Special Project–The 235 Housing Program in Action: An Empirical Examination of Its Administration and Effect on the Homeowner-Participant in the Columbia, South Carolina Area

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I. INTRODUCTION

A. BACKGROUND OF SECTION 235

> Today, I propose a program to extend the benefits of homeownership to the nation's needy families.
>
> Under this program, . . . low income families will be able to buy modest homes financed and built by the private sector. The families will devote what they can reasonably afford—a specific percentage of their income—to mortgage payments, with the government paying the difference in the form of an interest subsidy. Under this interest subsidy, the Federal Government would pay all but 1% of the interest on the mortgage, depending on the income of the homebuyer.[1]

With these words, President Lyndon B. Johnson introduced to Congress what he later was to describe as "the most farsighted, most comprehensive, most massive housing program in all of American history . . . (a) Magna Carta to liberate our cities"[2]—the Housing and Urban Development Act of 1968.[3]

MILIEU OF THE PERIOD

The setting in which the President's message was delivered was one of urban unrest, with a depressed housing industry, and

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1. *President's Message to Congress,* "The Crisis of the Cities," Feb. 22, 1968.
2. N.Y. Times, Aug. 2, 1968, at 12.
3. 82 Stat. 476, codified in scattered sections of 12, 42 U.S.C.A., and amending various sections of the National Housing Act, the Housing and Urban Development Act of 1965, and the Housing Acts of 1937, 1941 and 1964.

with rental housing the only available affordable home for the nation's poor.

In response to the great amount of urban unrest during the mid 60's, President Johnson appointed a National Advisory Commission on Civil Disorders. The Commission noted that current federal programs, especially urban renewal, had displaced what homeownership there was in the lower income urban areas, and, further, had broken up much of the sense of community in lower income neighborhoods. It pointed out that federal programs geared around providing rental housing had not recreated or been conducive to a sense of community, and noted that:

> To date, federal building programs have been able to do little to provide housing for the disadvantaged. In the 31 year history of subsidized federal housing, only about 800,000 units have been constructed . . . . By comparison, over a period only three years longer, FHA insurance guarantees have made possible the construction of over ten million middlé and upper income units.[4]

The Riot Commission was not alone in its analysis that part of the problem of urban unrest was due to inadequate privately owned housing in low income areas. The President's Committee on Urban Housing recommended a homeownership program for low-income Americans to "improve" urban conditions.[5] St. Paul, Minn. Mayor Thomas R. Bryne, speaking for the National League of Cities, pointed out that inadequate housing was "one of the most important contributors to current urban unrest . . ." N.H. Keith, president of the National Housing Conference, said that "descent, safe, and sanitary housing is at the heart of the crisis in our cities."[6]

During this period, the housing industry was in an economically depressed state, due mostly, the industry claimed, to artifi-

4. NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, REPORT 473-4 (Bantam ed. 1968) [hereinafter cited as THE RIOT COMMISSION, REPORT].

5. PRESIDENT'S COMMITTEE ON URBAN HOUSING, REPORT: A DECENT HOME (1968) [hereinafter cited as the KAISER REPORT].

6. *Hearings on Housing and Urban Development Legislation of 1968 Before the Subcomm. on Housing and Urban Affairs of the Senate Comm. on Banking and Currency*, 90th Cong., 2d Sess., 1968 [hereinafter cited as *1968 Senate Hearings*].

cial interest ceilings on mortgage loans guaranteed by FHA and VA. Lloyd E. Clarke, president of the National Association of Home Builders, speaking for the 50,000 member organization, forecast "substantial declines" in home construction unless relief from the mandatory ceilings was obtained.

At the time of the introduction of the Johnson Administration's HUD Bill, the most common type of Federally financed low income housing was multi-family rental units: "low income families have been able to get Federal help in securing shelter only as tenants who pay rent," President Johnson pointed out.[7] Many critics of this approach to the low cost housing problem felt that the Government merely was hiding urban slum conditions behind a pretty facade. Again, the sense of community was lacking, claimed the critics. When urban unrest hit these areas too, more fuel was added to the fire of the critics. A more viable alternative was sought. The earliest attempt to find a better approach to the nation's low cost housing needs came in 1967, with the introduction of S.2700 by Senator Percy. Generally espousing an approach based on low-cost homeownership through governmental mortgage subsidies, the Percy Bill met with little approval from HUD or the Johnson Administration.

2. THE CONCEPT: A STAKE IN SOCIETY

Most consideration of the Percy proposal and the homeownership concept in general centered around the idea of providing the poor with a "stake in society." "Public housing that utilizes the government as landlord has not met our low-income housing need," one critic pointed out. "Urban renewal has aggravated the crisis by depriving the poor of their homes and destroying their communities. Homeownership, on the other hand, shows promise of succeeding where other programs have failed because it offers the low income family a stake in society."[8] The stake in society concept was nothing new to a nation which, at one time, had required as a requisite of voting that a man be of a certain age (25) and own a certain amount of property. Certainly, it was felt, this concept would appeal to many potential conservative critics of a program that such critics might term "further Federal en-

7. "The Crisis of the Cities," *supra* note 1.
8. Quirk and Wein, *Homeownership for the Poor*, 54 CORNELL L. REV. 811, 812 (1969).

croachment" on the states and cities. President Johnson became attracted to the phrase and the concept: "owning a home can increase responsibility and stake out a man's place in his community. The man who owns a home has something to be proud of and good reason to protect and preserve it."[9] As a philosophical underpinning of the homeownership program, the stake in society concept seemed to offer a much needed solution to the urban unrest that plagued the nation; it was adequate justification for boosting the sagging homebuilding industry; and, most importantly, it was a salable and believable concept on which to base an appeal to Congress for passage of the Johnson proposal. "Pride of ownership is a subtle but powerful force. Past experience has shown us that families offered a decent home at prices they can afford have demonstrated a new dignity, a new attitude toward their jobs, and a sense of participation in their community . . . . By extending the opportunity for homeownership to low and moderate income families, we will give them concrete incentive for striving to improve their own lives as well as the life of their community," Wright Patman, Chairman of the House Banking and Currency Committee, later was to point out in defense of the low-cost homeownership aspect of the HUD Bill.

