted each year prior to the beginning of the annual fair share cycle. The Board meetings which are held to determine a particular year's implementation involve quite a bit of bargaining, as each representative strives to come away with the best deal for his jurisdiction. Thus,

even though the formula establishes fair share targets, the actual distribution of funds in any given year depends on this bargaining process.

In June 1972, Terry C. Chisholm, Director of the Washington, D.C. HUD Area Office, notified COG of HUD's decision to provide the metropolitan area with bonus funds for 1,783 units over the previous year's (FY72) funding level. Total contract authority for the area in FY72 was for 4491 units, which the bonus brought to 6274 units for FY73. Echoing Romney's earlier statements Chisholm stated that "HUD expects these funds to encourage and assist the effective implementation of Fair Share on a 'real city' basis."¹³

However, when the Board sat down to decide on the implementation for fair share's first year there was some difficulty in reaching agreement. Apparently the failure to reach a consensus grew out of the need for funding above that allocated by the formula to "hold harmless" current efforts in Alexandria and the District. Responding to COG's inability to reach an agreement, Chisholm informed COG by letter on September 20, 1972 that if complete implementation procedures, including assistance targets by jurisdiction and program category, were not established by October 31, it would be necessary for the HUD Area Office to establish its own distribution guidelines. Finally on October 11 the COG Board of Directors adopted a resolution establishing the fair share implementation procedures for the first year under the plan.

Unfortunately, less than three months later Nixon's January 5, 1973 announcement of a moratorium on new commitments for Federal housing subsidy funds resulted in the suspended implementation of COG's fair share plan. However, only 1100 units of the 6274 promised by HUD for FY73 had actually been funded by January 10, 1973. COG adopted a resolution requesting a reaffirmation of HUD's prior fair share housing commitment, particularly reminding the Department of Romney's strong statements of support. Between January and July of 1973 representatives of COG's member jurisdictions and area Congressional representatives worked diligently to have Washington exempted from the moratorium. Finally the efforts paid off when on August 9, 1973 HUD announced the release of special subsidy funds for Washington. In November, the White House granted the Washington metropolitan area a full exemption from the moratorium. At last it seemed that the fair share plan was on its way.

However the August 22, 1974 signing of the Housing and Community Development Act of 1974 created yet another obstacle to the plan's implementation. Specifically, the level of funding under the Act's Housing Assistance Payments Program (Section 8) was much lower than under the previous subsidy programs. A January 30, 1975 letter from the HUD Area Office informed COG of the total contract authority for the area up to June 30, 1976. The Area Office estimated that between 2200 and 3800 families could be assisted with the authorized \$10,868,000 in Section 8 contract authority. Compared with an FY73 contract authority for 6274 units the new allocation seemed quite small.

The reduction in funding caused the District to reconsider its support of the fair share plan. Even though it was estimated that the District had 44.35 percent of the area's low and moderate income housing needs, the formula allocated only 20.3 percent of the subsidy funds to the District, reflecting the plan's goal of expanding housing opportunities in suburban areas. If funding were allocated to each individual jurisdiction by the HUD Area Office without the guidance of fair share, the District's level of funding would be more in line with its estimated need. However, the bonus which HUD had awarded annually as an incentive for support of the plan usually made up the difference between the District's level of funding under the plan and what it would be without the plan. Unsure of a continued bonus, and with such a low level of funding, the District began to consider pulling out of fair share.

In February 1975, COG Board of Directors Chairman Sterling Tucker and president Jean Packard sent a letter to James L. Mitchell, Acting HUD Secretary, reminding him not only of the overwhelming need for subsidized housing in the area (an estimated 300,000 units), but of HUD's prior commitment to fair share:

The Fair Share Housing Plan, adopted by COG in January, 1972, is designed to provide a wider range of low and moderate income housing choices in all jurisdictions of the metropolitan area, through the use of Federal housing subsidy funds. In recognition of this cooperative local government initiative, and in accordance with former Secretary Romney's commitment to support this effort, your Department has provided funds to the metropolitan area for over 6,000 federally subsidized housing units during 1973 and 1974, including bonus funds for over 1700 units. Despite such overwhelming obstacles as skyrocketing construction and financing costs and lack of sewer availability, the area's

local governments instituted emergency actions which have resulted in the successful reservation of funds for almost all of these units, following our exemption from the moratorium on the use of funds. . . . we are urgently requesting the U.S. Department of Housing and Urban Development to provide the Washington Metropolitan Area a bonus of funds above the \$10,868,000 already allocated. . . .

Copies of the letter were sent to area Congressmen and Senators who in turn wrote Mr. Mitchell requesting a meeting to discuss the possibility of additional funds. The meeting was held on March 17 and an editorial in the following Sunday's Washington Star summed up the results quite well:

To behold the representatives of local jurisdictions all sheltering nicely beneath one umbrella is not without precedent, though rarer than one would desire. Such a grouping occurred the other day to laudable effect. Officials of metropolitan governments, with the considerable added horsepower supplied by the four area members of the House of Representatives and Maryland's two senators, wrenched out of the Department of Housing and Urban Development a semi-demi-assurance of additional funds for low and moderate-income housing over the next 18 months.

The department earlier this year announced it was committing \$10.8 million here under the so-called Section Eight program that provides subsidies to landlords who rent to eligible families. This is the first major government housing effort since then-President Nixon suspended all housing-aid programs in January 1973.

Initially, however, area officials understood the money would be for the remainder of this fiscal year. No, said HUD, the \$10.8 million would have to stretch for the rest of this year and all of fiscal 1976. The money, to be allocated to each jurisdiction under the "fair share" criteria developed by the Metropolitan Washington Council of Governments, was felt to be anemic even as a palliative. Banding in a well-girded assault force, the local officials launched themselves at HUD.

What came out of the recent meeting--and one participant gave D.C. Council Chairman Sterling Tucker a rave review for his performance--was that the department cautiously guessed it would be reasonable for the Washington area to expect something better

than double the present \$10.8 million over this fiscal year's residue and the next. Not a commitment, mind you, but firm enough a probability for the counties and city to set up plans on the basis of more than \$20 million being available. It was clearly more than a moral victory but the money still is grotesquely short of need. It is estimated that around 300,000 families in this area are eligible for the housing subsidy program; the money to be made available will provide for some 6,000 of these families. Nevertheless, the concession from HUD was a promising example of united regional muscle.¹⁴

The Washington Post and local radio and TV stations joined the Star in giving editorial support to the plea for additional funds.

COG felt so sure of HUD's bonus funds that on April 2, 1975, the Board of Directors adopted a resolution establishing implementation procedures for \$25.8 million in Section 8 funds. The \$25.8 million included the \$10,868,000 already committed to the area, a \$5 million bonus from HUD's "reserve" fund if the metropolitan area's local governments renewed their commitment to the Fair Share effort, and another \$10 million to be made available to the area from January to June 30, 1976. However the additional funds were not forthcoming from HUD. In response to a letter to HUD from the COG Board of Directors requesting the immediate provision of \$5 million in Section 8 contract authority, HUD Under Secretary James L. Mitchell transmitted a letter to COG indicating that additional funds would not be provided to the Washington area "at this time."

Frustrated that their March 17 meeting with HUD had not borne fruit, the area's representatives again transmitted a letter to Secretary Hills requesting additional funds for the metropolitan area, basing their request on the area's extremely high housing costs and

the need to continue the fair share plan. HUD Secretary Carla Hills replied to the Congressional letter, indicating that due to statutory constraints HUD could not "reward" the region for its fair share efforts, but that the Congressional members' concerns regarding the area's high housing costs would be taken into consideration in future allocations of subsidy funds.

With the level of funding so drastically reduced, the District once again began considering pulling out of fair share so that its particular level of funding would be increased. In an effort to hold the fair share plan together, the Board of Directors directed the staff to revise the fair share formula in order to more accurately reflect housing need and (by implication) to increase the level of funding allocated to the District. The formula was revised and adopted in April, 1976.

In the meantime, COG and area representatives continued to push HUD for additional subsidy funds. Prince George's County Congresswoman Gladys Noon Spellman introduced a bill into Congress in October, 1975 to amend section 213 of the Housing and Community Development Act of 1974 to assist in implementing fair share housing allocations:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended by striking out the period and inserting in lieu thereof the following: ', and to assist in implementing fair share housing allocation formulae and other innovative cooperative metropolitan-wide housing plans designed to meet the needs of lower income households.¹⁵

Although Spellman's bill was referred to the Committee on Banking, Currency, and Housing and was never heard from again, her

proposed legislative action did trigger a response from HUD. In his remarks before the House Subcommittee on Housing and Community Development, John B. Rhinelander, Under Secretary of HUD, expressed the Department's support for the fair share concept and for the provision of bonus funds to implement fair share plans. Shortly thereafter HUD began the initial steps toward establishing a method of distributing bonus funds to those areas with fair share allocation plans. On March 3, 1976 HUD Secretary Hills announced the establishment of a \$20 million "set-aside" of Section 8 funds to provide a bonus for those areas participating in "AreaWide Housing Opportunity Plans." On August 30, 1976 HUD announced the release of the bonus funds, with \$4,550,000 going to Washington. In announcing the bonus Secretary Hills said:

We are extremely encouraged by the widespread interest in this effort and by the overall quality of the plans submitted This evidence of interest reinforces HUD's commitment to recognize and support strategies developed on a regional basis for meeting housing and community development needs.¹⁶

The Secretary's statements indicate that HUD's "flip-flop" support of fair share finally stabilized. Another bonus-incentive "set-aside" of \$30 million to "reward" such areas was recently announced by HUD for FY77. The amount that Washington will receive has not yet been determined, but will be in addition to the \$7,339,932 in contract authority announced by HUD this past January.

In sum, COG has had no easy task in holding the plan together. However, its task has been made easier by the high level of support shown for the plan. Its member jurisdictions, with the exception of a few smaller cities, have actively supported the plan, as have

local political representatives and the media. It was this support, along with the bonus, which brought the plan through the housing moratorium and fluctuations in funding. Still, there is much more to the success of a plan than mere survival, as the following chapters demonstrate.

Chapter Three--Footnotes

¹The Washington, D.C. SMSA consists of the District of Columbia, Montgomery County (Md.), Prince George's County (Md.), Arlington County (Va.), Fairfax County (Va.), Loudoun County (Va.), Prince William County (Va.), and the independent Virginia cities of Fairfax, Falls Church, and Alexandria.

²Metropolitan Washington Council of Governments, Metropolitan Growth Policy Program (Draft) (Washington: February 1975), p. 1-1.

³Ibid.

⁴Washington Center for Metropolitan Studies, Washington Region 74 (Washington: May 1975), Tables 21-22, pp. 54-55.

⁵Metropolitan Washington Council of Governments, Fair Share Housing Formula, (Washington: January 1972), p. 1.

⁶Ibid., p. 2

⁷Ibid

⁸Ibid.

⁹Ibid., p. i.

¹⁰Metropolitan Washington Council of Governments, "Chronology of Major Events Related to Adoption and Implementation of the Metropolitan Washington Council of Governments' Fair Share Housing Plan," (n.d.).

¹¹The Washington Post, 18 January 1972.

¹²"Hold Harmless" is used to describe a situation in which funding above the normal allocation is necessary for an on-going project when a cut in funding would threaten the project's viability.

¹³Jerry C. Chisholm, Director of the Washington, D.C. HUD Area Office. Letter to the Metropolitan Washington Council of Governments. 20 June 1972.

¹⁴The Washington Star, (Editorial), 23 March 1975.

¹⁵U.S. Congress, House, A Bill to Amend Section 213 of the Housing and Community Development Act of 1974 to Assist in Implementing Fair Share Housing Allocation, H.R. 10508, 94th Cong., 1st Sess., 1975.

¹⁶U.S. Department of Housing and Urban Development, HUD News, 30 August 1976.

Chapter Four

THE ALLOCATION FORMULA

The heart of any fair share plan is the allocation formula itself. It is the formula which generates the target distribution of subsidy monies among jurisdictions. There is no single "right" formula which, when applied to any given situation, will always yield the "correct" housing needs projection and distribution. Formulas vary in terms of factors considered, the weights given to particular factors, and perhaps most importantly, the overall goals of the plan itself.

Like all mathematical models, the formula is only as good as the data base. Often data which would be desirable in the formula simply cannot be found, or could only be gathered at great expense. As a rule, formulas which contain extremely detailed or complex data sacrifice a certain degree of updating capability for this precision. Many areas depend on census data, thus there is the danger of outdated (and no longer correct) data.

Definitional discrepancies ranging from the definition of moderate income to the definition of housing need itself, have also plagued fair share formulas. Moreover, once the terms have been defined and the data gathered, there are still internal issues to be resolved: Are all factors considered equally? On what basis are the factors weighted? The variations are endless, and depend more than

anything else on the objectives of the locality which is developing the formula. To illustrate how formulas vary, Rahenkamp, Sacks, Wells & Associates applied the Dayton, Washington COG, and Pennsylvania formulas to the Philadelphia SMSA and got considerable variation in output.¹ Table 4-1 illustrates this variation: The Washington COG distribution is skewed in favor of outlying suburban jurisdictions while the Dayton formula tends to allocate more units to the central city. The Pennsylvania formula falls somewhere between the other two, creating a more balanced distribution.

Even though various formulas can be applied to any given area with differing results, it does not mean that one is any more valid or correct than the other. As long as the data are reasonably correct and the rationale for the definition and weighting of particular factors is well defined and consistent, the formula will generate a relatively correct distribution among target areas. Moreover, most formulas are used to generate percentages and not absolute numbers.²

The Original Formula

Since the inception of COG's fair share plan, two formulas have been used. The first was adopted January 10, 1972 and the current revised formula was adopted April 14, 1976. To the extent possible the original formula was a quantification of the fair share principles established by COG during the initial phases of the plan. (See Chapter Three). The formula combines demand, supply, and special

TABLE 4-1

COMPARISON OF THE DAYTON, WASHINGTON, AND PENNSYLVANIA FORMULAS WHEN USED TO ESTIMATE
THE 1985 LOW AND MODERATE INCOME HOUSING NEED FOR THE PHILADELPHIA SMSA

Counties	Dayton ^a	%	Washington	%	Pennsylvania	%
Bucks	52,100	7.8	86,800	13.0	85,500	12.8
Chester	60,000	9.0	126,000	18.9	116,700	17.5
Delaware	86,200	12.9	80,200	12.0	65,300	9.8
Montgomery	82,500	12.4	150,100	22.5	91,300	13.7
Burlington	59,100	8.9	70,100	10.5	100,600	15.1
Camden	82,500	12.4	33,500	5.0	87,400	13.1
Gloucester	73,900	11.1	70,300	10.5	47,100	7.1
Philadelphia	170,600	25.6	50,000	7.5	73,100	11.0
Total Low and Moderate Income Units	667,000 units	100.0	667,000 units	100.0	667,000 units	100.0

^aThe original Dayton and Washington formulas were used.

Source: Pennsylvania Housing Need Allocation Model, prepared by Rahenkemp, Sacks, Wells and Associates for the Pennsylvania Department of Community Affairs (Philadelphia, Pa., 1973), p. 10. (as adapted from Exhibit 2-15 of Listokin's Fair Share Housing Allocation, p. 72.)

locational considerations. The demand factors describe the need for additional low and moderate income housing in each jurisdiction:

D-1: The number of overcrowded units indicated by the 1970 Census. (See Appendix B for data sources and methodology).

D-2: The number of deficient housing units as estimated from the 1970 Census using the method recommended by the Bureau of the Census.

D-3: The number of heads of households making less than \$10,000 who commute into each local jurisdiction for work--as indicated by the 1968 Transportation Planning Board (TPB) Home Interview Survey.³

The supply factors indicate the relative capabilities of local jurisdictions to accommodate additional households:

S-1: The number of acres of vacant residential land which is now sewered or is expected to be sewered within the next six years--as indicated by local land use, zoning, and sewer service area maps on file at COG.

S-2: The number of vacant housing units in each jurisdiction--as indicated by the 1970 Census.⁴

The three special locational factors included in the formula are:

L-1: The potential per capita fiscal resources of each local jurisdiction--defined as the total real estate value of the jurisdiction; plus the total of all personal income, divided by the local population.

L-2: The percent of all jobs in Metropolitan Washington within 45 minutes commuting time of the local jurisdiction's residents--as indicated by the COG/TPB surveys.