3. THE LEGISLATION

A. THE ADMINISTRATION BILL

The HUD Bill, as introduced to Congress on February 22, 1968, provided, *inter alia,* for a homeownership program for the poor, and for adequate government-backed insurance and subsidies to make the program attractive to the private mortgage banks, which would be called upon to finance the low cost home purchases. Introduced by Senator John Sparkman, chairman of the Senate Banking and Currency Committee, as S. 3029, the bill endorsed the homeownership program of S. 2700 (the Percy Bill), and called for Congress to provide 6 million new and rehabilitated housing units over the next ten years. The Bill called for an initial

9. "The Crisis of the Cities," *supra* note 1.

10. As Chairman of the House Banking and Currency Committee, Patman had charge of the Bill when it came up on the Floor of House. It is of significance that the "stake in society" concept was so prevalent in Patman's justification of the Bill; later, a conservation coalition of Southern Democrats and Republicans would be the moving force in assuring that the homeownership program would be made eligible only for those whom they considered to be without a stake in society; see, in this regard, note 19 *infra.*

expenditure of $7.5 billion over a five year period, and contained a provision, strongly lobbied for by the housing construction industry, to remove the statutory ceilings on interest rates of mortgages guaranteed by FHA and VA. A companion Bill, S. 3028, called in part for a national insurance development corporation to insure private insurance companies against the risk of riots.

B. SENATE ACTION

The Banking and Currency Committee's Subcommittee on Housing and Urban Affairs held hearings on the two Bills and other related matters during March of 1968.[11] HUD Secretary Robert C. Weaver urged the passage of the two Bills as part of a larger package of other pending legislation[12] sought by the Administration "to achieve the President's objectives in urban affairs." Weaver disagreed with the President's National Advisory Commission on Civil Disorders with regard to the implementation of the Commission's recommendations of substantially the same program as introduced by President Johnson, but within a five year period; Weaver called the five year period for implementation "improbable" of completion and too ambitious, and defended the Administration's timetable of ten years as more reasonable. Weaver pointed out that raising expectations by an ambitious program that could not be completed as quickly as envisioned would only add further to the frustration of those in need of adequate low cost housing, thereby possibly contributing to further urban unrest.

Senator Edward Brooke, a member of the Riot Commission, was critical of the FHA (which was slated to administer the homeownership program) for being overly cautious in its housing committments and not sufficiently responsive to "social purpose" legislation. He urged that a new division within HUD be set up to administer the homeownership program because of the "dis-

11. Hearings were held March 5-7, 11-15, and 18-22, 1968.

12. "For all their importance, however, these two bills do not stand alone in answer to the needs of American cities, nor can they be understood in isolation." Weaver specifically mentioned certain pending proposals as "crucial" to President Johnson's urban aid program: the income tax surcharge; open housing legislation; full funding for the antipoverty program and the model cities program; funds for rent supplement, urban research, and similar programs; and funds placing ½ million hardcore unemployed into private industry jobs. *1968 Senate Hearings, supra* note 6.

tinctive character of these programs" and their "special urgency."

AFL-CIO Chief Lobbyist Andrew J. Biemiller endorsed the Bills but said that "the immediate need is for far more housing than is envisioned" by the legislation. Beimiller was critical of attempts to remove the 6% statutory ceiling on mortgages, however, pointing out that rates could only go one way—up. Edgar F. Kaiser, chairman of the President's Committee on Urban Housing agreed with Biemiller's opinion that the need for new and rehabilitated urban housing was greater than the level of funding proposed by S. 3029, but expressed much the same concern as Secretary Weaver of HUD regarding what he felt to be too ambitious a time span for the program: unrealistic goals such as the five year program advocated by the Riot Commission would, according to Kaiser, "unduly raise aspiration and hope" among the nation's ill-housed families. UAW President Walter Reuther endorsed the legislation, noting that the Bills proposed "major policy changes" designed to help all citizens "attain a decent home". Reuther further urged that "urban land banks" be created on the European model, to acquire and hold land within and outside the city for future urban development; such, he felt, would reduce opportunities for land speculation in the private sector and aid in future urban planning.

Spokesmen for the housing industry urged passage of the Bills. The 50,000 member National Association of Home Builders said that S. 3029 reflected a "developing awareness" of the nation's housing problem, and urged removal of the mandatory ceiling on interest rates on mortgage loans guaranteed by FHA and VA. In agreement was the National Association of Real Estate Boards. The National Housing Conference, a 4000 member organization composed of federal and local housing officials, labor union leaders, and spokesmen for various civic and professional organizations, strongly endorsed the legislation and urged various amendments designed to accelerate the proposed rate of housing construction and rehabilitation.

The Mortgage Bankers Association endorsed the interest subsidy aspect of the low cost homeownership program as a mechanism that would "encourage the active participation of private investors" in the area of low cost housing financing.

Various state and local political leaders also supported the legislation. New Jersey Governor Richard Hughes praised the leg-

islation for recognizing that the problem of the cities was, indeed, "a national problem". Cleveland Mayor Carl Stokes endorsed the homeownership program as "the best thinking" to solve the urban crisis. Former Senator Paul Douglas, at that time Chairman of the President's Commission on Urban Problems, supported the legislation as the most effective way to produce a large annual volume of low and moderate income housing with the lowest annual outlay of Federal funds. St. Paul Mayor Thomas R. Byrne, spokesman for the 14,400 member National League of Cities, called the legislation realistic in its attempts to meet the needs of the cities in the housing area. Byrne called current Federal, State, and local public and private housing programs "inadequate" to meet present and future needs.

After consideration of all testimony, a final Committee Bill was drawn up, specifically lowering the income level for eligibility for the low-cost homeownership program. The final Committee report observed that a new "emphasis" should be placed on providing homeownership for lower income families: "(I)n order to give American families the widest choice in selecting the type of housing in which they desire to live, as well as achieving a balance in existing programs, emphasis should be placed on developing programs which will give lower income families a better opportunity of becoming homeowners."[13]

By the time the legislation had cleared the Committee and had been sent to the Senate for full consideration, there were numerous amendments to the legislation pending. In all, 24 separate amendments were attached to the bill; 5 others were rejected.[14] An ongoing controversy arose with regard to eligibility under the homeownership program. An amendment by Senator Tower which would have altered the income level of persons eligible to receive assistance under the homeownership program was defeated.[15] The issue, however, was to be raised again. Several

13. S. REP. No. 1123, 90th Cong., 2d Session 4 (1968); all testimony from *1968 Senate Hearings, supra* note 6.

14. An excellent, brief summary of all amendments proposed during the Senate debate on the Bill is found in *Congressional Quarterly Almanac, 1968,* 320-27, (1968).