L-3: The percent of all housing units in each local jurisdiction valued at less than \$25,000 or renting for less than \$150 per month.⁵

To arrive at each jurisdiction's fair share of housing units, the demand and supply factors were added together and multiplied by a "modifier" consisting of a combination of the three locational

factors. This produces an index number which can be figured as a percentage of the sum of all indexes, thus yielding the fair share. The modifier was calculated by dividing the local fiscal resources by the existing local concentration of low and moderate income housing units, and multiplying the quotient by the accessibility-to-jobs factor. The effect of the modifying factor is threefold: 1) it allocates more units to the richer jurisdictions; 2) it reduces the number of units allocated to those jurisdictions which are already accommodating their fair share or more; and 3) it allocates more units to the more accessible parts of the metropolitan area.⁶ The aggregate formula is as follows:

$$\text{FAIR SHARE} = (\text{DEMAND} + \text{SUPPLY}) \times \text{MODIFIER}$$

where

$$\text{Demand} = \text{L+M Commuters} + \text{Overcrowding} + \text{Deficient Units}$$

$$\text{Supply} = \text{Vacant Residential Land} + \text{Vacant Housing Units}$$

$$\text{Modifier} = \frac{\text{Fiscal Resources}}{\text{L+M Housing Concentration}} \times \text{Accessibility}$$

$$\text{Fiscal Resources} = \frac{\text{Real Estate Value} + \text{Personal Income}}{\text{Population}}$$

Table 4-2 shows the formula data for the sixteen member COG jurisdictions based on 1970 Census data and COG's 1968 surveys.

Table 4-3 shows the calculation of each jurisdiction's fair share.

Table 4-4 compares the estimated housing need per jurisdiction with the number of publicly assisted housing units and the fair share target distribution. As can be seen from Table 4-4, the formula is

TABLE 4-2
FAIR SHARE FORMULA DATA

	D-1	D-2	D-3	S-1	S-2	L-1	L-2	L-3
District of Columbia	60,891	32,110	10,270	540	11,364	12,539	74.7	73.2
Arlington	20,270	2,204	777	938	1,280	15,799	50.9	79.2
Alexandria	4,914	2,060	866	1,838	1,550	12,136	55.4	73.2
Fairfax City	2,103	256	86	132	108	13,582	35.6	41.8
Fairfax County	10,602	4,593	2,716	45,923	3,167	13,742	26.2	48.4
Falls Church	1,643	242	31	39	53	17,905	43.4	74.7
Prince William	1,604	2,418	1,756	22,491	1,158	4,510	61.9	6.7
Montgomery	15,127	4,339	2,239	36,838	2,775	16,311	26.9	50.0
Rockville	3,612	680	131	1,749	180	12,573	40.2	36.4
Takoma Park	1,502	280	149	15	280	10,612	68.9	75.4
Prince George's	12,726	11,288	4,138	34,560	5,565	10,620	52.2	54.7
Bowie	355	347	124	1,044	72	11,210	25.8	19.5
College Park	6,433	298	73	573	53	6,729	63.7	73.0
Greenbelt	1,414	229	19	147	56	9,211	29.1	69.1
Totals	145,539	62,089	25,241		27,962			

Source: Metropolitan Washington Council of Governments.

TABLE 4-3

CALCULATION OF THE FAIR SHARE

Jurisdiction	(Demand + Supply) X Modifier = Index/Total Index = Fair Share	
District of Columbia	$(103,271 + 11,904) \times 123 = 14,166,525/\text{Total}$	= 20.3%
Arlington County	$(23,251 + 2,218) \times 246 = 6,265,374/\text{Total}$	= 9.0
Alexandria	$(7,840 + 3,388) \times 160 = 1,796,480/\text{Total}$	= 2.6
Fairfax City	$(2,445 + 240) \times 159 = 426,915/\text{Total}$	= .6
Fairfax County	$(17,911 + 49,090) \times 254 = 17,018,254/\text{Total}$	= 24.4
Falls Church	$(1,916 + 92) \times 308 = 618,464/\text{Total}$	= .9
Loudoun County	$(4,954 + 32,303) \times 26 = 968,682/\text{Total}$	= 1.4
Prince William Co.	$(5,778 + 23,649) \times 5 = 147,135/\text{Total}$	= .2
Montgomery County	$(21,705 + 39,613) \times 303 = 18,579,354/\text{Total}$	= 26.7
Rockville	$(4,423 + 1,929) \times 114 = 724,128/\text{Total}$	= 1.0
Takoma Park	$(1,931 + 295) \times 116 = 258,216/\text{Total}$	= .4
Prince George's Co.	$(28,152 + 41,125) \times 111 = 7,578,747/\text{Total}$	= 10.9
Bowie	$(826 + 1,116) \times 85 = 165,070/\text{Total}$	= .2
College Park	$(6,804 + 626) \times 77 = 572,110/\text{Total}$	= .8
Greenbelt	$(1,662 + 203) \times 219 = 408,435/\text{Total}$	= .6
	Total Index = 69,693,889	100.0%

Source: Adapted from Table 2, Metropolitan Washington Council of Governments, Fair Share Housing Formula (Washington: January 1972), p. 9.

TABLE 4-4

HOUSING NEED, NUMBER OF ASSISTED UNITS, AND FAIR SHARE TARGET ALLOCATION (1972)

	Estimated 1970 low and moderate income housing need (units)	%	Assisted units (Oct. 1971, including under construction	%	Fair Share Target Allocation (1972) %
District of Columbia	103,271	44.35	20,077	59.6	20.3
Arlington	23,251	9.98	0	0	9.0
Alexandria	7,840	3.37	1,192	3.5	2.6
Fairfax City	2,445	1.05	54	.2	.6
Fairfax County	17,911	7.69	1,990	5.9	24.4
Falls Church	1,916	.82	0	0	.9
Loudoun County	4,954	2.13	156	.5	1.4
Prince William County	5,778	2.48	747	2.2	.2
Montgomery County	21,705	9.32	2,628	7.8	26.7
Rockville	4,423	1.89	426	1.3	1.0
Takoma Park	1,931	.83	186	.5	.4
Prince George's County	28,152	12.09	6,088	18.1	10.9
Bowie	826	.35	0	0	.2
Collegé Park	6,804	2.92	109	.3	.8
Greenbelt	1,662	.71	0	0	0
Total	232,869	99.98*	33,682	99.9*	100.0

* Error due to rounding

Source: Metropolitan Washington Council of Governments.

heavily weighted toward reversing the existing locational pattern of low and moderate income housing. For example, Montgomery County which is estimated to have only 9.32 percent of the region's housing need, is allocated 26.7 percent of the subsidy funds. It is the modifying factor, particularly the low and moderate income housing concentration, which is responsible for Montgomery County's high allocation. The same is true with Fairfax County, which has only 7.69 percent of the housing need, yet was allocated 24.4 percent of the subsidy funds. Similarly, the District is allocated only 20.3 percent of the subsidy even though it has 44.35 percent of the estimated need.

Initial support for the plan came predominantly from the District itself. Many of the District's officials, particularly Sterling Tucker, had a very idealistic view of the plan, seeing it as a mechanism for bridging the racial and economic gap between central city and suburb.⁷ But enough housing could not be built fast enough in suburban areas to really provide a residential alternative to the District's lower income population. Moreover, (as mentioned in Chapter Three) when the level of funding dropped so drastically as a result of the 1974 Community Development Act, the District had to give more attention to its own overwhelming and immediate housing needs. Rather than let the District withdraw from fair share, COG decided to revise its allocation formula so that the District would get a greater share.

While accommodating the District was the primary reason for revising the formula, there were other reasons as well. COG felt that its formula should be capable of being revised and updated more easily.

In addition it felt that the factors included in the formula should be based on more readily available and easily updated data. The COG Board of Directors directed the staff to begin revision of the formula in April, 1975. The revised formula was adopted one year later, in April, 1976.

The Current Formula

The current fair share formula contains three categories of factors, representing housing need, housing demand, and the existing concentration of lower income housing. The factors themselves are: 1) housing need characteristics; 2) 1972 distribution of lower income employment; 3) distribution of the 1968-1972 increase in lower income employment; and 4) an inverse proportion of lower income housing units.

Two separate indicators are included in the formula as housing "need" factors. The first indicator represents housing need as measured by:

- o The number of housing units with more than 1.50 persons per room.
- o The number of housing units lacking some or all plumbing, and
- o The number of rental units in which households pay 25 percent or more of their incomes for rent.

These three variables representing overcrowding, deficient units, and rent burden, reflect to a certain degree, the potential demand for housing assistance in all three categories of housing eligible under the Section 8 housing program: newly constructed; rehabilitated, and existing rental housing.

The second indicator of need is the distribution of lower income employment in 1972. The inclusion of this particular factor reflects one of the major goals of the fair share plan--encouraging a better balance of employment and housing opportunities. The methodology used to determine the 1972 distribution of employment and the distribution of the 1968-72 increase is rather complex: Information provided through COG's 1968 Home Interview Survey on the income of full time workers by place of employment was utilized to establish income quartiles for employment earnings for the metropolitan area as a whole. An analysis was then undertaken to determine the relationship between these income quartiles and the earnings of workers by SIC⁸ group within each of the region's nine "rings." Utilized primarily in transportation planning, these rings form the basis of COG's traffic zones, and divide the metropolitan area spatially along the lines of common densities and land use.

The results of this analysis were then utilized to provide data on the relationships between income and employment categories by jurisdiction. The analysis of income/employment category relationships first by ring, and then by jurisdiction, was used to control for differences in income by occupation which may occur among various portions of the region. Once the relationship between income quartiles and SIC groups had been established for 1968, it was assumed that the distribution of incomes within a particular group had remained relatively stable through 1972. Thus these relationships were applied to

the data contained in COG's 1972 Regional Employment Census to obtain the figures expressed in the formula.⁹

While the distribution of 1972 lower income employment is considered a "need" factor, the 1968-72 increase in lower income employment is used as a measure of the potential expansion or reduction in lower income housing demand throughout the region.

The final factor, the concentration of lower income housing, is used in the formula in conjunction with a multiplier. The methodology used in determining the multiplier is based on the assumption that jurisdictions with more than 50 percent of their housing stock already classified as lower income should be held constant. Conversely, jurisdictions with a small percentage of such housing should receive a multiplier effect to result in an increased proportion of lower income units.

All of the factors in the formula are expressed in terms of regional percentages rather than absolute numbers. The fair share target is derived by simply averaging the percentages calculated for the four individual factors. Table 4-5 shows the calculation of each jurisdiction's fair share. Tables 4-5A through 4-5E show the disaggregated factor data. Special note should be made of the fact that much of the data is somewhat dated, coming either from the 1970 Census or from the two employment surveys administered by COG in 1968 and 1972.

The overwhelming housing need in almost every jurisdiction is due to rent burden, accounting for 82 percent of the area's total

TABLE 4-5
CALCULATION OF THE CURRENT FAIR SHARE

Jurisdiction	Distribution of housing need characteristics	+	Distribution of lower income 1972 employment	+	Distribution of 1968-1972 increase in lower income employment	+	Inverse proportion of lower income ÷ 4 = Fair Share housing units
District of Col.	44.52	+	43.05	+	27.06	+	6.93 = 121.56/4 = 30.39%
Arlington Co.	7.33	+	9.69	+	7.46	+	1.29 = 25.77/4 = 6.44%
Alexandria	5.91	+	3.37	+	3.35	+	0.85 = 13.48/4 = 3.3%
Fairfax City	0.43	+	1.14	+	2.36	+	1.64 = 5.57/4 = 1.39%
Fairfax County	8.71	+	10.88	+	11.99	+	36.38 = 67.96/4 = 16.99%
Falls Church	0.33	+	0.54	+	0.34	+	0.65 = 1.86/4 = 0.46%
Loudoun Co.	1.24	+	0.67	+	0.92	+	0.16 = 2.99/4 = 0.75%
Prince William Co.	2.46	+	1.82	+	2.72	+	0.55 = 7.55/4 = 1.89%
Montgomery Co.	9.24	+	12.98	+	21.40	+	42.81 = 86.43/4 = 21.60%
Gaithersburg	0.25	+	0.25	+	0.58	+	0.48 = 1.56/4 = 0.39%
Rockville	0.92	+	1.42	+	1.78	+	0.21 = 4.33/4 = 1.08%
Takoma Park	0.85	+	0.29	+	0.22	+	0.17 = 1.53/4 = 0.38%
Prince George Co.	16.60	+	12.78	+	18.24	+	3.61 = 51.23/4 = 12.81%
Bowie	0.21	+	0.23	+	0.58	+	2.45 = 3.47/4 = 0.87%
College Park	0.38	+	0.74	+	0.76	+	0.16 = 2.04/4 = 0.51%
Greenbelt	0.62	+	0.15	+	0.24	+	1.70 = 2.71/4 = 0.68%
SMSA	100.00		100.00		100.00		100.00

Source: Metropolitan Washington Council of Governments.

TABLE 4-5A

DISTRIBUTION OF HOUSING NEED CHARACTERISTICS IN THE WASHINGTON METROPOLITAN AREA

Jurisdiction	> 1.50 persons per room	Lacking some or all plumbing	> 25% of income for rent	Total	% of SMSA
District of Columbia	12,501	6,431	70,924	89,856	44.52
Arlington Co.	713	593	13,495	14,801	7.33
Alexandria	572	373	10,975	11,920	5.91
Fairfax City	42	63	765	870	0.43
Fairfax County	873	2,075	14,642	17,590	8.71
Falls Church	18	20	628	666	0.33
Loudoun Co.	173	1,661	666	2,500	1.24
Prince William Co.	486	1,465	3,017	4,968	2.46
Montgomery County	885	1,557	16,199	18,641	9.24
Gaithersburg	27	20	465 ^a	512	0.25
Rockville	114	83	1,669	1,866	0.92
Tacoma Park	67	172	1,480	1,719	0.85
Prince George's Co.	2,289	3,140	28,076	33,505	16.60
Bowie	32	108	285	425	0.21
College Park	64	73	624	761	0.38
Greenbelt	37	14	1,198	1,249	0.62
SMSA	18,893	17,848	165,108	201,849	100.00

^aEstimated

Source: Metropolitan Washington Council of Governments

TABLE 4-5B

1972 EMPLOYMENT: DISTRIBUTION OF LOWER INCOME JOBS

Jurisdiction	Q ₁	Q ₂	SUM	% OF SMSA
District of Columbia	148,843	156,113	304,956	43.05
Arlington County	32,772	35,839	68,611	9.69
Alexandria	11,641	12,197	23,838	3.37
Fairfax City	3,592	4,480	8,072	1.14
Fairfax County	41,676	35,421	77,097	10.88
Falls Church	1,859	1,991	3,850	.54
Loudoun County	2,223	2,498	4,721	.67
Prince William County	5,689	7,218	12,907	1.82
Montgomery County	45,083	46,874	91,957	12.98
Gaithersburg	868	912	1,780	.25
Rockville	4,510	5,505	10,015	1.42
Takoma Park	994	1,064	2,058	.29
Prince George's County	44,551	45,971	90,522	12.78
Bowie	721	881	1,602	.23
College Park	2,438	2,833	5,271	.74
Greenbelt	553	518	1,071	.15
SMSA	348,013	360,315	708,328	100.00

Source: Metropolitan Washington Council of Governments

TABLE 4-5C

DISTRIBUTION OF 1968-1972 INCREASE IN LOWER INCOME EMPLOYMENT

Jurisdiction	1968 Lower income jobs	1972 Lower income jobs	1968-1972 increase	1968-1972 Increase as a percent of SMSA increase
District of Columbia	253,043	304,956	51,913	27.06
Arlington County	54,292	68,611	14,319	7.46
Alexandria	17,402	23,838	6,436	3.35
Fairfax City	3,535	8,072	4,537	2.36
Fairfax County	54,097	77,097	23,000	11.99
Falls Church	3,203	3,850	647	.34
Loudoun County	2,948	4,721	1,773	.92
Prince William County	7,687	12,907	5,220	2.72
Montgomery County	50,884	91,957	41,073	21.40
Gaithersburg	662	1,780	1,118	.58
Rockville	6,615	10,015	3,400	1.78
Takoma Park	1,636	2,058	422	.22
Prince George's County	55,517	90,522	35,005	18.24
Bowie	500	1,602	1,102	.58
College Park	3,815	5,271	1,456	.76
Greenbelt	614	1,071	457	.24
SMSA	516,450	708,328	191,878	100.00

Source: Metropolitan Washington Council of Governments.

TABLE 4-5D

DISTRIBUTION OF LOWER INCOME HOUSING UNITS (1970)

	Number of owner occu- pied units valued at <\$25,000	Number of rental units with rents at <\$150 monthly	Sum of lower income owner & renter occupied units	Total number of housing units by jurisdiction	Lower income hsg. units as a percent of total hsg. units by jurisdiction
District of Columbia	40,399	145,044	185,443	248,288	74.69%
Arlington Co.	7,769	26,690	34,459	67,637	50.95%
Alexandria	4,689	18,107	22,796	41,136	55.42%
Fairfax City	927	1,166	2,093	5,884	35.57%
Fairfax County	15,055	16,350	31,405	119,684	26.24%
Falls Church	609	963	1,572	3,623	43.39%
Loudoun Co.	2,554	1,833	4,387	7,518	58.35%
Prince William Co.	9,479	5,139	14,618	23,629	61.86%
Montgomery Co.	19,807	17,146	36,953	131,791	28.04%
Gaithersburg	264	906	1,170	2,612	44.79%
Rockville	3,448	2,283	5,731	11,138	51.45%
Takoma Park	1,605	2,827	4,432	6,434	68.88%
Prince George's Co.	46,196	50,544	96,740	163,284	59.25%
Bowie	2,023	88	2,111	8,167	25.85%
College Park	2,107	973	3,080	4,836	63.69%
Greenbelt	277	1,192	1,469	5,042	29.14%
SMSA	157,208	291,251	448,459	850,703	52.72%

Source: Metropolitan Washington Council of Governments.