15. On May 27, 1968, Tower introduced an amendment to limit eligibility for assistance under the homeownership program to families whose income levels were not more than 70% of the level allowed for the federally assisted 221 (d) (3) program. Under the Committee Bill, this restriction was applied to 80% of persons aided under the homeownership program, and the remaining 20% could have incomes up to the 221 (d) (3) level. Tower's amendment was defeated on roll call, 25-36.

amendments dealt with the treatment accorded those convicted of involvement in riots, as well as with those who were victims of urban unrest. Victims were to be given preferential treatment by HUD in relocating in urban renewal areas under one amendment.

C. HOUSE ACTION

In the House of Representatives, the House Banking and Currency Committee's Subcommittee on Housing held hearings on HR 15624 and HR 15625, companion Bills to S. 3028 and S. 3029.[16]

The National Association of Counties endorsed the areawide development sections of the legislation; it pointed out that 70% of the Nation's population is "congested" on 1% of the land and called for Federal support for areawide cooperative planning as a necessary requisite for obtaining "the greatest utilization of all Federal aid."

Roy B. Martin, Jr., Mayor of Norfolk, Virginia, and spokesman for the 600 member U.S. Conference of Mayors, said that the "programs set forth and the funds necessary to implement them as requested by the Administration" in HR 15624 were "absolutely minimal." He said the Conference was, however, "tremendously pleased" with the proposal and noted that implementation of goals set forth by the legislation would require the "full support of the private sector" as well as "constant and cooperative efforts" by all levels of government.

The program of low cost homeownership received the enthusiastic endorsement of the U.S. Commission on Civil Rights. William L. Taylor, staff director, praised the program as containing "enormous potential, not only for improving housing conditions, but also for reshaping residential patterns." Taylor chided "federal housing programs, which so often have served to intensify the problems of racial and economic separation," and urged that such programs be "molded into effective instruments to counteract segregation by race and income."

The United States Chamber of Commerce urged that HR 15624 be amended to permit the establishment of a National Homeownership Foundation to help middle income families to purchase homes. The Chamber also recommended that there be

16. House hearings were held periodically between March 12 and April 14, 1968.

increased coordination between the Federal Government and local housing authorities, and urged that areawide planning responsibilities be retained by the States.

Assistant Secretary of Agriculture John A. Baker endorsed the rural housing and rural development aspects of the legislation, pointing out that the legislation would "make available to rural people the benefits of comprehensive multi-county community planning" and would "improve their access—particularly the access of the rural poor—to adequate housing."

On June 25, the full Committee reported out the legislation. The Committee Bill provided for homeownership and rent subsidy programs, among other things. Noting that nearly 6 million American families lived in substandard housing, the Committee said that "the task of our housing and urban development programs is more critical than ever;" and described the Committee Bill as "one of the most comprehensive and forward looking bills" ever proposed in the field.[17]

By the time the Committee Bill reached the House Floor, the issue of whether the homeownership (and rent subsidy) program should be directed primarily at moderate or low income families already had arisen, much as it had done in the Senate. While the Administration's original proposal had given the Secretary of HUD the authority to set income limits for eligibility under the program, with the understanding that the limits set would follow those currently used in the Below Market Interest Rate program (the upper range of incomes of persons aided under BMIR was generally around $7000, but could be considerably higher for large families and for families living in high-cost areas), both the House and the Senate had lowered the income limits allowed under the homeownership program. Proponents of the lower limits argued that the Administration Bill, with its higher limits, would not reach the families most in need of assistance. An amendment by Rep. John B. Anderson sought to limit eligibility for the homeownership program to families whose income was not more than 30% higher than the income ceiling for Government-subsidized, low payment rental public housing in the same area; it was

17. Quoted testimony taken from *Hearings on Housing and Urban Development Legislation and Urban Insurance Before the Subcommittee on Housing of the House Committee on Banking and Currency*, 90th Cong., 2d Sess., (1968) [hereinafter cited as *1968 House Hearings*].

adopted after considerable debate[18] by a roll call vote of 271-137.[19]

A number of members stressed the involvement of private enterprise in the provision of low income housing. One amendment accepted required the Secretary of HUD to report to Congress annually on areas of program administration and management requiring improvement, and to recommend any necessary legislation. In all, some 30 amendments to the Committee Bill were accepted. Of the 24 amendments rejected, one would have increased from 20% to 25% the maximum portion of a family's income which could be required to be spent on mortgage payments and related expenses under the homeownership program.[20] On July 10, 1968, the House passed the Administration backed measure, as amended, and the measure was sent to a Conference Committee of the House and Senate, where differences in the two versions of the proposal could be ironed out. On the major difference in the House and Senate versions of the proposal—the income eligibility limits for the homeownership and rental assistance plans—conferees arrived at a compromise: eligibility was to be limited to families whose income was no greater than 35% above local income ceilings for admittance to public housing, plus $300 per minor child. In other actions on matters not directly related to the homeownership program but having bearing on its success, the Conference Committee agreed to increase basic water and sewer grants by $150 million, and authorized federal assistance to the developers of new towns and committees.

On July 25, 1968, the Senate passed by voice vote and the House the next day passed by a vote of 226 to 135 the Conference Committee Bill of the Housing and Urban Development Act of 1968, and the measure went over to the White House for the

18. "When we talk in general and ill-defined terms, as we do in this bill, about low and moderate income housing, we are not talking about very much low income housing. We are talking about a lot of moderate income housing." Anderson said the first concern of the Bill should be the 13 million poor families earning less than $5000 a year who were looking for assistance in obtaining decent housing. Rep. Henry Ruess, in opposing the Anderson amendment, said, "We want to help worthy people to develop their own equity in their own home, and that means you have to put some substance in this bill for those who are somewhat beyond the pauper level . . . ."

19. The conservative coalition formed on this amendment vote: a majority of Republicans and Southern Democrats voted together in opposition to a majority of Northern Democrats. The breakdown went as follows: R 170-9; D 101-129 (with Northern D 31-114; Southern D 70-15); CONG. QUARTERLY ALMANAC, 1968, 330 (1968); see also note 10 *supra*.