TABLE 4-5E

CALCULATION OF INVERSE PROPORTION OF LOWER INCOME HOUSING

Jurisdiction	Lower income hsg. as a percent of total local housing stock	Multiplier ^a	Number of lower income units by jurisdiction	Product of multiplication	Percent of SMSA
District of Columbia	74.69	1	185,443	185,443	6.93
Arlington County	50.95	1	34,459	34,459	1.29
Alexandria	55.42	1	22,796	22,796	.85
Fairfax City	35.57	21	2,093	43,953	1.64
Fairfax County	26.24	31	31,406	973,555	36.38
Falls Church	43.39	11	1,572	17,292	.65
Loudoun County	58.35	1	4,387	4,387	.16
Prince William County	61.86	1	14,618	14,618	.55
Montgomery County	28.04	31	36,953	1,145,543	42.81
Gaithersburg	44.79	11	1,170	12,870	.48
Rockville	51.45	1	5,731	5,731	.21
Takoma Park	68.88	1	4,432	4,432	.17
Prince George's County	59.25	1	96,740	96,740	3.61
Bowie	25.85	31	2,111	65,441	2.45
College Park	63.69	1	3,080	3,080	.16
Greenbelt	29.14	31	1,469	45,539	1.70
SMSA	-	-	-	2,675,879	100.00

^aMultipliers are based on the percent of lower income housing in each local jurisdiction, as follows:

<u>% of Lower Income Housing</u>	<u>Multiplier</u>	<u>% of Lower Income Housing</u>	<u>Multiplier</u>
> 50%	1	20 - 29%	31
40 - 49%	11	10 - 19%	41
30 - 39%	21	0 - 9%	51

Source: Metropolitan Washington Council of Governments.

need. (Table 4-5A) The District itself still has the greatest concentration of lower income employment and also received the largest increase of such employment in the SMSA between 1968 and 1972. However, Montgomery and Prince George's Counties also received a substantial portion of the increase in lower income employment. (Tables 4-5B and 4-5C)

Critique of the Formulas

As stated in the introduction to this chapter, the primary considerations in the selection and weighting of factors in a fair share formula are the goals of the plan itself. The revision of Washington's original formula to its present form illustrates just that. When the level of funding was reduced under Section 8, less emphasis was given to the goal of "opening the suburbs" because of the overwhelming unmet need in the District. This shift in priorities was reflected in the selection and weighting of factors in the revised formula.

While based on the most reliable indicators of housing need available, the formula is manipulated to coincide with the intentions of those developing the formula. The inclusion of the inverse proportion of lower income housing units in both the original and current formula, a factor almost totally unrelated to actual immediate housing need, is an example of that manipulation. However, no negative connotation is implied in using the word "manipulation." Rather, as COG Housing Technical Committee Chairman Ed Brant indicated, the percentage which the formula generates is really all that matters.¹⁰ For example,

no less than seven alternative variations on the weighting of factors in the current formula were considered. These alternatives ranged from weighting housing need by a factor of three to weighting the inverse proportion of housing units by a factor of zero. Only when the fair share percentages generated by the formula were agreed upon was there consensus on the formula itself.¹¹

Despite the fact that the fair share formula can, to a certain extent, be manipulated to fit preconceived results, it is still based on technical considerations. As such, it is subject to mechanical criticisms and failures. For example, the primary weakness the Miami Valley Regional Planning Commission (Dayton) found in its own original allocation formula was the failure to take into account land availability. The omission of this factor resulted in a large allocation of housing units to jurisdictions which had very little land left on which to build them.¹² The revised Dayton formula now includes land availability in its "Ability Adjustment Factor." The aggregate Dayton Formula is as follows:

$$\text{FAIR SHARE} = \text{EQUAL SHARE} + \frac{\text{NEED}}{\text{ADJUSTMENT FACTOR}} + \frac{\text{ABILITY}}{\text{ADJUSTMENT FACTOR}} + \frac{\text{PERFORMANCE}}{\text{ADJUSTMENT FACTOR}}$$

Because of the differing circumstances in which Dayton and Washington implemented their plans, there is little to be gained from actually comparing the two formulas, though the circumstances themselves will be discussed in Chapter Six. Rather, it is more useful to discuss the Washington formula in a totally local context.

On the surface it seems that COG's original formula is much more technically sophisticated than the current one. Specifically, the original formula took into consideration such factors as vacant residential land and local fiscal resources while the current formula does not. Under pre-Section 8 subsidy programs, which provided more of an incentive for new construction, the availability of land was an important consideration. However, the Section 8 program, while containing provisions for new construction, also contains provisions for rehabilitated and existing units, thus making land availability a less crucial consideration than other factors.

The fiscal resources factor was intended to measure the ability of a particular jurisdiction to accommodate lower income families and their housing. However, the factor is not as important as originally thought: Due to the overwhelming need for housing in all jurisdictions for their own residents, there has not been any major redistribution of lower income families. Moreover, the indications are that no major redistribution is likely to occur any time soon. (This point will be discussed at length in Chapter Six).

The question, then, is whether the current fair share formula is a "good" formula? When members of COG's Housing Technical Committee were asked about the formula, the most frequent reply was, "it's as good as any."¹³ There were, however, some criticisms. Bernard Tetreault, Executive Director of the Montgomery County Housing Opportunities Commission, indicated that he would like to see a performance factor added to the formula. Tetreault believes that those

jurisdictions which repeatedly fail to commit all their funds should not continue to be funded at the same level when other localities are successful in committing all of their funds and desperately need more.¹⁴

Falls Church Housing Coordinator, Diane Gravis, expressed concern about the reliability of the data. Ms. Gravis indicated that the accuracy of the data varied as much as 15 percent in some cases.¹⁵

Knox Hayes of the District's Department of Housing and Community Development had perhaps the strongest criticism of the formula. Calling the formula's inverse concentration factor a "political accommodation factor," Mr. Hayes indicated that the factor should be dropped from the formula because it resulted in such a low allocation (relative to need) to the District.¹⁶

Mr. Hayes' comments illustrate the most controversial aspect of the formula. On the one hand, one of the plan's primary goals is to disperse assisted housing throughout the area. On the other hand, the need for more assisted housing in the District is overwhelming and immediate.

In sum, the allocation formula is an integral part of the fair share plan, but it is secondary in importance to the goals of the plan itself. Its primary importance is in identifying the existing and future need for assisted housing. How that information is used in allocating funds depends on many other factors.

Chapter Four--Footnotes

¹David Listokin, Fair Share Housing Allocation, (New Brunswick, N.J.: The Center for Urban Policy Research, 1976), p. 67.

²For a detailed discussion of fair share formulas see Chapter Two of David Listokin's Fair Share Housing Allocation (New Brunswick: The Center for Urban Policy Research, 1976).

³Metropolitan Washington Council of Governments, Fair Share Housing Formula, (Washington: January 1972), p. 5.

⁴Ibid.

⁵Ibid., p. 6.

⁶Ibid.

⁷Mel Burgheim, former Alexandria City Councilman, interview held in Alexandria, Virginia, March, 1977.

⁸SIC indicates the Standard Industrial Classification developed by the Federal Government, through which various types of jobs are categorized.

⁹Metropolitan Washington Council of Governments, "Fair Share Housing Formula Methodology."

¹⁰Ed Brant, COG Housing Technical Committee Chairman: Chief, Arlington County Housing Services Section: interview held in Arlington, Virginia, March, 1977.

¹¹Charles Grezlak, series of meetings held February-March, 1977.

¹²Miami Valley Regional Planning Commission, The Miami Valley Region's Housing Plan (Dayton: March, 1973), p. 76.

¹³Members of the Committee were asked, "Do you think the allocation formula correctly reflects your housing needs in relation to other jurisdictions?" "What factors would you like to see deleted from or added to the formula?" Not all members were surveyed.

¹⁴Bernard L. Tetreault, Executive Director, Montgomery County Housing Opportunities Commission, interview held in Silver Spring, Maryland, March, 1977.

¹⁵Diane Gravis, Falls Church Housing Coordinator, telephone interview, March, 1977.

¹⁶Knox Hayes, District of Columbia Department of Housing and Community Development, interview held in Washington, D.C., March, 1977.

Chapter Five

IMPLEMENTATION

Anyone familiar with planning knows that "implementation" is a magic word to the planner. The proverbial plan that lies on the shelf collecting dust is the planner's equivalent to the artist's masterpiece which winds up in the attic. Until the plan is implemented, it is only so many words on paper--and so it is with fair share. The process that takes the paper plan and turns it into low and moderate income housing is long and painstaking. The annual implementation process begins when the metropolitan area is notified by the HUD Area Office of the funding it can expect for that year.

The overall implementation process is outlined below:

- 1) The Washington, D.C. HUD Area Office formally notifies COG of the total Federal housing subsidy contract authority available to the metropolitan area; identifies any constraints on the use of the contract authority; and requests COG's recommendations on the jurisdictional allocation of these funds in accordance with the Fair Share Plan.
- 2) Proposed recommendations on Fair Share implementation procedures are developed through COG's Housing Technical Committee, Human Resources Policy Committee, and Human Resources Citizen Advisory Committee for consideration by the COG Board of Directors.¹
- 3) The COG Board of Directors reviews the proposed recommendations, enacts amendments as deemed appropriate, and adopts the implementation procedures through a formal resolution.
- 4) The Board of Directors' resolution is formally transmitted to the Washington, D.C. HUD Area Office for concurrence.

- 5) The HUD Area Office agrees to honor the COG Board's recommendations to the maximum extent possible in approving the commitment of contract authority for programs and projects in each of COG's member jurisdictions.
- 6) The implementation procedures adopted by the COG Board of Directors are utilized as a basis for the preparation of COG's Metropolitan Clearinghouse A-95 review comments on all appropriate housing projects which propose the use of Federal subsidy funds. In addition, since the advent of the Community Development Block Grant Program the Fair Share implementation procedures have served as a basis for review of housing assistance goals contained in local Housing Assistance Plans.²

The second step in this process is perhaps the most interesting to the outside observer. It is at this point that the "bargaining" among jurisdictions occurs. The combination of competition and cooperation adds a degree of flexibility to the otherwise static formula allocation. This flexibility is crucial to the few smaller jurisdictions who actively support the plan and must compete with larger jurisdictions for their fair share. For example, during FY75 the City of Falls Church, whose fair share is only 0.46 percent, was able to "borrow" \$65,188 in Section 8 funds originally targeted for use in Arlington. The borrowed funds enabled Falls Church to preserve 80 units in a condominium development for use as housing for the elderly.

The most complex implementation procedures to date were those established for FY77. A discussion of some of the variables that came into play illustrates that COG has no easy task in trying to make sure that fair share is indeed "fair": In FY76, HUD Central (the national office) established a special \$50 million set-aside in Section 8 funds for allocation to state housing finance and development agencies

throughout the country in an effort to quickly stimulate Section 8 production nationally. A portion of these funds were allocated to the Virginia Housing Development Authority for use in the northern Virginia area. Because the funds came directly from the HUD Central and were not distributed through the D.C. Area Office, they were not subject to the fair share distribution, creating an imbalance in the availability of housing subsidy funds within the metropolitan area in relationship to the fair share formula. For example, Arlington received \$1,110,751 in Section 8 funds in excess of its FY76 fair share target. In establishing the FY77 implementation procedures, COG devised a "repayment" schedule in which "overpaid" jurisdictions would actually receive a FY77 fair share allocation decreased by that amount necessary to balance the FY76 distribution.

After the sometimes intricate implementation procedures have been adopted comes the most crucial stage in the entire implementation process--making sure that the available funds are committed. During this stage the role of the local government is to identify potential developers and sites for the units. In addition it must assure that adequate water and sewer facilities are available, and, when necessary, secure zoning changes. Some local governments have established special task forces to assure that all funds will be committed.

In an effort to assess the impact of fair share, the number of federally assisted units by jurisdiction was tabulated from COG's Subsidized Housing Information File (SHIF). (Table 5-1) Because of the lag time between the time a particular project is authorized and when

TABLE 5-1

FEDERALLY ASSISTED HOUSING BY JURISDICTION (OCTOBER 1976)

Jurisdiction	Census tract prefix	Family		Elderly	
		Existing or under construction as of Dec. 31, 1974	Built, under construction or proposed with funding reserved since Jan. 1, 1972	Existing or under construction as of Dec. 31, 1974	Built, under construction or proposed with funding reserved since Jan. 1, 1972
District of Columbia	0000	14,975	4480	3204	418
Arlington	1000	0	0	0	439
Alexandria	2000	1127	630	0	202
Fairfax City	3000	54	0	0	0
Fairfax County	4000	2275	867	186	385
Falls Church	5000	0	0	0	80
Loudoun County	6000	404	0	0	0
Prince William Co.	9000	747	166	0	0
Montgomery County	7000	1338	1341	657	1032
Rockville	7000	126	20	286	110
Takoma Park	7000	0	0	187	0
Prince George's Co.	8000	4733	730	149	651
Bowie	8000	0	0	0	0
College Park	8000	0	41	108	0
Greenbelt	8000	0	0	0	100

Source: Tabulated from Metropolitan Washington Council of Governments' Subsidized Housing Information File (updated October, 1976).

construction actually begins, it was impossible to determine exactly which projects came under fair share. Therefore the choice of before Dec. 31, 1971 and after Jan. 1, 1972 as the "before and after" cutoff dates is largely symbolic, in that fair share was adopted in January 1972. However, Table 5-1 is meant only to provide numeric values to the distribution of housing shown in Figures 5-1 and 5-2.

The number of units shown in Table 5-1 may not correspond with other counts of units by jurisdiction because of the tabulation method. Only federally assisted units were included. All proposed projects with reserved funding were included in the "after" category. Subsidized projects which were in financial trouble and thus acquired by public housing authorities have been classified as assisted housing after January 1, 1972 even though some were actually built before that date. In addition, as of December 31, 1976, some \$3,936,911 in special Section 8 "existing" funds were allocated to the area to assist HUD-insured projects in financial difficulty or with Secretary-held mortgages. When applicable, affected projects were classified as assisted housing since January 1, 1972. Finally, it should be pointed out that SHIF was last updated in October, 1976, thus many Section 8 units produced since that date could not be included.

Figures 5-1 and 5-2 show the distribution of assisted family and elderly housing, respectively, throughout the metropolitan area. More specifically, those census tracts in which there is assisted housing are indicated by designated symbols. Even though there may be several projects within one census tract, only one symbol is shown,

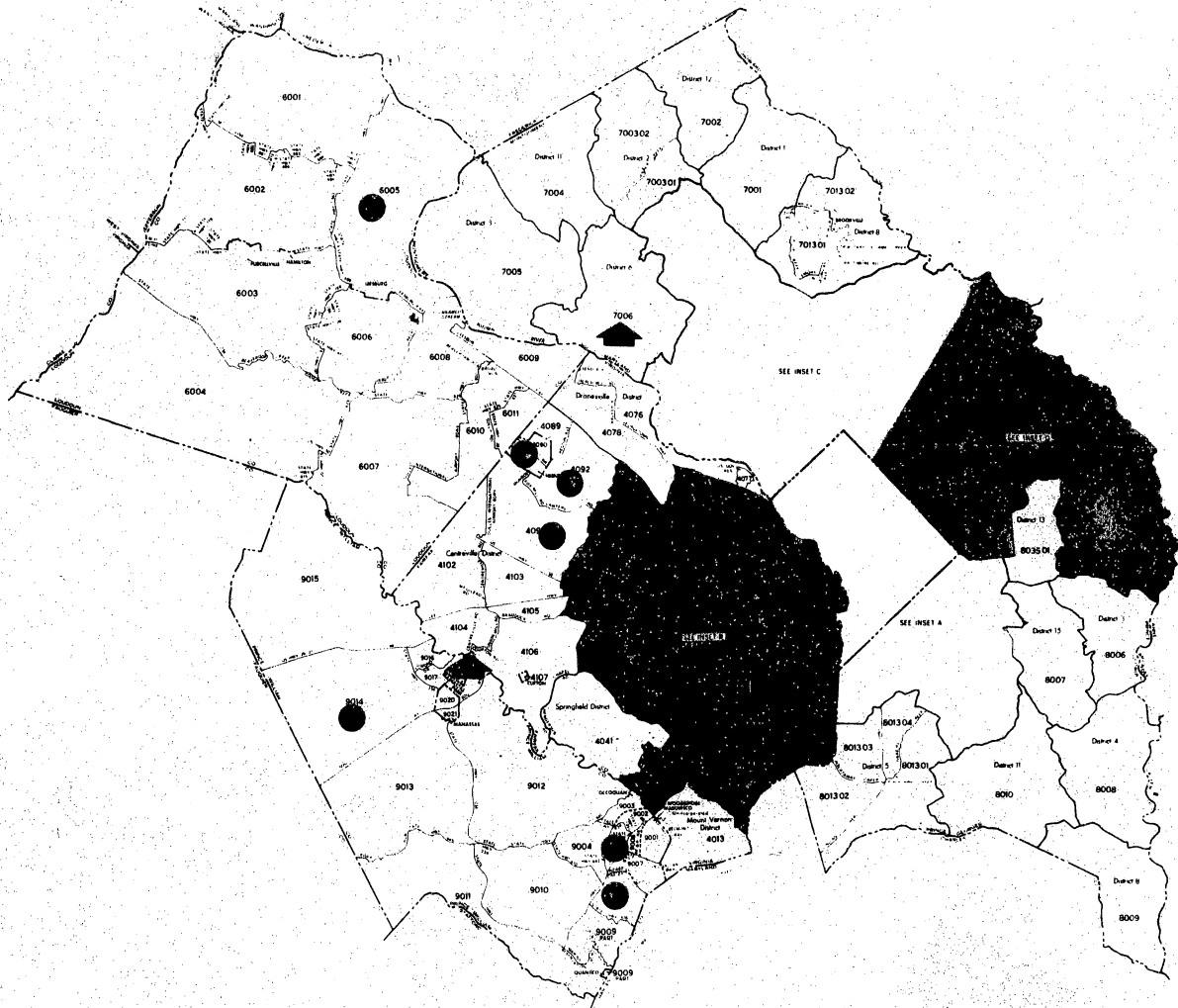


Fig. 5-1. Census Tracts in the Washington, D. C.-MD-VA SMSA Having Assisted Housing (Family)

- Existing or under construction as of December 31, 1971.
- ▲ Built, under construction, or proposed with funding reserved since January 1, 1972.