20. This amendment was offered by Rep. Brock, who earlier had succeeded in tacking a similar amendment onto the rent subsidy program. *Id.* at 333-5.

President's signature. The 1968 HUD Act, setting up the low-cost homeownership program, became the law of the land.[21]

B. THE SOUTH CAROLINA LAW REVIEW EMPIRICAL STUDY

With this brief history of the initiation and legislative background of the low-cost homeownership program of the 1968 HUD Act, it is now pertinent to inquire "has the program worked out as envisioned?" It is the purpose of this empirical study to look at the interest subsidy low-cost homeownership program "in action," in an attempt to answer this and other related questions about the program. In light of its legislative history, with a view of the men and forces which shaped the low-cost homeownership proposal into the 1968 Housing and Urban Development Act, has the program—as administered—lived up to the expectations of its proponents?

Columbia, South Carolina, and the area served by the Columbia office of the Department of Housing and Urban Development was chosen as our area of study: (1) because of the size of the low-cost homeownership (Section 235) program administered by the office—it, and the Atlanta Office of HUD, administer the two largest 235 housing programs in the country;[22] (2) because assurances of cooperation with regard to access to certain empirical data necessary for the implementation of the proposal were given by the Director of the HUD office in Columbia; and (3), because of the obvious proximity of the Law Review and its members to the area of study.

Research was conducted during the summer of 1972 involving personal interviews with four hundred homeowners living in 25 neighborhoods in the Columbia area. Three hundred of those surveyed were from subdivisions composed almost exclusively of homes subsidized under Section 235; the other one hundred surveyed resided in mixed 235 and non-235 housing areas.

The discussion of the results of this study is divided into four main areas. First we seek to establish certain socio-economic

21. 12 U.S.C. 1715(z)(1970).

22. *Hearings before the Committee on Banking and Currency, House of Representatives, on HUD Investigation of Low and Moderate Income Housing Programs*, 92d Cong., 1st Sess., at 120 (1971). "The Seattle insuring office of FHA has the third largest (approximately 4000) number of 235 housing units in the country, exceeded only at Atlanta, Georgia, and Columbia, South Carolina."

characteristics of the 235 population in general. This is done in order to ascertain whether or not the people involved are those intended by Congress to be benefited. Another purpose is to establish the fact that the homeowners in Columbia were identical generally to the national 235 population.

Second, the study looks at the post move financial situation of the 235 homeowners. This, we felt, was an important aspect of the program which could reflect its success or failure and whether or not the financial lot of the new homeowner was sufficient to enable him to maintain a stable economic situation.

Third, we look into the satisfaction of the homeowner with his home. This satisfaction is essential to the success of the program. Whether or not the homeowner feels his living environment has been bettered affects his outlook on society, which outlook the program attempted to brighten. We sought to determine whether each homeowner felt that he had gotten his "stake in society," "his concrete incentive for striving to improve (his own life) as well as the life of (his) community."[23]

Finally, we discuss the extent of participation by the 235 applicant in the home-buying process. Here, inquiries centered around how the buyer became aware of the program; whether he was able to inspect his new home before closing; what role HUD had in the process; what help HUD offered the buyer; whether the buyer was sufficiently aware of the nature of the transaction he was entering into; what role the financing institutions were playing in the transaction and what aid those institutions gave to the buyer. Further, we interviewed six mortgage bankers who deal in 235 financing and 10 home builders who build 235 homes in an attempt to get their viewpoint and perspective with regard to the buyer-builder-banker encounter and the extent of the buyer's role in the homebuying process.

This introduction has covered, briefly, the history of the low-cost, subsidized homeownership program (Section 235). What follows are the results of the empirical study itself. In the appendices, you will find additional helpful information, including a listing of the questions asked each 235 homeowner interviewed. This questionnaire was prepared with the help of a sociologist, and is found at Appendix D.

23. *Id.* note 10.

II. SOCIO-ECONOMIC CHARACTERISTICS

This section of our study will attempt to delineate the socio-economic characteristics of the 235 homeowners as they relate to the Congressional intent behind the passage of Section 235. In this regard two main questions must be asked: (1) Is the program reaching the people it was intended to reach? (2) Has the program sponsored a better living environment? Answers to these questions are essential to an evaluation of the operation of Section 235 and may easily be tied to expressions of legislative purpose.

When the 1968 HUD Act first was proposed, there was general concern in the House, the Senate, and among various supporters of the legislation that the funds appropriated under the program might be spent primarily for the benefit of moderate income families, thereby excluding low income families: the President's Committee on Urban Housing for example noted that prior housing programs had failed to provide housing for the very poor families—the families intended to be benefited by the originators.[24]

To conform to the goal of extending the benefits of homeownership to low income families both the House and the Senate lowered the income limits set forth in the original HUD bill, so that the bill, as enacted, provided that eighty percent of the funds were directed to families whose incomes did not exceed 135 percent of the income ceiling for public housing, with the remaining twenty percent earmarked for families whose incomes exceeded the 135 percent limit but did not exceed ninety percent of section 221(d)(3) limitations.[25]

Our study in the Columbia area revealed that the average

24. Kaiser Report, *supra* note 5, at 54.

25. National Housing Act § 235(h)(2), 12 U.S.C. § 1715(z)(h)(2) (1970) states:

> Not more than 20 per centum of the total amount of assistance payments authorized to be contracted to be made pursuant to appropriation Acts shall be contracted to be made on behalf of families whose incomes at the time of their initial occupancy exceed 135 per centum of the maximum income limits which can be established in the area, pursuant to the limitations prescribed in sections 2(2) and 15(7) (b) (ii) of the United States Housing Act of 1937, for initial occupancy in public housing dwellings, but the incomes for such families at the time of their initial occupancy shall in no case exceed 90 per centum of the limit, prescribed by the Secretary for occupants of projects financed with mortgages insured under section 221(d)(3) which bear interest at the below-market interest rate prescribed in the proviso of section 221(d)(5).

See also Quirk and Wein, *supra* note 8, at 821.

income of the families interviewed was $5180.89. Almost seventy three percent of the families were in the $3000-6999 bracket. These are the people primarily intended to be benefited by the program.[26]

Eleven percent of homeowners interviewed reported incomes of less than $3000 per annum. It is entirely possible that these families qualified for the program when they applied for assistance and have since suffered a loss of income, thereby forcing them into this lower income range. Whether this is the case, or whether they were too poor at the outset, the fact remains that families whose income levels are this low were never thought to be financially secure enough to participate in the program. The fact of their existence poses a problem for HUD that has not been dealt with. There are no provisions for such families, for whom the maximum of government subsidy to augment mortgage payments has been reached. There is, therefore, a significant portion of the 235 population beneath the income range anticipated by Congress.[27]

Sixteen percent of the families reported an annual income in excess of $7000. These people are above the intended maximum income limit. According to HUD Circular No. 261, issued May 20, 1971, the maximum income limit for a Columbia family of *ten* persons to qualify for Section 235 housing was $6885. This maximum limit has since been raised to $7560.[28] Of the four hundred

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26. The original bill established eligibility as the income limits for the section 221 (d) (3) below-market-interest program. Senator John Tower of Texas noted that in Chicago a family with an income of $10,000 would thus be eligible. "Because, according to statistics we have gotten, seventy-five percent of the substandard houses in this country are occupied by people with incomes of less than $5,000 per annum . . . these are the people I think we ought to be helping. (1968 Senate Hearings, supra note 6, at 743). Robert C. Weaver, Secretary of the Department of Housing and Urban Development stated that the homeownership provisions of section 235 were aimed primarily at people in the income range of $3000 to $5000 or $6000 a year. Secretary Weaver pointed out that the above figures would of course vary from locality to locality. (*1968 House Hearings, supra* note 17, at 187.)

27. Secretary Weaver recognized that a homeownership program to be successful must in fact be viable:

> If we have a homeownership program for poor people which is not in truth viable and, if as a result of this, you have a large number of foreclosures—a large number of people who lose what they think is their equity and they come out with a negative equity—if this happens and if it happens in the ghetto area, this is going to be the source of greater disillusionment and greater violence (*1968 Senate Hearings, supra*; note 6, at 38).

28. Columbia Area Office, U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, Circular Letter No. 317, January 29, 1973.

families interviewed, only 3.5 percent (14 families) had as many as eight children in the family. When this fact is taken into consideration, along with the fact that the house payment contributions made by these families cover almost the entire range of possible payment amounts, the result is not only that a large number of families are participating in the program who are technically ineligible, but also their house payments are in no way commensurate with their ability to pay.[29] The following chart shows the wide spectrum of payments made by these families.

House Payments Made By Families with Annual Incomes Over $7000

House Payment	*No. of families paying that am't*
$ 66-70	1
71-75	3
76-80	6
81-85	9
86-90	5
91-95	9
96-100	5
101-105	6
106-110	2
111-115	5
over 120	3

The social characteristics of the families in the Columbia area seem to parallel closely those of 235 families nationwide. The majority of people taking advantage of the program are nonwhite. Approximately eighty percent of the respondents are married and the average family consisted of a husband and wife under thirty years of age with one or two children. Thus, the families tend to be of normal size and headed by parents of relatively young age. The typical family taking advantage of the mortgage subsidy program on a national level for the years 1969, 1970, and for the last two quarters of 1971 consisted of a husband and wife with two children.[30]

29. Several of the people whose incomes were clearly in excess of eligibility limits were aware of the mandatory increase in house payments that would follow an accurate reporting of their income. These people stated that they would move or abandon the house when this happened, reasoning that if they had to pay a larger monthly payment, they would prefer a better house, i.e., more for their money.

30. U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, CHARACTERISTICS OF HOME MORTGAGE TRANSACTIONS INSURED BY FHA UNDER SECTION 235(I), 4th Quarter (1971).

It is of interest to note that in 1969, the national average age for the head of the household was thirty-two. In 1970 this figure had dropped to 30, and for both the third and fourth quarters of 1971, the average age of the head of the household was twenty-nine. The typical today family is younger and, in many cases, smaller than families who first took part in the program.[31]

A large number of the families interviewed reported that both spouses were employed. Ninety percent of the husbands and forty-one percent of the wives were found to be employed. Although no specific data was gathered on this point, our researchers found that the number of welfare recipients taking part in this program was relatively small. The national average of persons in the 235 program receiving welfare assistance for 1970 was 5.4 percent; by the fourth quarter of 1971 it had dropped to 2.5 percent.[32] It is the opinion of the researchers that the percentage for the Columbia area is near the current national average. Certainly, the employment figures shown serve as a refutation for charges that 235 participants are nonworkers.

The average respondent and/or spouse has been working at his present job for four years or less. Despite the fact that so many families have young heads of households, this data indicates occupation instability. The number of families (11%) found to have lower than eligible incomes very possibly reflects the results of such employment instability. The nature of the employment held by most homeowners serves to substantiate this. The range of jobs is illustrated below.[33]

Type of Employment	Respondent	Spouse
Proprietor	0%	4%
Manager or official	5.9%	2.6%
Professional	2.5%	2.1%
Clerical & Sales	8.4%	9.9%
Skilled	9.4%	12.6%
Semi-skilled; unskilled	71.9%	69.5%
Armed Forces	2 %	2.6%

31. *Id.*

32. *Id.*

33. The skilled worker's category included watch repairman, mechanics, carpet layers, foremen, spray painters, skilled cutters, and welders.

In light of the foregoing, is the program reaching the people it was meant to reach? Generally, yes. Almost 75 percent of the families surveyed are in the income brackets intended to be served by the program. Family composition, type of employment and other socio-economic indicators are of the type and nature anticipated by the Act. Deviations from the norm in certain areas certainly pose problems which should be corrected, but they do not detract from the fact that the people who are participants in the 235 program in the Columbia area are, for the most part, those Congress intended to benefit.