Source: Derived from the Metropolitan Washington Council of Governments' Subsidized Housing Information File.

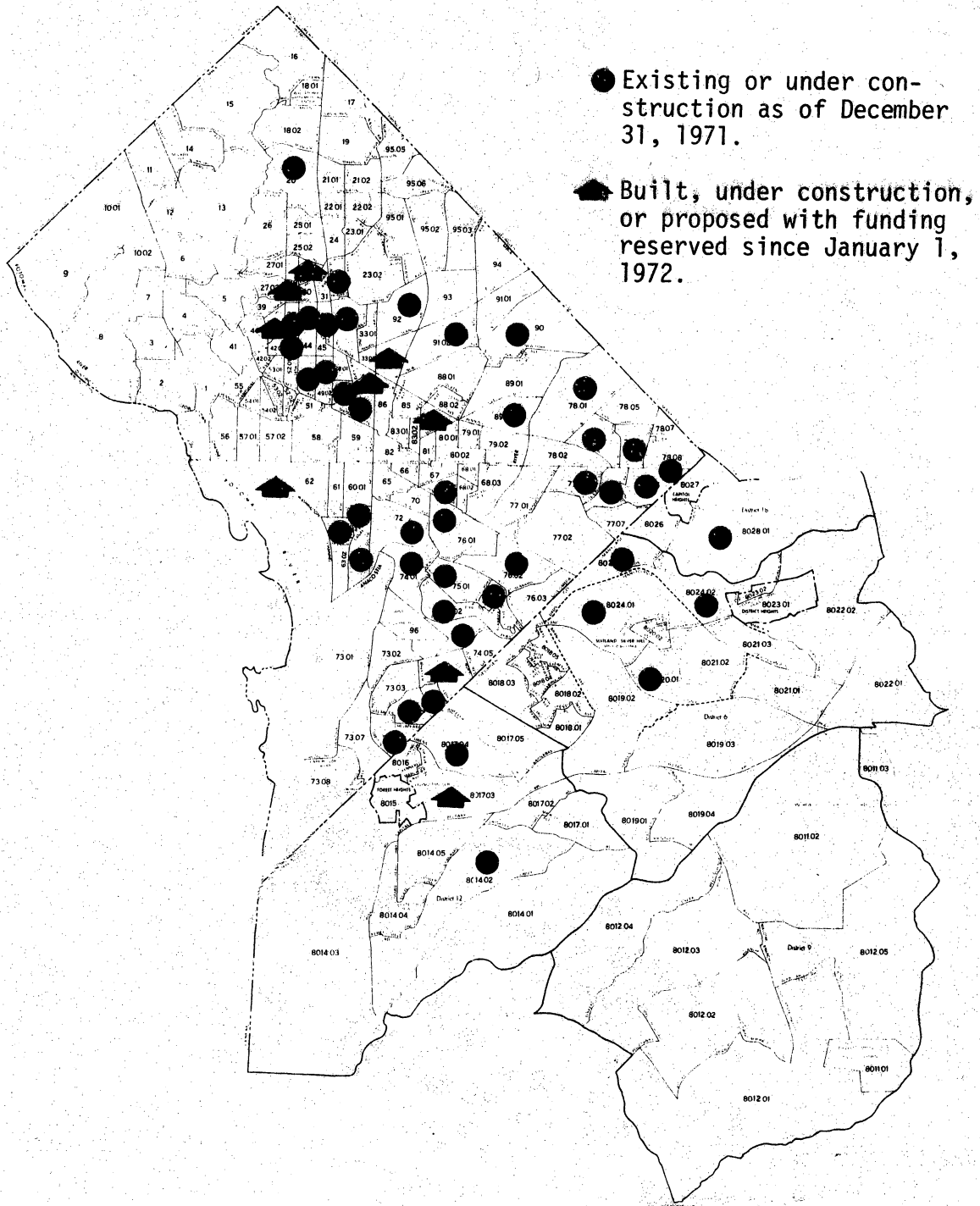


Fig. 5-1. Inset A. Washington, D. C. and Vicinity

Source: Derived from the Metropolitan Washington Council of Governments' Subsidized Housing Information File.

● Existing or under construction as of December 31, 1971.

▲ Built, under construction, or proposed with funding reserved since January 1, 1972.

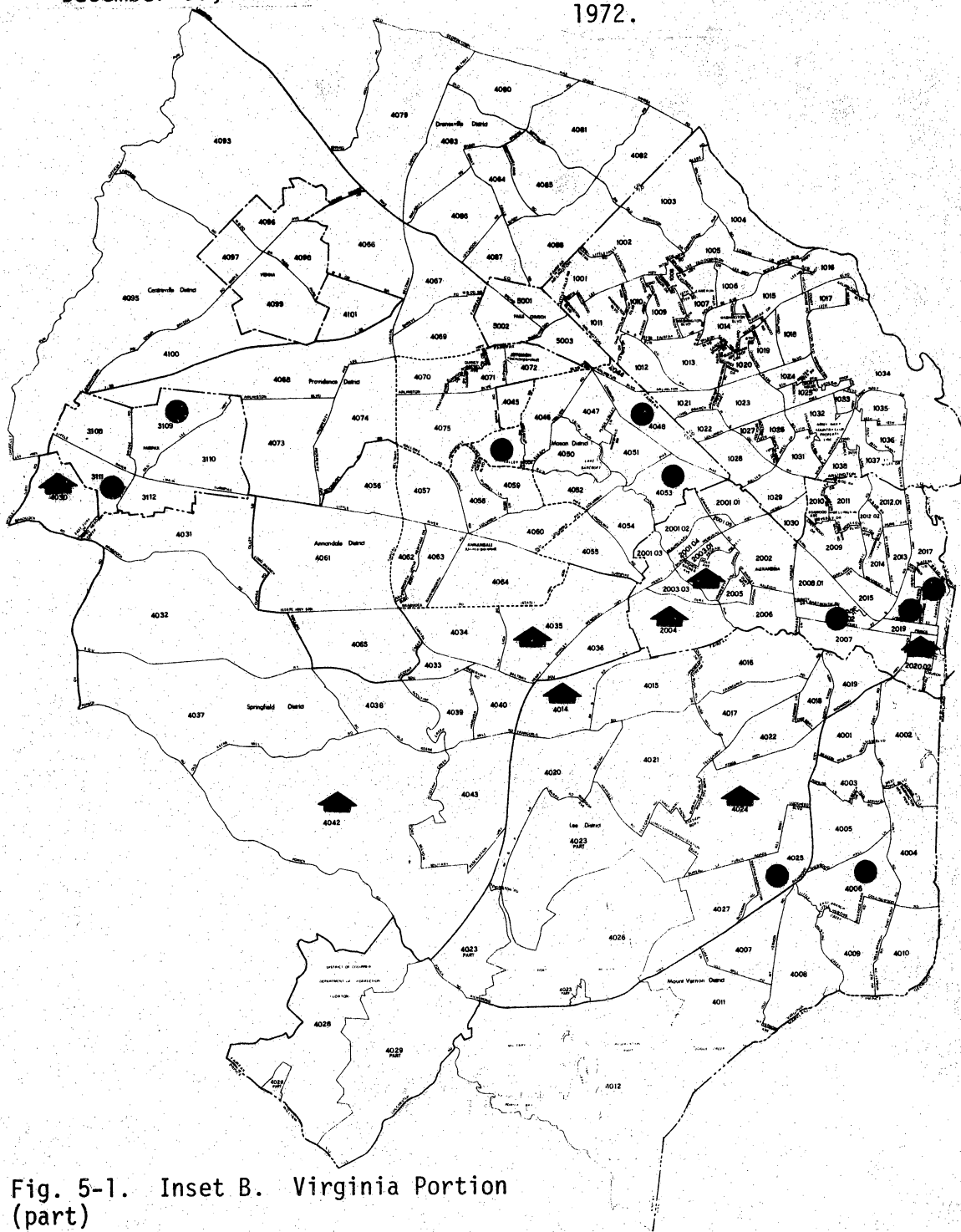


Fig. 5-1. Inset B. Virginia Portion (part)

Source: Derived from the Metropolitan Washington Council of Governments' Subsidized Housing Information File.

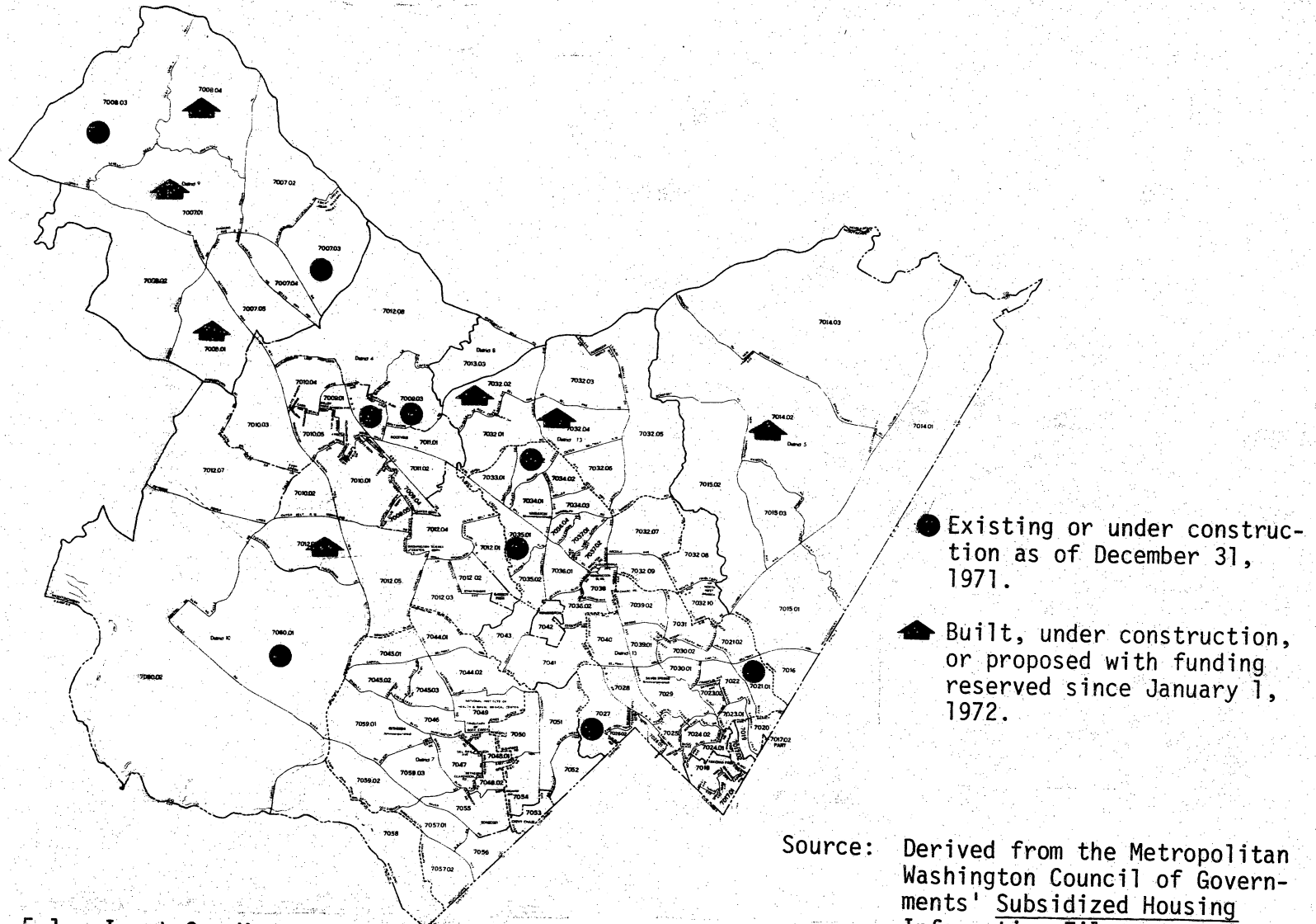


Fig. 5-1. Inset C. Montgomery County (part)

Source: Derived from the Metropolitan Washington Council of Governments' Subsidized Housing Information File.

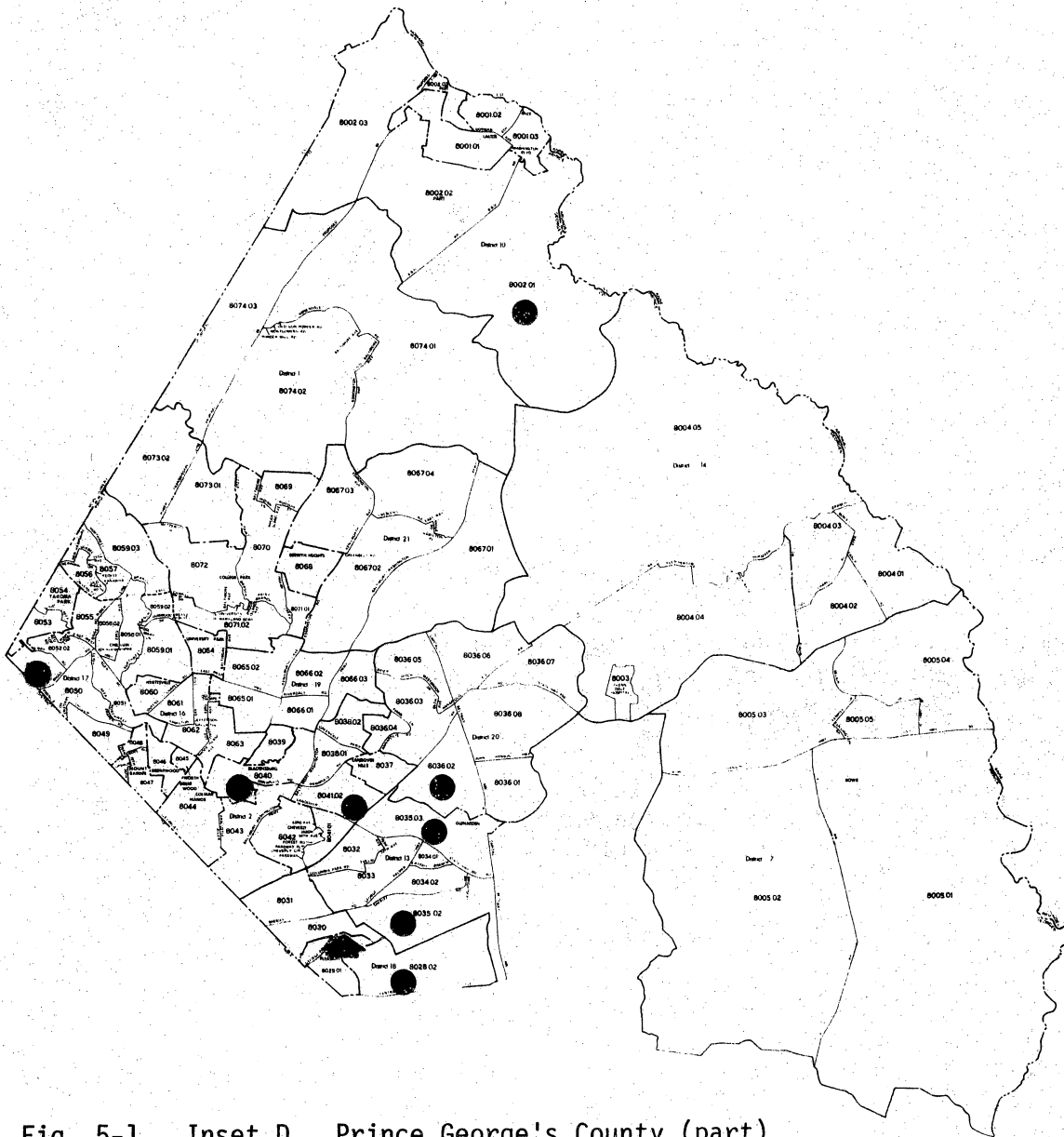


Fig. 5-1. Inset D. Prince George's County (part)

- Existing or under construction as of December 31, 1971.
- ▲ Built, under construction, or proposed with funding reserved since January 1, 1972.