The second question to be asked in this section is: Has the program sponsored a better living environment? To answer this we first must take a brief look at the housing situation of the participants prior to their move into a 235 home. Eighty percent of the families lived in rental housing prior to their move. Moving into a home meant, for the majority of the respondents, that their actual living conditions were substantially improved. Almost ten percent of the respondents had been living in places with no indoor plumbing; eight percent of the prior residences had no running water; and thirty-nine percent of the former residences had no built-in heating systems. As far as actual physical facilities are concerned, therefore, there has been a general improvement for most respondents, and great improvement for many. However, the solution to the problems with which Congress attempted to deal cannot be accomplished by better shelter alone. Community facilities and neighborhood conveniences are essential elements of the development of a suitable living environment. Too often these things have been absent from ready access to those living in 235 subdivisions. This problem which the 235 neighborhoods now face was outlined by the President's Committee on Urban Housing:

> Experience under various housing programs indicates that lower-income families are prone to place such high priority on decent housing that they are willing to move into subsidized housing in neighborhoods lacking adequate community facilities, shopping centers, job opportunities and neighborhood conveniences.[34]

The majority of 235 families in Columbia live in subdivisions planned and designed almost exclusively for low and moderate

34. KAISER REPORT, *supra* note 5, at 13.

income families receiving 235 assistance. Generally situated at least five miles from the City of Columbia, these subdivisions pose problems to the low income families because of the increased distances to essential services. Transportation becomes a cumbersome problem for these people. Sixty-five percent of the respondents reported that distances to stores had been increased as a result of the move. Sixty-three percent of the respondents said that distances to their places of employment had been increased and fifty-six percent of the spouses had to travel greater distances to work. The expenses and inconveniences caused by the locations of these subdivisions pose problems unrealized by many people prior to the move.

Not only are the job locations and stores further away, but also the recreational areas. The subdivisions on the whole provide neither area nor facilities for recreation. One subdivision does have a swimming pool but it has not been used in two years and the fence around it is locked. No one in the subdivision seems to know who is responsible for it or how to get it opened. Another subdivision has two sets of swings, but this is the exception rather than the rule.

Homeownership, in the sense intended by Congress, means more than the mere ownership of a home. For Section 235 it was to mean a stake in society, a sense of community. As Walter Reuther testified:

> We support the establishment of new communities. These communities can help the needs of our expanding megalopolis and at the same time provide relief from city congestion. Such communities must be real communities in fact. They must be well balanced. They must contain industry, shops, schools, hospitals, homes, apartments, open space and provisions for recreation . . . unless they . . . provide real community service, they will fail.[35]

Well balanced communities have not been created in Columbia. Homes have been provided, but the greater task of building neighborhoods in the true sense of the word has only begun. For seventy percent of the people, those who lived formerly in the "inner city" of Columbia, the lack of easily accessible shopping centers and recreational areas has become a real problem.

More attention will also have to be paid to the racial balance in these developments. At present these subdivisions are almost

35. *1968 Senate Hearings, supra* note 6, at 394.

totally segregated. There are black 235 subdivisions and there are white 235 subdivisions. It is doubtful that the same Congress which passed the Civil Rights Act of 1968 would have intended the result seen in Columbia.

Whether or not Section 235 has sponsored a better living environment in the Columbia area is difficult to answer. It is true that these people have new homes. But for many of them the benefit of the new home is lost in the burden its location has created. Distances to work and stores, as stated before, is a major factor. The demand is not sufficient to require continuous bus service on an hourly basis. With playgrounds virtually nonexistent, the children make vacant houses their recreation areas. The result could be expected—broken windows, broken doors, and ruined walls. This, of course, detracts from the appearance of the neighborhood and does anything but attract new residents. The result has been, in one neighborhood, to create the beginning of a suburban slum, making it difficult for the remaining residents to keep up a decent neighborhood appearance. What this neighborhood now faces could easily become a problem for other neighborhoods. The word is beginning to get around: a new home alone is not the end of the rainbow.

III. POST MOVE FINANCIAL SITUATION

The preamble to Section 235 states that its enactment is "[f]or the purpose of assisting lower-income families in acquiring homeownership . . . ."[36] It is generally agreed that the Act has fulfilled its purpose of helping large numbers of families acquire houses of their own, but the question must be asked: Has the operation of Section 235 been such as to foster a continuing homeownership in the housing so acquired?[37] This section will seek to answer that question in terms of the family's financial stability following its move into their 235 home. The first part will deal to a certain extent with the Congressional theory behind the subsidy formulas; the second part will trace HUD's involvement in this area; and the third will demonstrate the realities of the

36. 12 U.S.C. § 1715 (z), (a) (1970).

37. Senator Charles Percy of Illinois, speaking in favor of S.3497 stated: "However, I want to make clear that I do not feel a housing program can hope for success if it does nothing but provide new housing units . . . . We need to think in terms of creating homes, not just housing," 114 Cong. Rec. 14966 (1968).

situation in Columbia, South Carolina as determined by the empirical study.

A. CONGRESSIONAL BACKGROUND

Section 235, as introduced in both houses and as finally passed, required that the homeowner contribute at least 20 percent of his adjusted family income[38] toward the mortgage payment on his house.[39] The government would make up the balance of the payment, though at no time would its payment exceed the difference between the required mortgage payment for principal, interest and mortgage insurance premium and the payment that would be required for principal and interest if the mortgage bore an annual interest rate of one percent.[40] The latter figure was to be the maximum to be required of the government, and in most cases 20 percent would be the maximum required of the homeowner.

For example, assume an 8½%, 30-year, $15,000 mortgage.

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38. "Adjusted family income equals a gross annual income of the family from all sources before taxes and withholdings, minus certain exclusion. From the gross annual income there shall be excluded:

a. 5% of such income, as allowance in lieu of amounts withheld for social security, civil service retirement, etc.

b. The earnings of each family member, other than the mortgagor and his or her spouse, who is a minor and who is living with the family.

c. The sum of $300 for each family member, other than the mortgagor and his or her spouse, who is a minor and who is living with the family."

U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, HPMC-FHA 441.31, SECTION 235(I) HOMEOWNERSHIP FOR LOWER INCOME FAMILIES HUD PROGRAM GUIDE FOR BUILDERS SPONSORS LENDERS SELLERS 2-7, 2-8 (1972).

39. H.R. 17989, 90th Cong., 2d Sess. § 101 (1968); S. 3497, 90th Cong., 2d Sess. § 101 (1968).

40. *Id.*

Formula 1

Income Annual Wages		$4,500.00
Veterans Administration Pension		$1,500.00
Overtime Pay		$200.00
Total Family Income		$6,200.00
Less 5% of $6,200	$310.00	
Discontinued Overtime Pay	$200.00	
Minors (2 x $300)	$600.00	$1,110.00
Adjusted Annual Income		$5,090.00
Adjusted Monthly Income		$424.00
Monthly Payment to Principal and Interest 8½%		$115.35
Mortgage Insurance Premium		$6.23
Taxes		$15.25
Hazard Insurance		$3.09
Total Monthly Mortgage Payment		$139.92
Less: 20% of $424.00		$84.80
Assistance Payment under Formula 1		$55.12

Formula 2

Monthly payment to Principal and Interest 8½%	$115.35
Mortgage Insurance Premium	$6.23
	$121.58
*Less: Monthly payment to Principal and Interest at 1%	$48.30
Assistance Payment Under Formula 2	$73.28

*(P + I per $1000 for 30 years at 1% = $3.22 x ($15,000 divided by 1,000) = $48.30)

The mortgagee in this example will bill HUD for the monthly assistance payment in the amount of $55.12, the lesser amount computed under Formula 1. Formula 2 would be used for adjusted annual incomes of $3500 through $3950 for the particular mortgage in the example because the assistance payment under Formula 2 would be the smaller. Beginning at $4000 the amount determined under Formula 1 would be used.[41]

41. U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, FHA G 4400.8 Chg. 6, ASSISTANCE PAYMENTS UNDER SECTION 235(B) OF ACT 8-10 (1970).

In his prepared statement concerning the Housing and Urban Development Act of 1968 before both the House and Senate Committees on Banking and Currency, Robert C. Weaver, then Secretary of the Department of Housing and Urban Development, explained why 20 percent of income had been chosen as the homeowner's contribution to the house payment:

> The amount of income which the homeowner is required to pay toward his mortgage payments has been set at 20 percent, rather than the 25 percent required of tenants under the rent supplement program and the rental assistance program authorized by section 201 of this bill because the homeowner will still have to pay for such expenses as heat, utilities and maintenance. These are generally included in the renter's monthly rent.[42]

The draftsmen of the 235 program obviously had taken into account the fact that there would be expenses of homeownership beyond the mortgage payment affecting the income of each participant. Many who testified, however, felt that there had been miscalculations, and throughout the subsequent hearings this 20 percent figure was to be criticized. Walter P. Reuther, President of UAW stated:

> The requirement that the homeowner pay 20% of his monthly income toward the payment due under the mortgage for principal, interest, taxes, insurance and mortgage insurance premium is too high. Under regular FHA programs, a median of 15.5% income was spent for mortgage payments.[43]

Mrs. DeLeslie Allen, President of the National Federation of Settlements and Neighborhood Cities echoed this criticism,[44] as did Dwight D. Townsend of the Cooperative League of the U.S.A.[45] Townsend urged that the requirement be reduced to 15 percent,[46] and was reinforced by a similar request from Nathaniel S. Keith, President of the National Housing Conference, Inc.[47] The thrust of each person's argument was that the other expenses

42. *Hearings on Housing and Urban Development Legislation of 1968 Before the Subcomm. on Housing and Urban Affairs of the Senate Comm. on Banking and Currency*, 90th Cong., 2d Sess., pt. 1, at 67 (1968) [hereinafter cited as *1968 Senate Hearings*.].

43. *Id.* at 392.

44. *Id.*, pt. 2, at 775.

45. *Id.*, pt. 1, at 115.

46. *Id.*

47. *Id.*, pt. 2, at 839.

of home ownership would create a strain on the already narrow budget of the low income family if 20 percent of that income were required for house payments.

Peter L. Ables of Ables, Schwartz & Associates, Housing Consultants came before the House Subcommittee on Housing armed with figures.[48] Using a hypothetical family of six with an annual income of $4,160 ($80 a week), he showed that after food and shelter costs the family would have $8 a week "for household supplies, clothing, transportation, medical expenses, recreation, education, and home furnishings."[49] Andrew J. Biemiller of the AFL-CIO admonished the Senate subcommittee not to forget the other costs of homeownership.[50]

Weaver, however, in the opening days of testimony had assured both subcommittees that such factors had been taken into consideration.[51] When asked by Senator Sparkman to explain the difference between the 25 percent requirement for rental housing under Section 236 and the 20 percent requirement for the homeownership plan, Weaver responded that the difference was to go for "the maintenance and upkeep of the property and for the utilities."[52] In his prepared statement he elaborated:

> With the additional items of expense, experience has demonstrated that the average homeowner, paying 20 percent of his income toward the payments required under the mortgage, will expend in the neighborhood of 27 percent of his income for housing expense when these items are considered.[53]

In effect Weaver was saying that the expenses of homeownership above and beyond the mortgage payment were expected to amount to roughly 7 percent of the family's income, or that such additional expenses would be 35 percent of the homeowner's payment (7/20 = 35%). The committees were obviously satisfied with Weaver's justification of the 20 percent figure, as the bills were reported out with no changes to it.[54] Such was the expectation

48. *Hearings on Housing and Urban Development Legislation and Urban Insurance Before the Subcomm. on Housing on Banking and Currency,* 90th Cong., 2d Sess., pt. 1, at 384 (1968).

49. *Id.* at 385.

50. *1968 Senate Hearings, supra* note 42, at 170-171.

51. *Id.* at 25.

52. *Id.*

53. *Id.* at 67.

54. H.R. 17989-114 CONG. REC. 18773 (1968); S. 3497 - 114 CONG. REC. 13358 (1968).

when Congress finally approved the Housing and Urban Development Act of 1968.[55]

B. HUD ADMINISTRATION

The task of administering the 235 program was placed in the hands of the Department of Housing and Urban Development and its local offices. Instructions and guidelines set out by HUD dealt almost exclusively with the strict implementation of the Act and the mechanics thereof.[56] As far as analysis of the applicant's ability to meet his potential obligations was concerned, there were few specific criteria. In one instance the insuring offices were admonished against using "rule-of-thumb ratios between effective income and housing expense."[57]

During the first three and a half years of the program's existence, South Carolina became a forerunner in the utilization of 235 assistance funds.[58] As of December 31, 1971, there has been 11,407 units insured under Section 235.[59] For South Carolina the program was fully operational.

This was the situation until January, 1972. At that time HUD officially recognized the fact that many families had been placed in homes that they could not afford, *due to additional housing expense.*[60] In an effort to remedy the situation HUD set forth more specific guidelines to be used in determining the adequacy of credit histories and the sufficiency of family income. The Circular stated:

> All other things being equal, income should be considered

55. S. 3497, 90th Cong., 2d Sess., 114 CONG. REC. 23979 (1968), 114 CONG. REC. 24462 (1968).

56. See, *e.g.*, U.S. DEP'T, OF HOUSING AND URBAN DEVELOPMENT, FHA G 4400.8, MORTGAGEES GUIDE ASSISTANCE PAYMENTS UNDER SECTION 235 AND INTEREST REDUCTION PAYMENTS UNDER SECTION 236 (October 1968).