Source: Derived from the Metropolitan Washington Council of Governments' Subsidized Housing Information File.

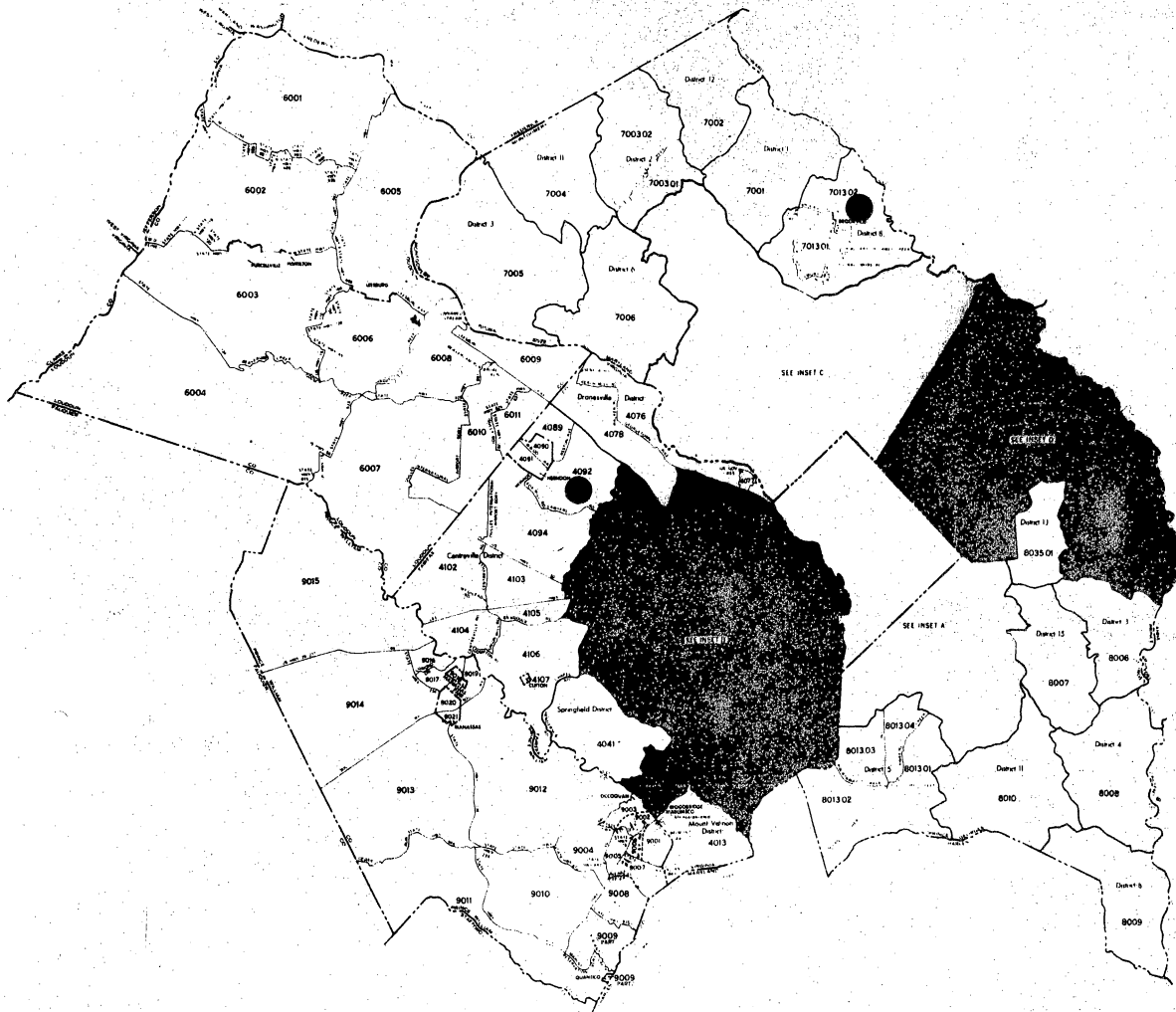


Fig. 5-2. Census Tracts in the Washington, D.C.-MD-VA SMSA Having Assisted Housing (Elderly)

- Existing or under construction as of December 31, 1971.
- ▲ Built, under construction, or proposed with funding reserved since January 1, 1972.

Source: Derived from the Metropolitan Washington Council of Governments' Subsidized Housing Information File.

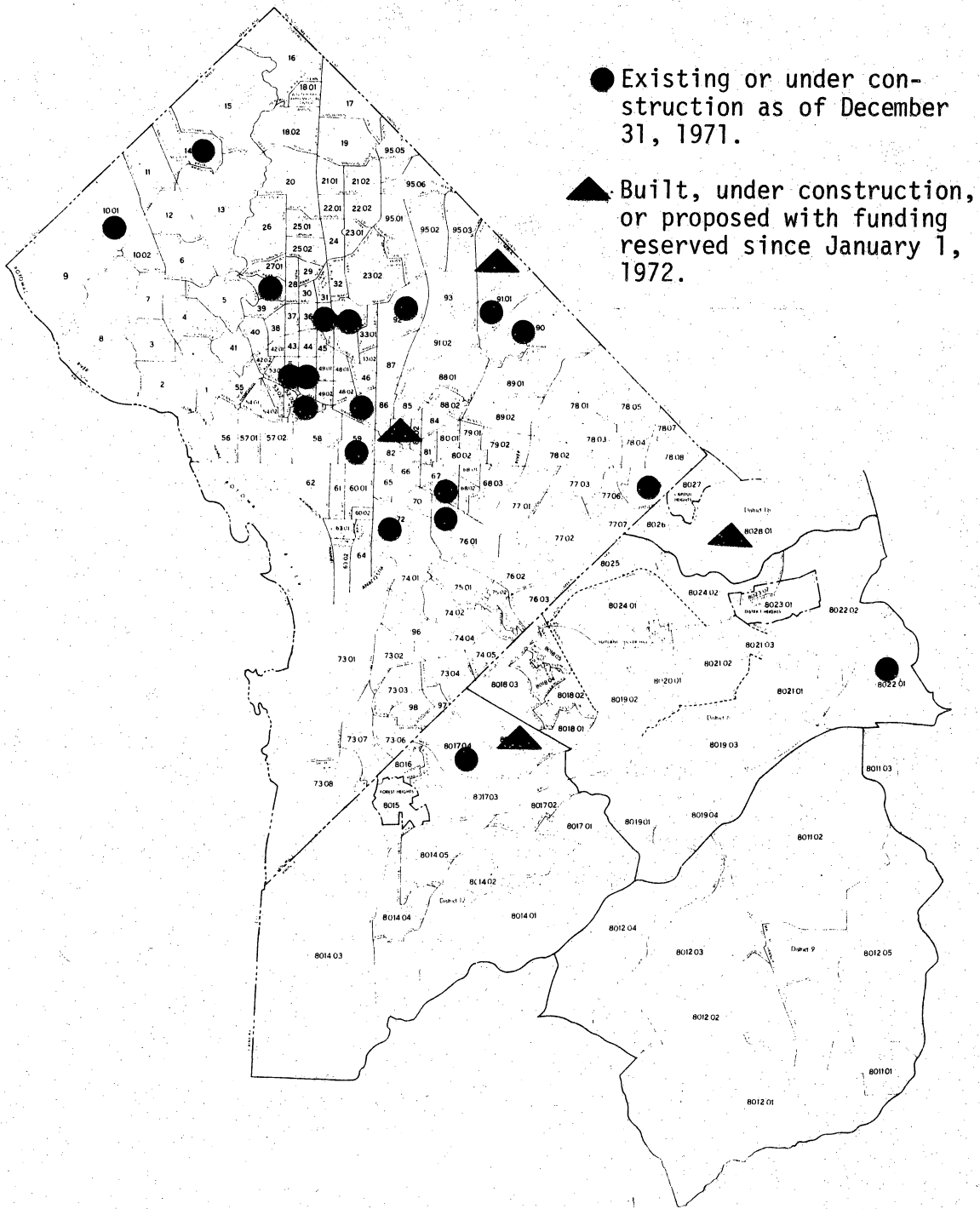


Fig. 5-2. Inset A. Washington, D. C. and Vicinity

Source: Derived from the Metropolitan Washington Council of Governments' Subsidized Housing Information File.

● Existing or under construction as of December 31, 1971.

▲ Built, under construction, or proposed with funding reserved since January 1, 1972.

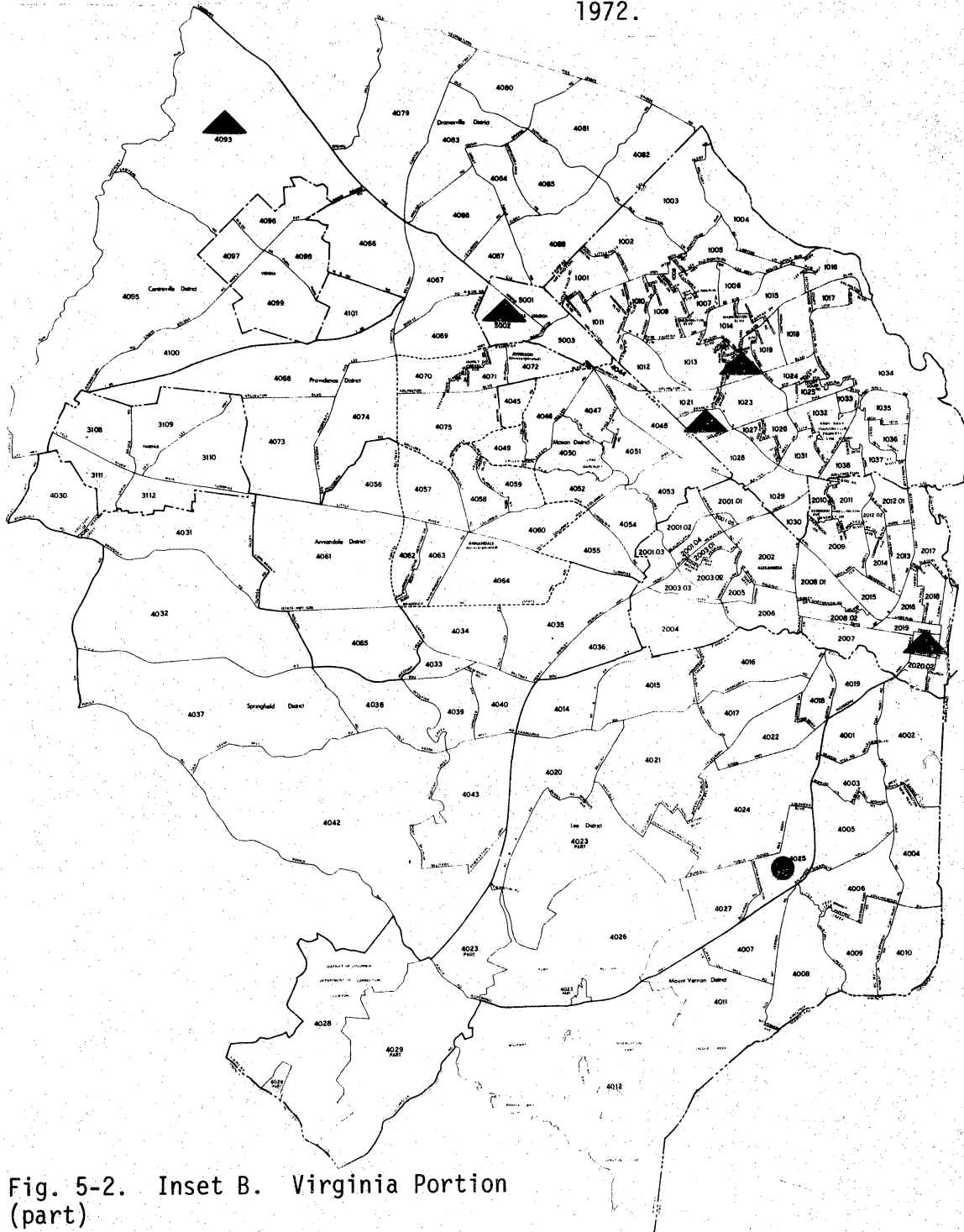


Fig. 5-2. Inset B. Virginia Portion (part)

Source: Derived from the Metropolitan Washington Council of Governments' Subsidized Housing Information File.

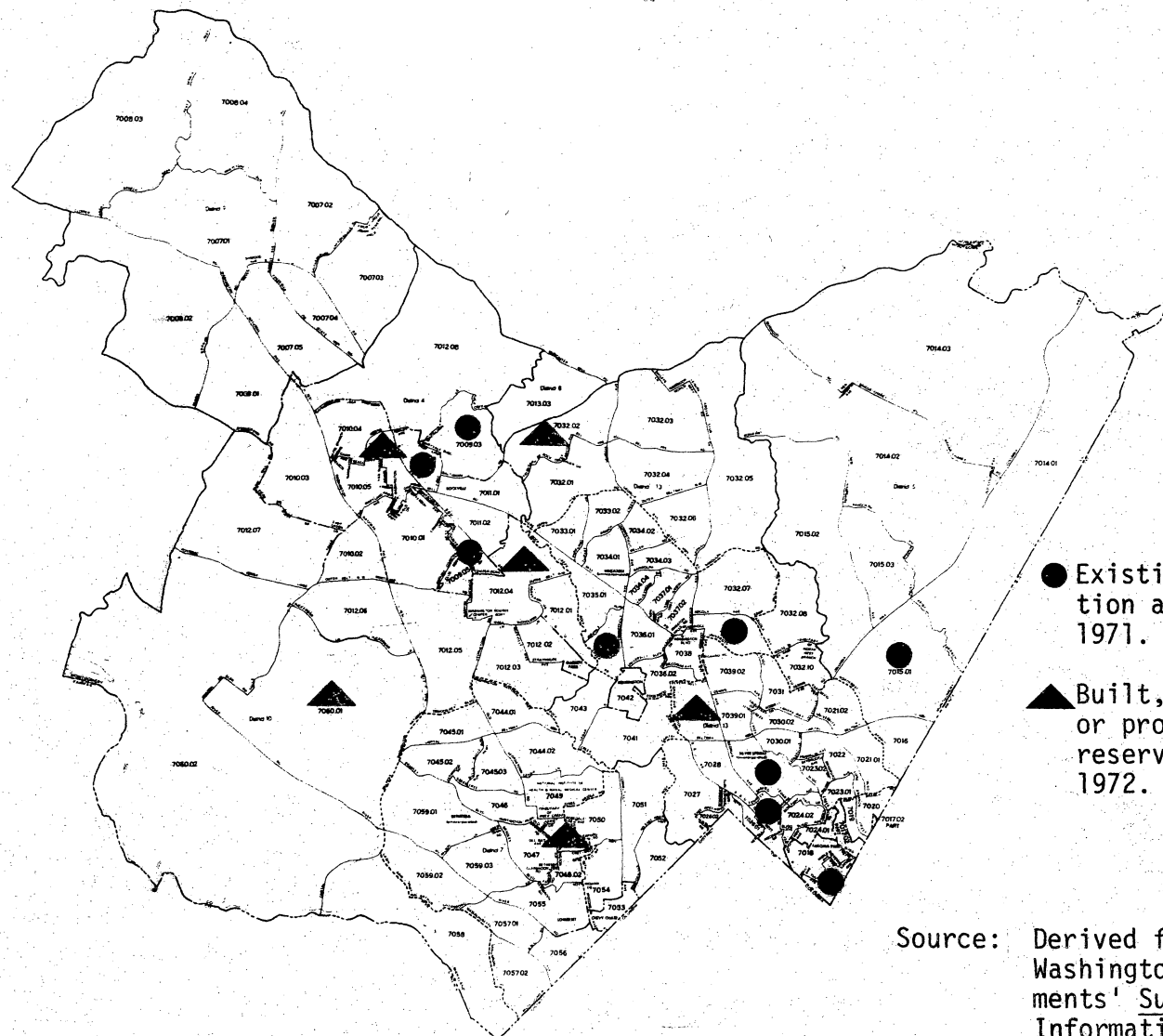


Fig. 5-2. Inset C. Montgomery County (part)

- Existing or under construction as of December 31, 1971.
- ▲ Built, under construction, or proposed with funding reserved since January 1, 1972.

Source: Derived from the Metropolitan Washington Council of Governments' Subsidized Housing Information File.

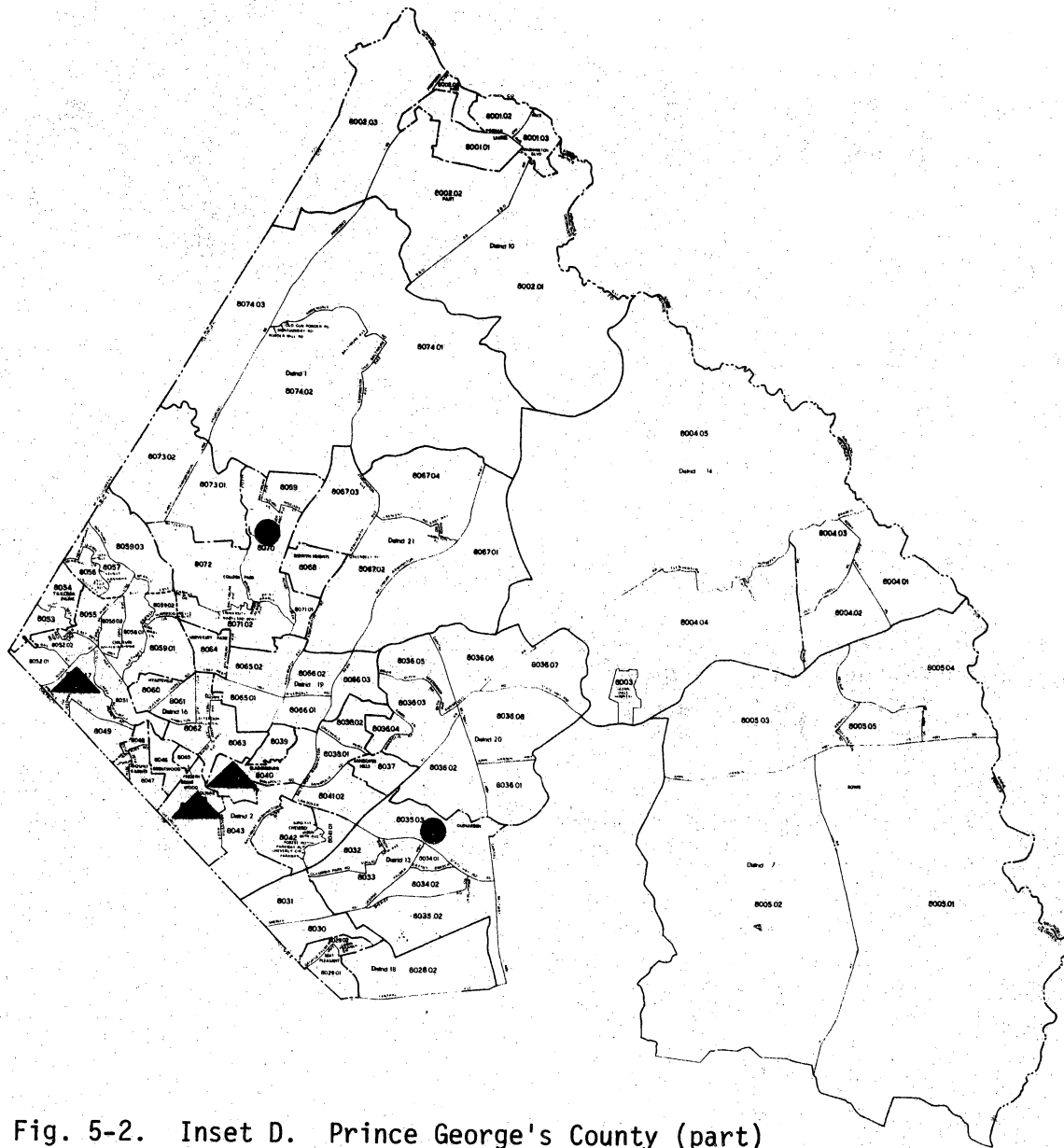


Fig. 5-2. Inset D. Prince George's County (part)

- Existing or under construction as of December 31, 1971.
- ▲ Built, under construction, or proposed with funding reserved since January 1, 1972.

Source: Derived from the Metropolitan Washington Council of Governments' Subsidized Housing Information File.

and no significance should be given to the placement of that symbol with the census tract itself. (It would be impossible to indicate either the specific location or number of units on such a small scale). The information presented in the figures was also derived from the SHIF file and reflects the distribution of units listed in Table 5-1.

Although the Figures are self explanatory, some commentary is helpful. As can be seen from Insets A and D (Fig. 5-1), the greatest concentration of assisted housing is in the southeast and northeast quadrants of the District and the inner beltway areas of Prince George's County. Even though the figures themselves are not designed to show densities, it should be pointed out that the number of assisted housing units located in extreme southeast D.C. (Anacostia) is very high. It should also be noted that there is no assisted housing in the far northwestern quadrant: Rock Creek Park, which separates white Washington and Black Washington, is as effective a barrier as any jurisdictional boundary.

Inset B (Fig. 5-1) shows that at the time of the last SHIF update there was still no assisted family housing in Arlington. However, assisted housing for the elderly has been provided in Arlington in recent years (Inset B, Fig. 5-2).

Most of Montgomery County's assisted family housing is located in the center of the county, away from its affluent boundary with northwest Washington. Its housing for the elderly is located nearer the District.

All of the maps, but those showing Montgomery and Fairfax Counties in particular, indicate one very important trend. Since January 1, 1972 there has been a great deal more scatteration of assisted housing than before. For example, in Fairfax County there were only eight census tracts which had assisted family housing as a result of all previous efforts. However, since January 1, 1972 another seven census tracts have gained such housing. Much the same is true in Montgomery County, indicating that not only is the geographic distribution of assisted housing increasing among jurisdictions, but also within jurisdictions.

Because of a lack of data, it was not possible to tabulate the number of Section 8 units by jurisdiction. (Some Section 8 units are included in the totals shown in Table 5-1 and are represented in Figures 5-1 and 5-2.) However, by examining the assisted housing goals as stated in local Housing Assistance Plans, it is possible to estimate the types of housing assistance going into particular jurisdictions and the groups for which the assistance is intended. (Table 5-2). Arlington County is the only one of the six major jurisdictions in which most of the housing assistance is going to the elderly. Most jurisdictions feel that in the past too much effort has been put on providing housing for the elderly at the expense of housing lower income families. Still, relative to need, most jurisdictions continue to "over-provide" housing for the elderly. (See Table 7-1 for estimated housing need by group).

TABLE 5-2
GOALS FOR LOWER INCOME HOUSING ASSISTANCE
(SECTION 8 ONLY)

Unit Type	Jurisdiction	Number of Households to be Assisted			Total
		Elderly or handicapped	Family (4 or fewer persons)	Large family (5 or more persons)	
New	Alexandria ^a	14	18	25	57
	Arlington Co. ^a	200	0	0	200
	District of Columbia ^b	350	480	120	950
	Fairfax County ^b	36	291	48	375
	Montgomery County ^a	118	Total Family = 82		200
	Prince George's Co. ^b	150	0	50	200
	Total Elderly = 868	Total Family = 1114		1982	
Rehabilitated	Arlington Co.	0	40	10	50
	District of Columbia	50	200	100	350
	Montgomery County	0	Total Family = 144		144
		Total Elderly = 50	Total Family = 494		544

^aProgram Year 76-77 goals.

^bProgram Year 77-78 goals.

Sources: Alexandria Housing Assistance Plan (7/77-6/78); Arlington County Housing Assistance Plan (amended 8/19/76); District of Columbia Housing Assistance Plan (10/1/77-9/30/78); Fairfax County Housing Assistance Plan (7/1/76-6/30/77); Montgomery County Housing Assistance Plan (7/1/76-6/30/77); Prince George's County Housing Assistance Plan (7/77-6/78).

TABLE 5-2--Continued

Unit Type	Jurisdiction	Number of Households to be Assisted			Total
		Elderly or handicapped	Family (4 or fewer persons)	Large family (5 or more persons)	
Existing	Alexandria	36	52	12	100
	Arlington Co.	0	50	25	75
	District of Columbia	100	75	25	200
	Fairfax Co.	0	132	33	165
	Montgomery Co.	124	Total Family = 392		516
	Prince George's Co.	0	300	50	350
		Total Elderly = 260	Total Family = 1146		1406
Total	Alexandria	50	70	37	157
	Arlington Co.	200	90	35	325
	District of Columbia	500	755	245	1500
	Fairfax Co.	36	423	81	540
	Montgomery Co.	242	Total Family = 618		860
	Prince George's Co.	150	300	100	550
		Total Elderly = 1178	Total Family = 2754		3932

While this chapter has attempted to show the geographic distribution of assisted housing opportunities, there is much more to housing opportunity than location. The most crucial question yet to be answered is whether the scatteration of assisted housing actually results in increased potential mobility for low and moderate income families and individuals.

Chapter Five--Footnotes

¹The Housing Technical Committee is composed of housing professionals from all jurisdictions (Authority Directors, Housing planners, etc.). The Human Resources Policy Committee is made up of elected officials throughout the area. The Chairman is Elizabeth Scull of Montgomery County. The Board of Directors is also composed of local elected officials. The fair share process begins with the COG staff, which then brings proposals before the Technical Committee. The decision of the Technical Committee must then be approved by the Policy Committee and finally by the Board of Directors.

²Metropolitan Washington Council of Governments, "The Washington Metropolitan Area's Areawide Housing Opportunity Plan" (n.d.)

Chapter Six

POTENTIALS AND LIMITATIONS

The evaluation of any plan must begin with an understanding of the original objectives and some measure of the extent to which these objectives have been achieved. The fair share plan has several objectives, including resolving the mismatch between housing and employment opportunities, avoiding undue concentrations of low and moderate income housing, and a host of other objectives related to the condition of the dwelling units themselves. But for all practical purposes the overall goal of the fair share plan is one of opening up the suburbs to the central city's poor and minorities. This, many urban theorists contend, is the first step in a process to relieve the pressures on central cities which prevent the successful rehabilitation and rebuilding of neighborhoods and structures.¹ Has Washington's fair share plan increased the potential mobility of low and moderate income families? To answer that question requires going back to the initial stages of the plan's formulation.

In the early 1970's, prior to the plan's adoption, almost sixty percent of the publicly assisted housing was in the District itself. If Prince George's County's assisted housing, most of which was located in the inner beltway communities adjacent to the District, were added to the District's housing, 77.7 percent of all assisted housing in the

area would be accounted for. A great deal of the housing, particularly conventional public housing, was concentrated in the Anacostia area of D.C. The great concentrations of lower income families resulted in a host of problems, particularly management problems, in those subsidized projects built and managed by non-profit sponsors. Baber Village in Prince George's County provides one of the horror stories that critics of assisted housing like to tell and re-tell. In that 236 project, vandalism was so rampant that all but a few of its 200 units were abandoned within a few years of initial occupancy. The demise of the project is generally attributed to two factors: first, all of the units were subsidized and second, the non-profit sponsor had no management experience.²

The political leadership of the District felt that suburban jurisdictions should do more to help meet the region's housing needs. While most of the low cost private and assisted housing was concentrated in the center of the area, a great number of lower income jobs were being created in outlying suburban areas. In an effort to help avoid further concentrations of the poor, while at the same time matching employment opportunities with housing opportunities, the District called for a regional approach to housing, particularly an approach that would provide more assisted housing in suburban jurisdictions.

Prince George's County supported the District's call for action, though for slightly different reasons. Prince George's political leaders were not so much interested in seeing housing opportunities

expanded, as they were in assuring (if possible) that no more assisted housing would be built in Prince George's County.³ The County had long had an identity problem, feeling overshadowed by neighboring affluent Montgomery County. In 1974, half of all welfare payments made in the state of Maryland were in Prince George's County.⁴ In recent years, the county's political leaders have sought to create a new image for the county in an effort to attract middle- and upper-income families.

Alexandria, which had a relatively large assisted housing stock, also backed the growing movement toward a balanced regional housing plan. Its city officials were eager to have other Virginia jurisdictions accept their share of assisted housing. On the other side of the coin, the suburban counties of Fairfax, Arlington, and Montgomery had long viewed assisted housing primarily in terms of the cost of providing services, seeing the housing needs of the region's poor as someone else's problem.⁵

However, when COG got down to actually drawing up a "fair share" plan which, of all things, allocated most subsidized housing dollars to affluent Montgomery and Fairfax Counties, the plan was adopted with relatively little trouble. Why?

During a series of interviews in March, 1977, several suburban housing officials and planners were asked about their jurisdiction's support of the fair share plan. When asked what Fairfax County's objectives were in supporting the plan, Chuck Billand of the Fairfax County Department of Housing and Community Development asked "overt or covert?".⁶ What he meant was this: With the area's housing

costs rising at such a rapid rate, Fairfax County was quickly becoming so homogeneous and so affluent that the necessary service workers and semi-skilled labor force could no longer live there. Therefore, although the county overtly supported the plan for such benevolent reasons as promoting balanced housing opportunities and resolving the jobs/housing mismatch, its real (covert) reason was to maintain its service population, thus attracting industry, thus diversifying and strengthening its tax base. By supporting COG's fair share plan with its distribution skewed in favor of suburban jurisdictions, Fairfax County could get considerably more assisted housing than it could without the plan.

Montgomery County, the neighboring Maryland giant, supported the plan for much the same covert reasons: to receive more housing funds in order to meet the needs of its own population.⁷ Whatever the overt or covert reasons, they fit in well with the reasons expressed by such previously overburdened jurisdictions as Prince George's County. When asked what his county's reasons were for supporting fair share, Earl Morgan of the Prince George's County Housing Authority replied with a two part answer: The goal, he said, was the elimination of any more low income housing in the County, but more realistically, the objective was to slow down the growth of such housing.⁸

With one side supporting fair share in order that assisted housing would go elsewhere, and the other side supporting it in order to grab up all the funds it could, the District, which initially supported the plan with the idealistic conviction that it would open up

the suburbs, was caught in the middle. The District was one of the last jurisdictions to adopt a resolution in support of the fair share plan, and in so doing indicated that it was concerned about the form which the plan had taken:

The District of Columbia City Council hereby supports and endorses the Fair Share Housing Program of the Metropolitan Washington Council of Governments, under the following conditions:

- 1) That the COG Board continue to press the Executive and Legislative Branches of the Federal Government for more Federally-assisted housing units for the region.
- 2) That the COG Board authorize its staff to revise the Fair Share Formula to recognize the enormity of the District's need for decent housing for families of low, moderate, and middle income and the elderly.
- 3) That COG investigate the feasibility of a regional relocation program and the elimination of jurisdictional residency and preference requirements for assisted housing so that all barriers to housing opportunities can be eliminated.⁹

Arlington County passed a resolution of support for the distribution of housing subsidies, not fair share per se, in which the county's stance against public housing was made abundantly clear. In the resolution, Arlington indicated its intention to rely on rental assistance and rehabilitation of existing units to meet the needs of its residents.

Levels of support, and reasons for support, vary among the sixteen jurisdictions which are members of COG. A survey pertaining to fair share was administered to 191 elected officials of the 16 jurisdictions.¹⁰ Of the 98 responding, an incredible 13 (13.3 percent) were not even aware of the plan's existence. Of those who were aware of the plan, 72.8 percent supported it.

The reasons given for supporting the plan were quite varied. Respondents were asked to rank four goals of the fair share plan according to their importance:

- A: To enable each jurisdiction to provide low and moderate income housing units for its own residents who need it.
- B: To enable each jurisdiction to provide low and moderate income housing for those who work in that jurisdiction but live in another.
- C: To avoid further concentration of low income housing in certain jurisdictions by dispersing it throughout the region.
- D: To afford greater local control over how federal housing subsidies are used.

Overall, most indicated that either goal A or C was the most important (40.7 percent ranked A as most important and 42 percent marked C as most important). However, it is much more interesting to look at the responses of particular jurisdictions, especially the "big six"-- Arlington, Alexandria, Fairfax County, Montgomery County, Prince George's County, and the District. Table 6-1 presents the responses of elected officials in those jurisdictions. As might be expected, most responding officials in the overburdened jurisdictions of the District, Alexandria, and Prince George's County saw the most important goal of fair share as avoiding further concentrations of low and moderate income housing, while the others saw the most important goal as meeting the housing needs of local residents. Of the forty officials responding in all six jurisdictions, only one (2.5 percent) indicated that matching job and housing opportunities was most important. Among the responses

TABLE 6-1

MOST IMPORTANT GOAL OF THE FAIR SHARE PLAN AS INDICATED BY OFFICIALS
IN THE AREA'S SIX LARGEST JURISDICTIONS

Jurisdiction	Responses	A		B		C		D	
		#	%	#	%	#	%	#	%
Alexandria	5	-	-	1	20.0	3	60.0	1	20.0
Arlington Co.	7	4	57.1	-	-	1	14.3	1	14.3
District of Columbia	8	2	25.0	-	-	5	62.5	-	-
Fairfax Co.	7	4	57.1	-	-	3	43.9	-	-
Montgomery Co.	7	6	85.7	-	-	1	14.3	-	-
Prince George's Co.	6	-	-	-	-	6	100.0	-	-
Total	40	16	40.0%	1	2.5%	19	47.5%	2	5.0%

Source: Grezlak Survey, 1976.

from all sixteen jurisdictions, 2.5 percent indicated the jobs/housing goal to be most important.

Evaluation

In evaluating Washington's fair share plan, there are two aspects which must be considered separately--the product and the process. Each will be evaluated with respect to expanded housing opportunity and the overall objectives of the plan. First, the product:

The fair share plan has done little to increase the potential mobility of the area's lower income residents. The single most important reason is the rapidly inflating cost of housing in the area and the overwhelming need for assisted housing in all jurisdictions. Many previously self-sufficient moderate income families now find themselves priced out of the private housing market, and must therefore compete with lower income families for the relatively scarce assisted housing. This is particularly true in suburban locations where housing costs are highest.

Why else has the assisted housing in suburban jurisdictions not increased the potential mobility of the central city's poor? First, there is a lack of information. It is difficult to make central city residents aware of assisted housing in suburban areas. The demand for such housing is so great and the waiting lists are so long, that "advertising" runs the risk of raising false hopes.¹¹ On the other hand, families in need of assistance who are already living in the area are much more aware of the opportunities. This combination of a lack of

information and a competitive disadvantage keeps assisted housing in suburban areas from being a real alternative for the central city's poor.

In Fairfax County it is estimated that seven percent of the resident population is in need of housing assistance, yet the sum total of all past assisted housing efforts account for only one percent of the total housing stock. Given constant funding at current levels, it would take 30 years to meet the existing need.¹² The need throughout the region is just as overwhelming. One source estimates that over 300,000 of the 475,000 renter households in the Washington metropolitan area qualify for assistance under Section 8.¹³ Other estimates are slightly more conservative, putting the need at around 250,000 households for the region as a whole and for just under half of all households in the District itself (somewhere in excess of 100,000 households).¹⁴

With such overwhelming needs, what began in Dayton seven years ago as a means of persuading suburban jurisdictions to accept their "fair share" of the assisted housing "pie" is now, in Washington, an allocation plan to divide up the pie among literally starving jurisdictions. Assuming that the estimated 300,000 households in need of assistance is correct, and given constant funding at current levels (around 6000 units annually), it would take 50 years to meet the region's existing need for assisted housing. Given that current estimates put the average annual subsidy per unit under Section 8

at \$3000 for existing units and \$4500 for new or rehabilitated units,¹⁵ the cost of meeting those needs would be astronomical.

The large number of families in need of housing assistance is not due to "rampant poverty," but to the high cost of housing in the area. Incomes which in other parts of the country might be considered relatively high meet the HUD eligibility requirements for Section 8 in the D.C. area. HUD establishes two Section 8 income categories: "lower income" (not exceeding 80 percent of the median family income in the area), and "very low income" (not exceeding 50 percent of the median income). (Table 6-2) Why such high income limits? Because the cost of housing is so incredibly high and promises to go even higher. Why such high housing costs? There are several factors:

The primary reason for high housing costs is the presence of the federal government and the relatively high salaries paid its employees. The government, through the salaries paid, inadvertently sets the market price. The price increasing as the ability to pay increases.

A second reason is that Washington is an extremely desirable place to live. An economist might argue that given the limited supply of housing in the D.C. area, an increase in demand results in higher prices. (The vacancy rate in the six largest jurisdictions is around 2.5 percent).¹⁶

A third factor, the effect of which is in dispute, was the sewer moratoria and other growth control efforts in the area during the late sixties and early seventies. Some say such efforts had little

TABLE 6-2
SECTION 8--HOUSEHOLD INCOME LIMITS
WASHINGTON METROPOLITAN AREA^a

Number of persons in household	"Lower Income"	"Very Low Income"
1	\$11,300	\$ 7,100
2	12,900	8,100
3	14,600	9,100
4	16,200	10,100
5	17,200	10,900
6	18,200	11,700
7	19,200	12,500
8+	20,300	13,300

^aEstablished April 15, 1976

Source: District of Columbia Department of Housing and Community Development, Community Development Program (Draft), (Washington: February 25, 1977).

effect on the cost of housing, while others argue that it had a substantial impact. When Prince George's County, which doubled its population between 1960 and 1970, imposed a sewer moratorium in the late 1960's, the focus of growth shifted to Fairfax County. In response to the rampant growth there, Fairfax County began its own widely discussed series of attempts to control growth.

The effect of these growth control efforts was to drive up the cost of land, particularly property which had sewer capability. Since the cost of land is the most rapidly increasing component in total housing cost, one must conclude that growth control efforts had "some" effect on housing costs.

Inflation, in general, also played a significant role in increasing the area's housing costs: The cost of materials has skyrocketed. The cost of labor in the region is among the highest in the country. And, the cost of money has made home financing prohibitively expensive in many cases.

The joint efforts of growth control efforts and inflation caused housing construction during 1974 to drop to half what was necessary to meet the demands of new household formation alone. It was estimated that 35,000 potential new households were formed in 1974 while only 18,000 new homes and apartments were built.¹⁷ The result: there just is not enough affordable housing to go around. By mid-74 there were very few homes anywhere in the area selling for less than \$40,000 and few two-bedroom apartments renting for less than \$250 per month. Moreover, the high sales cost resulted in the

conversions of thousands of modestly priced rental units into condominiums.¹⁸

By 1975 the median sales price for any new home was \$50,725 and for single family detached homes the median price was \$64,050. Less than 2 percent of all new single family detached homes ("the American dream") sold for less than \$40,000 in 1975, and 37.2 percent sold for over \$70,000.¹⁹ With fewer and fewer families able to purchase their own homes the demand for rental units has increased, thus, in keeping with basic economic theory, increasing the price of rental units.

In sum, the allocation of assisted units to suburban jurisdictions has not increased the potential mobility of lower income groups, or put differently, "opened up the suburbs." Few in Washington these days would argue otherwise. When elected officials were asked to evaluate the fair share plan in terms of how well it has met its objectives, 2.5 percent said it had been "very successful"; 21 percent said it had been "successful"; 43.2 percent classified it as "not very successful"; 13.6 percent classified it a "failure"; and 19.8 percent did not comment. (Question 14, Appendix C). Table 6-3 indicates the responses of officials in the six major jurisdictions. Only 22.5 percent evaluated the plan as very successful or successful, while 60 percent classified it as not very successful or a failure in meeting its objectives.

While the fair share plan has not resulted in the desired "product," as a process it has had considerable success. It marked

TABLE 6-3
EVALUATION OF FAIR SHARE BY OFFICIALS IN THE SIX LARGEST
JURISDICTIONS IN THE WASHINGTON REGION

Jurisdiction	<u>Very successful</u>		<u>Successful</u>		<u>Not very successful</u>		<u>Failure</u>		<u>No comment</u>			
	#	%	#	%	#	%	#	%	#	%		
Alexandria (5)	0	0	0	0	1	20.0	3	60.0	1	20.0		
Arlington (7)	0	0	2	28.6	2	28.6	0	0	3	42.8		
District of Columbia (8)	0	0	2	25.0	3	37.5	2	25.0	1	12.5		
Fairfax Co. (7)	1	14.3	1	14.3	3	42.8	1	14.3	1	14.3		
Montgomery Co. (7)	1	14.3	2	28.6	3	42.8	0	0	1	14.3		
Prince George's Co. (6)	0	0	0	0	6	100.0	0	0	0	0		
Total	40		2	5.0%	7	17.5%	18	45.0%	6	15.0%	7	17.5%

Source: Grezlak Survey, 1976.

the first time that all the jurisdictions in the Washington area came together to discuss housing needs in a regional context. That they all agreed on a plan which theoretically reflects the most rational regional planning concepts is in itself quite an accomplishment. Fairfax County Supervisor Jim Scott calls the plan a "model of regional cooperation."²⁰

A basic question remains: how would particular jurisdictions have reacted to the plan initially had it not been for the overwhelming housing needs? If Fairfax County had been able to meet its own housing needs without additional assisted housing, would it have been as willing to support the plan knowing that it would certainly result in an influx of lower income families from other jurisdictions? One can only speculate.

There are certain inherent limitations in the fair share plan which should be pointed out in the plan's defense. The fair share plan is only a device for allocating assisted housing funds to localities based on well-defined and rational considerations. As such a device, the plan has been successful. That there was a shortage of funds for implementation is no fault of the plan or of COG. In fact the plan has been a particular victory for COG; it succeeded in pulling together a diverse group of jurisdictions which for the most part never considered housing needs beyond their particular boundaries, and held them all together through moratoria, spiraling housing costs, and fluctuations in funding. That alone was neither an easy task nor a small accomplishment.

Immediate Prospects

Because of the tremendous housing needs in all jurisdictions, but particularly in the District, the fair share plan and the principles on which it was founded are in potential conflict. Since the plan is really not achieving the dispersal of housing opportunities which was intended, the District feels that funds should be allocated more on the basis of immediate needs (at least for a time). The only thing holding the plan together right now is the bonus which HUD has awarded annually as an incentive for fair share support. In the past this bonus usually has made up the difference between the District's level of funding under fair share and what it would be if funds were allocated directly by the HUD Area Office. The District has made it clear that if for any reason the bonus is terminated, it would immediately pull out of fair share.²¹ However, one HUD official indicated that if the local allocation plan fell apart, the HUD Area Office would establish allocation guidelines of its own.²²

In sum, the fair share plan has not and will not succeed in creating potential mobility for the area's lower income families until the spiraling housing costs in the area are brought under control. But as a process and a plan based on regional considerations, it is a symbolic victory for regional planning advocates.

Chapter Six--Footnotes

¹Paul and Linda Davidoff, "Opening the Suburbs: Towards Inclusionary Controls," in Management and Control of Growth, Vol. I of III (Washington: The Urban Land Institute, 1975), p. 541.

²Earl Morgan, Executive Director of the Prince George's County Housing Authority, interview held in Capital Heights, Md., March 1977.

³Ibid.

⁴Ibid.

⁵Ibid.

⁶Chuck Billand, Deputy Director, Fairfax County Department of Housing and Community Development, interview held in Springfield, Virginia, March 1977.

⁷Bernard L. Tetreault, Executive Director, Montgomery County Housing Opportunities Commission, interview held in Silver Spring, Maryland, March 1977.

⁸Earl Morgan.

⁹District of Columbia Register, p. 327, (n.d.).

¹⁰The survey was administered by Charles Grezlak, candidate for a Ph.D. from George Washington University. The survey is shown in Appendix C. Portions of the results are used here with Grezlak's permission.

¹¹Patricia A. Heinaman, Associate Chief of Housing Programs, Metropolitan Washington Council of Governments, series of interviews and correspondences, December 1976-March 1977.

¹²Chuck Billand.

¹³Metropolitan Washington Council of Governments, Letter to Department of Housing and Urban Development, 20 February 1975.

¹⁴Robert Duckworth, Department of Housing and Urban Development, interview held in Washington, D.C., March 1977.

¹⁵Knox Hayes, District of Columbia Department of Housing and Community Development, interview held in Washington, D.C., March 1977.

¹⁶Computed from Alexandria Housing Assistance Plan (7/77-6/78), Arlington County Housing Assistance Plan (amended 8/19/76), District of Columbia Housing Assistance Plan (10/1/77-9/30/78), Fairfax County Housing Assistance Plan (7/77-6/30/78), Montgomery County Housing Assistance Plan (7/1/76-6/30/77), and Prince George's County Housing Assistance Plan (7/77-6/78).

¹⁷Washington Center for Metropolitan Studies, "Metropolitan Bulletin," (January-February, 1975).

¹⁸Ibid.

¹⁹Metropolitan Washington Council of Governments, Summary and Analysis of the 1976 HUD Unsold Inventory Survey for the Washington Metropolitan Area, (n.d.).

²⁰Jim Scott, Fairfax County Supervisor, interview held in Falls Church, Virginia, March 1977.

²¹Knox Hayes.

²²Robert Duckworth.

Chapter Seven

CONCLUSIONS AND FUTURE DIRECTIONS

It would be very easy to conclude that the need for assisted housing in the Washington area is so overwhelming that current subsidy funds, whether allocated through fair share or some other way, amount to nothing more than the proverbial drop in the bucket. But such a conclusion would be overly simplistic and would ignore the basic issues.

The fair share plan was designed to provide lower income families with potential mobility to allow them to move closer to employment and other opportunities. But spiraling housing costs have driven many moderate income families out of the private housing market. The situation is most acute in suburban areas where housing costs are highest. Previously self-sufficient teachers, firemen, and municipal workers now find themselves priced out of the housing market and often competing with lower income families for the relatively scarce assisted housing units.

Therefore, if fair share is ever to achieve its objective of providing lower income mobility, the area's moderate income families must once again become competitors in the private housing market. While this is easy to state, actually reducing the cost of housing is a formidable task.

To no small degree the high cost of housing in the Washington area is simply a reflection of over-consumption. Houses and apartments

in the area are bigger and more luxurious than ever and yet the size of the average household has been steadily decreasing since 1960. Put simply, most families, including those in need of assistance, are actually "consuming" more housing than they need.

By 1970, over half of all single person households occupied dwellings with three or more rooms and over half of all area dwellings of all sizes had two rooms or more per occupant.¹ In that year there were 174,000 single person households (19.3 percent of all households), yet only 84,000 dwelling units (8.1 percent) had two rooms or less.² By 1974 single person households had increased to 21.5 percent of total households, yet dwelling units with two rooms or less decreased to 7.4 percent of the total stock. The trend in family housing has been the same. While the number of persons per family decreased from 3.66 in 1960 to 3.46 in 1974, the number of units with eight or more rooms increased from 9.6 percent in 1960 to 20.2 percent in 1974.³ Throughout the entire area, households have been getting smaller, yet very little housing has been built to meet the limited space requirements--and often the limited budgets--of the rapidly growing number of small households. The scarcity of smaller units has forced many small families to live in large units which they cannot really afford. In all parts of the area, the overwhelming housing need is for small units to accommodate families of 4 persons or fewer. (Table 7-1)

A three person household--husband, wife, and one child--could live comfortably in a three room unit, when one considers how the

TABLE 7-1
TOTAL HOUSING ASSISTANCE NEED BY GROUP

Jurisdiction	Elderly or handicapped	Family (4 or less persons)	Large family (5 or more persons)
Alexandria	19.6%	64.41%	15.99%
Arlington Co.	27.6%	62.1%	10.3%
District of Columbia	16.8%	55.4%	27.8%
Fairfax County	7.63%	72.13%	20.24%
Montgomery County	32.98%	60.6%	6.38%
Prince George's Co.	22.9%	60.8%	16.2%
Average	21.25	62.57	16.15

Source: Alexandria Housing Assistance Plan (7/77-6/78); Arlington County Housing Assistance Plan (amended 8/19/76); District of Columbia Housing Assistance Plan (10/1/77-9/30/78); Fairfax County Housing Assistance Plan (7/77-6/30/78); Montgomery County Housing Assistance Plan (7/1/76-6/30/77); Prince George's County Housing Assistance Plan (7/77-6/78).

Census enumerates the number of rooms. Such a unit could consist of two bedrooms, one or more baths, an entry foyer, a kitchenette, and a large living room-dining room combination. Table 7-2 indicates that not only do units tend to have more rooms than necessary, but that the number of very large units is increasing.

However, the number of rooms is only one indicator of unit size. Another indicator of size, one more directly related to local regulations, is the floor area. Many minimum floor area requirements greatly exceed the minimum necessary for the protection of health. Not only minimum floor area requirements but regulations prescribing maximum densities also serve to keep the cost of housing relatively high. Many local standards and regulations are simply too strict, and in a way, mandate the construction of "excess" housing. A recent New Jersey Supreme Court decision in the appeal of Oakwood at Madison v Township of Madison (see Chapter One) not only strengthened the fair share concept but addressed the issue of "least cost" housing.

The decision clarifies the Court's doctrine as set forth in the Mount Laurel decision of two years ago (see Chapter Two). Specifically, the Court ordered Madison township to create the opportunity for a fair and reasonable share of the "least cost" housing needs of the region. By least cost, the Court meant that portions of the township's developable land should have a minimum level of regulations so as to not increase the cost of housing. The Court directed revisions to the township's regulations within 90 days, including the reduction of standards in both single family and multi-family zones.

TABLE 7-2
ROOMS PER UNIT vs. PERSONS PER UNIT--1974

Jurisdiction	Persons per unit	Rooms per unit	1 or 2 rooms	8 rooms +
District of Columbia	2.1	4.2	18.4	10.1
Montgomery County	2.8	6.3	2.0	32.3
Prince George's Co.	2.6	5.3	3.2	12.8
Alexandria	2.1	4.5	11.5	7.8
Arlington	2.0	4.7	9.2	10.0
Fairfax County	3.1	6.7	1.2	35.7
Total ^a	2.5	5.4	7.4	20.2
1960 Total ^a	3.4	5.4	8.7	9.6

^aTotals include Fairfax and Falls Church Cities and Loudoun, Prince William, and Charles Counties, not shown separately.

Source: Washington Center for Metropolitan Studies, Washington Region 74 (Washington, D.C.: May 1975), adapted from Tables 21 and 22, pages 56-57.

While the revisions ordered by the Court are primarily conceptual, their implications are quite clear: The Court found that traditionally "inclusionary" zoning classifications, such as PUD's and multi-family districts, often contained "undue cost generating requirements." No more, the Court said. Municipalities must provide for their fair share of least cost housing through minimal regulations.⁴

Local regulations other than those prescribing minimum floor areas and densities also operate to keep housing costs high. Regulations restricting the types of construction and building materials keep housing standards much higher than necessary for public health and safety. The exclusion of mobile homes and prefabricated housing forces potential occupants into units with higher standards and thus higher costs.

Almost ironically, Montgomery County has used its higher than necessary standards to help produce lower income housing. In that county, large developments are required to devote 15 percent of their units to low and moderate income families. The ordinance works like this: Developers are allowed to exceed maximum density requirements by 20 percent, thus giving them a "bonus" of potential housing units for which they theoretically have to pay nothing in land costs. While total construction costs are spread over all units, the land cost is spread over only 85 percent of the units. The remaining 15 percent are offered to low and moderate income families at reduced prices because in effect there was no land cost involved. In the Washington

area where land costs are extremely high, the cost reduction can be substantial.

There is more to Washington's high housing costs than overconsumption, however, and any remedy will require much more than reducing standards. Nonetheless reducing standards is one of many desperately needed steps, and one that can immediately be taken by localities.⁵

What else can be done? Both Maryland and Virginia have lower income home financing programs. However, these programs have the potential to aid only a small portion of families in need. First, there is never enough funding. Second, even with low interest financing, homeownership is just too costly for most lower-income families.

One possibility which has not been discussed is for the federal government to drastically increase the level of housing assistance funding. But such an approach, aside from not being financially or politically feasible, would ignore the basic problem of housing cost in the Washington area.

Any workable approach to the area's housing needs must deal with the cost of housing itself. If economic theory is correct, one could lower the price by reducing demand. A reduced demand for housing would go hand in hand with a slowed population growth, which is itself a primary concern in the area. However, any reduction in the rate of growth depends on the actions of the area's primary stimulant--the federal government. If the expansion of Washington-based agencies were

curbed, the population growth would also be curbed. (Perhaps the expansion of federal agencies could even be targeted to other parts of the country whose growth and economic development are sagging.) Although such thoughts are beyond the realm of the local planning function, they serve to illustrate the complexities of Washington's housing and growth problems.

Conclusion

There are no easy answers to Washington's housing problems. Even the most ingenious approaches will do little to alter the situation for years to come. Not until the area's moderate income families are again able to compete in the private housing market will the fair share plan benefit the lower income groups for which it was intended. But until such time as this occurs, there are a few things that can be done: the maximum income requirements for assisted housing eligibility should be lowered so that housing assistance will go first to those who need it the most. However, this would require a change in federal guidelines.

Another possibility might be the creation of a central clearing-house which maintains lists of eligible families and assisted housing units in all jurisdictions. The waiting list would contain the locational preferences of particular families, allowing the clearing-house to match geographic preference and need with assisted housing opportunities as they arise.

What is the future of fair share plans? Increasingly, in the short run, fair share plans will probably be used as a device to allocate assisted housing. In the long run, however, one cannot help hoping that fair share plans will gradually disappear, fading away into a total metropolitan development plan.

In many ways, the Washington plan was the right idea, in the right place, at the right time. This regional approach to assisted housing came about at a time when most jurisdictions were willing to support it because of the overwhelming housing need. From a regional planning viewpoint, fair share's most valuable contribution is that it is an important first step toward not only a total regional housing plan, but comprehensive metropolitan planning as well. Fair share, as that crucial first step, represents a basis upon which future regional planning efforts can be built. As such a basis, it is a symbolic success for advocates of regional planning and equal opportunity, and a particular victory for the Metropolitan Washington Council of Governments.

Chapter Seven--Footnotes

¹To fully understand the point being made one must understand the Census Bureau's enumeration procedure: Baths, Kitchenettes, and Foyers are not counted as rooms (full-sized kitchens are counted). Thus an apartment with a combined living-dining area, an entry foyer, a kitchenette, a bedroom, and one or more baths, is considered a two room unit by the Census Bureau.

²Washington Center for Metropolitan Studies, "Metropolitan Bulletin," January-February, 1975.

³Washington Center for Metropolitan Studies, Washington Region 74, Tables 2 and 21, pp. 17 and 55.

⁴Randall W. Scott, "New Jersey Supreme Court Requires Rezoning for Least Cost Housing," Practicing Planner, March, 1977, pp. 8-9.

⁵Bruce McDowell, former COG Director of Human Resources and now with the Advisory Commission on Intergovernmental Relations was particularly interested in manufactured housing, etc., as housing alternatives. He also expressed concern over excessively high local standards. Interview held in Washington, D.C., March, 1977.

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APPENDIX A

HOUSING PROGRAM DESCRIPTIONS

Conventional (family) Public Housing. The LHA builds, owns and manages housing developments ("projects") and rents individual units to families of low income. The LHA floats bonds to finance construction, with HUD making annual contributions to cover debt retirement. Income limits for admission are set by the LHA, and vary by family size and by local housing costs. No family now pays more than 25 percent of income for rent (as mandated by the Brooke Amendment of 1971), with the difference between that amount and the amount needed to meet operating and maintenance costs now met by HUD.

Turnkey Public Housing (3 types)

Turnkey I: The LHA buys a newly-constructed or substantially rehabilitated building, and then owns and manages it, and rents units to families eligible for conventional public housing, and under the same conditions. Sometimes referred to as "instant housing."

Turnkey II: The LHA not only buys a building built or rehabilitated by a private owner, but contracts with him or with another private firm to manage the housing.

Turnkey III: Tenants in either Turnkey I or II may ultimately own their own unit, through a system whereby a portion of their rent is applied toward equity.

Section 236 Rental Housing Program for Lower-Income Families. Low-interest loans are provided to private developers (non-profit or limited-dividend) to reduce the cost of construction or rehabilitation. Savings are passed on to tenants in the form of lower rents. Projects may consist of 5 or more units of detached housing, semi-detached row housing, garden apartments, or elevator structures, which are new or substantially rehabilitated. Eligible families are those whose incomes do not exceed 80 percent of the area's median. The tenant family pays the "basic rental," which is the amount needed to pay the pro-rated share of operation, maintenance and mortgage payments or 25 percent of adjusted family income, whichever is greater.

Section 8 Housing Assistance Payments Program. Authorized by the 1974 Housing and Community Development Act, this program modifies and extends provisions of the Section 23 Leased Public Housing Program. HUD may contract with a Local Housing Authority, or with private sponsors or owners to lease units in new, substantially rehabilitated, or existing structures. Families or individuals are eligible for housing assistance payments whose adjusted gross incomes do not exceed 80 percent of the median for the area. HUD establishes Fair Market rents for each locality, and a lease is drawn up with the owner of the units. Eligible families pay between 15 and 25 percent of gross

income for rent, depending on income, number of minors, and medical and child care expenses. The housing assistance payment made to the owner is the difference between the family's share and the Fair Market rent.

Source: Handout used by Professor May Hipshman at VPI&SU in graduate planning courses concerned with housing.

Rent Supplements. This program was created in 1965 to give financial assistance to enable certain private housing to be available for lower income families who are elderly, handicapped, displaced, victims of a natural disaster, or occupants of substandard housing. Under the program, HUD is authorized to enter into a contract agreement with private owners, agreeing to make payments to reduce rent to 25 percent of the tenant's income, but not to reduce rents below 30 percent of the fair market rent. Eligible owners include non-profit and limited dividend sponsors, or a cooperative housing corporation.

Source: House Committee on Banking and Currency, Basic Laws and Authorities on Housing and Urban Development, (Washington: U.S. Government Printing Office, 1971), p. 293.

APPENDIX B

ORIGINAL FORMULA DATA SOURCES AND METHODOLOGY

1. Non-Resident Commuters Making Under \$10,000

1. Heads of households, employed full time and making \$10,000 a year and under were tabulated according to place of residence and place of employment. Those not living in the jurisdiction of employment were classified as non-resident commuters and their numbers were expressed as a percentage of all heads of households employed in that jurisdiction.
2. The number of heads of households employed full time was calculated by jurisdictions from the EMPIRIC forecasts for 1968.
3. The number of non-resident commuters was then calculated by applying percentage in Step One to the employment figure in Step Two.
4. Sources: Transportation Planning Board, Home Interview Survey, 1968; EMPIRIC Activity Allocation Model Forecasts for 1968.

2. Overcrowded Units

Source: Bureau of the Census, Advanced Report, 1970.

3. Deficient Units

1. Utilizing Bureau of the Census Methodology, (See Users Handbook, Section 175) the proportion of dilapidated units with plumbing was calculated.
2. The number of units in 1960 was subtracted from those in 1970, indicating new development. This figure was then subtracted from the total units for 1970.
3. The percentage of dilapidated units was then applied to the resultant figure in Step Two.
4. The number of units without plumbing in 1970 and the estimated number of demolitions for the year 1970 were added to the figure in Step Three to provide the number of deficient and/or replacement units.
5. Sources: Bureau of the Census, Final Report 1960; Bureau of the Census, First County Summary Tape 1970; demolition estimates from Workable Programs and local planning departments.

4. Available Vacant Residential Land

D.C. EMPIRIC Estimate, 1968 (all vacant)
Arlington, EMPIRIC Estimate, 1968 (all vacant)
Alexandria-Metropolitan Parcel File, 1970
Falls Church-Metropolitan Parcel File, 1971

Remaining jurisdictions:

Calculated from land use maps, allowing for the provision of sewer service within the next six years.

5. Vacant Units

Units for rent and for sale

Source: Bureau of the Census, First Count Summary Tape, 1970.

6. Per Capita Fiscal Resources

1. Calculated total appraised real estate value.

2. Aggregate personal income was calculated by taking the average household income for 1968, multiplied by the number of households. (For the smaller jurisdictions, household income was estimated as 1/2 the median housing value.)

3. Per capita fiscal resource equals the sum of Steps One and Two divided by the population.

4. Source: Local Estimates from Financial Directors, Transportation Planning Board, Home Interview Survey, 1968 household income.

7. Concentration of Low and Moderate Income Units

1. The number of owner occupied homes under \$25,000 (2.5 times an annual income or \$10,000) and the number of rental units renting for \$149 a month or less (20% of \$10,000 income since utilities may not be included in contract rent.)

2. Source: Bureau of the Census, First County Summary Tape, 1970.

8. Accessibility to Employment

1. The percentage of regional jobs reached in 45 minutes travel time was calculated for highway systems and transit by transportation planning district.

2. The accessibility of these two modes was weighted by the percentage of automobile drivers and transit passengers for each district. The results were added to give a combined accessibility for each district.

3. An average accessibility was computed for each jurisdiction.
4. Source: Transportation Planning Board, Home Interview Survey, 1968.

Source: Metropolitan Washington Council of Governments, Fair Share Housing Formula (Washington: January 1972), pp. 14-15.

APPENDIX C

GREZLAK QUESTIONNAIRE

QUESTIONNAIRE

1. In which of the following jurisdiction are(were) you an elected or appointed official?

- | | |
|------------------------|---------------------------|
| 1 Alexandria | 9 Gaithersburg |
| 2 Arlington County | 10 Greenbelt |
| 3 Bowie | 11 Loudoun County |
| 4 College Park | 12 Montgomery County |
| 5 District of Columbia | 13 Prince George's County |
| 6 Fairfax City | 14 Prince William County |
| 7 Fairfax County | 15 Rockville |
| 8 Falls Church | 16 Takoma Park |

2. Please name those issues which are of special concern to the citizens in your jurisdiction.

- | | |
|----------|----------|
| 1. _____ | 3. _____ |
| 2. _____ | 4. _____ |

3. Have you ever served on the Washington Council of Governments (COG)?

- | | |
|-----------------|--|
| 1. Yes (IF YES) | 4. On which COG committees have you served? |
| 2. No | 1 Board of Directors |
| | 2 National Capital Interstate Air Quality Planning Comm. |
| | 3 Health and Environmental Protection Policy Committee |
| | 4 Water Resources Planning Board |
| | 5 Human Resources Policy Committee |
| | 6 Public Safety Policy Committee |
| | 7 Transportation Planning Board |
| | 8 Land Use Policy Committee |
| | 9 Other committee (specify): |

5. How would you evaluate the performance of the Metropolitan Washington Council of Governments--both overall and with respect to the following policy areas?

Overall Evaluation	Excellent	Good	Fair	Poor	No opinion
	1	2	3	4	5
Public Safety	1	2	3	4	5
Air and Water Pollution	1	2	3	4	5
Transportation	1	2	3	4	5
Housing	1	2	3	4	5
Water Resources	1	2	3	4	5

6. Do you feel that the Washington Council of Governments should be more aggressive in formulating programs which address regional problems?

- 1 Yes
- 2 No
- 3 Don't Know

7. In your opinion, what role should COG play in metropolitan affairs?

8. Does your jurisdiction need any more low and moderate income housing?

- 1 Yes (IF YES)
- 2 No
- 3 Don't know

9. For whom?

- 1 Low income families
- 2 Moderate income families
- 3 Elderly

10. Listed below are some criticisms that have been made about councils of governments. If you believe that any of them also apply to the Washington Council of Governments in particular, circle the relevant number(s).

- 1 COG's conduct a multitude of studies but rarely are they utilized in the formulation and implementation of regional policies.
- 2 Most local officials just don't have the time to get actively involved in COG.
- 3 The danger of an organization like COG is that it could result in reduced local control over policymaking.
- 4 The more populous jurisdictions are normally over-represented in COG affairs.
- 5 The more populous jurisdictions are usually under-represented in COG affairs.

11. How do you feel about the following statement: "Jurisdictions in the Metropolitan Area which do not have much low-income housing should provide more, so that the concentration of low-income housing in other jurisdictions can be reduced."

- 1. Strongly Agree
- 2. Agree
- 3. Uncertain; No Opinion
- 4. Disagree
- 5. Strongly Disagree

12. Are you aware of the Washington Council of Governments' "fair-share" housing plan, which allocates federal housing subsidies among jurisdictions in the region?

1. Yes (IF YES) CONTINUE TO QUESTION #13
2. No (IF NO) STOP

IF "YES" ON QUESTION #12, ANSWER THE FOLLOWING:

13. Do you support the "fair-share" plan?

1 Yes

2 No Why? _____

3 No Opinion _____

14. How would you evaluate the "fair-share" plan in meeting its objectives?

1 Very Successful

2 Successful

3 Not Very Successful

4 A Failure

5 Don't know

15. Listed below are various objectives which have been mentioned as goals of the "fair share" plan. How would you rank these goals according to their importance? (i.e. 1=Most Important; 2=Second in Importance; ETC.)

____ To enable each jurisdiction to provide low and moderate income housing for its own residents who need it.

____ To enable each jurisdiction to provide low and moderate income housing for those who work in that jurisdiction but live in another.

____ To avoid further concentration of low-income housing in certain jurisdictions by dispersing it throughout the region.

____ To afford greater local control over how federal housing subsidies are used.

16. What effect do you think the "fair-share" plan will have on housing in your jurisdiction?

1 Will increase the supply of subsidized housing.

2 Will reduce (or stabilize) the percentage of the region's subsidized housing located in your jurisdiction by having more units built in other jurisdictions.

3 Will have no effect on housing in your jurisdiction.

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METROPOLITAN WASHINGTON'S FAIR SHARE HOUSING PLAN:

POTENTIALS AND LIMITATIONS

by

Larry Mitchell Jarvis

(ABSTRACT)

In 1972 the Metropolitan Washington Council of Governments (COG) adopted a fair share plan for the purpose of allocating assisted housing among its sixteen member jurisdictions. The primary objectives of the plan were to avoid further undue concentrations of low and moderate income housing in the center of the area and to provide lower income families with housing opportunities in the area's suburban jurisdictions where many lower income jobs were being created. Reflecting these two objectives, both the original and revised formulas contained factors which served to allocate a large percentage of housing funds to those affluent suburban jurisdictions which had very little assisted housing. This skewed distribution, COG believed, would result in a balance of assisted housing throughout the area, resulting in increased potential mobility for the area's lower income.

In spite of the plan's successful implementation, the potential mobility of the area's lower income has not been greatly enhanced. The primary reason for this is the area's extremely high housing costs and the overwhelming need for assisted housing in all jurisdictions.

Many of the area's moderate income families literally have been priced out of the housing market and must now compete with lower income families for the relatively scarce assisted housing.

If the housing needs of the area's residents are ever to be met, and if fair share is to achieve the objectives for which it was designed, the area's moderate income families must once again become competitors in the housing market.