57. U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, 4000.7, as cited in U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT HPMC-FHA 4040.2, MORTGAGE CREDIT ANALYSIS-HOME MORTGAGE PROBLEMS 1 (1972) [hereinafter cited as HUD CIRCULAR 4040.2].

58. *Hearings on Interim Report on HUD Investigation of Low- and Moderate-Income Housing Programs before the House Comm. on Banking and Currency,* 92d Cong., 1st Sess., at 120. The HUD report being considered in 1971 stated: "The Seattle insuring office of FHA has the third largest (approximately 4000) number of 235 housing units in the country, exceeded only at Atlanta, Georgia and Columbia, S.C."

59. Interview with James P. Laakso, Area Economist of Columbia Area Office of the Dep't of Housing and Urban Development, Jan. 5, 1972.

60. HUD CIRCULAR 4040.2, *supra* note 57.

> adequate if the proposed housing expense is no more than previous housing expense and the applicant has demonstrated an ability to sustain the previous housing expense without serious difficulty, or if there have been increases in income which offset any increase in proposed over previous expense.[61]

The insuring offices were then told that if the mortgagor's total prospective housing expense did not exceed 30 percent of his income and if his housing expense plus other recurring charges did not exceed 50 percent of his net effective income, his income generally should be considered adequate.[62] Thus it seems HUD was acknowledging the presence of the danger which had been warned against during the committee hearings, namely that the total housing expense (above and beyond the mortgage payment) was causing too great a hardship on the participants in the program. Since it was tied by law to the 20 percent of adjusted income requirement for the mortgage payment, HUD reacted by establishing its own limits for eligibility. These instructions stayed in effect for approximately seven months. Then HUD in the form of a regulation again raised its requirements. Applicants for 235 assistance would henceforth be required to have the ability to pay at least 35 percent of their income for the prospective housing expense.[63] Obviously this was the figure which HUD found to be realistic and this is the requirement currently in force. The effect of this regulation on families already in the program and on those seeking to enter will be shown in the next section, which discusses some of the results of our empirical study.

C. EMPIRICAL STUDY

The financial situation of the 235 family has been influenced, of necessity, by the economic realities of home ownership under the 235 program. To determine the extent of any change and its

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61. *Id.* at 2-4.

62. *Id.* at 2-3.

63. 37 Fed. Reg. 16391 (1972) [hereinafter cited Fed. Reg.] stated:

> The mortgagor's income will be considered adequate if the total prospective housing expense does not exceed 35 percent of the mortgagor's net effective income, and if the total of the prospective housing expense and other recurring charges do not exceed 50 percent of the mortgagor's net effective income. Income may be considered adequate in cases in which the limitations set forth above are exceeded if there are other, favorable compensating factors present, as determined by the Commissioner.

effect on the family's ability to meet its financial obligations is the purpose of this section.

First, we shall take a brief look at the housing situation of the 235 participants before their move. Prior to the move 60 percent of the families lived in houses and 40 percent lived in apartments; as previously stated, 80 percent lived in rental housing. Only 10 percent were in the process of buying a home and nearly 10 percent were living with family or friends and paying no rent. The average amount of money spent for housing per month was $55.00.

Prior Payments

$ 0- 35	21.1%
36- 40	8.4%
41- 50	18.5%
51- 60	16.3%
61- 70	10.0%
71- 80	7.1%
81- 90	7.1%
91-100	2.7%
101-110	1.9%
111-120	1.4%
over 120	5.5%

These figures point out that less than 20 percent of the homeowners had ever paid more than $80 per month as rent or house payments; twenty-one percent had never paid more than $35.

In enacting Section 235, Congress enabled low and moderate income families to move into homes of their own; here, the intent was to permit them to obtain better housing at prices they could afford. The average family in Columbia living in a home acquired under 235 has an annual gross income of $5181, or approximately $432 per month. Deductions for federal taxes and Social Security would leave the typical family of four an effective income of $391 per month.[64] This is the amount which the family will have to apply toward its expenses.

As their share of the monthly house payment, the 235 family in Columbia pays an average of $86 per month. Before they moved, the housing payment averaged $55. This is a percentage

64. A family of four with a monthly income of $432 would normally have $22 taken out of Social Security per month and $19 withheld for taxes. INTERNAL REVENUE SERVICE, DEP'T OF THE TREASURY, CIRCULAR E, EMPLOYEE'S TAX GUIDE 33,46 (1972).

increase of effective monthly income from 14 percent to 22 percent. At this point 22 percent does not seem like an inordinate amount to pay for a 235 mortgage payment. As expected, it is very close to the statutory requirement of 20 percent. Unfortunately, housing expense does not stop here for the homeowner; and most importantly it does not stop here for the 235 homeowner.

Utility costs and other housing expenses[65] amount to an average of $55 per month for the 235 homeowner (See Appendix A for explanations). For 75 percent of the people this is more than they paid before they moved. Adding the amount spent by the 235 homeowner for utility costs and other housing expenses ($55) to the monthly house payment gives an average monthly housing expense of $141 per month, or 36 percent of the family's effective income. Thus in reality the additional expenses, rather than representing an added 35 percent of the mortgage payment as figured on the 20 percent formula which Secretary Weaver predicted and which Congress anticipated, amount to an additional 80 percent of the mortgage payment. Therefore the 235 homeowners' outlay for utilities and other housing expenses is not the 7 percent of net effective income predicted by Secretary Weaver, but instead represents approximately 16 percent of that income. Consequently the 235 homeowners are experiencing utility and maintenance costs of more than double what Congress had anticipated in setting the formula figures.

Here it would be appropriate to consider the effect of the Federal Regulation stating that a family's income will be considered adequate to warrant approval for a mortgage insurance commitment only if the prospective housing expense does not exceed 35 percent of net effective income.[66] It is obvious from the data gathered by the empirical study that this requirement fits the realities of the situation. The effect of this regulation is to establish a new minimum income level for participation in the 235 program. Using the actual costs as determined by this study, the minimum annual effective income necessary for the typical family of four to qualify for 235 assistance is approximately $4836, or a gross family income of approximately $5300. As can be seen, the average family whose annual income is $5181, even if expending

65. These terms embrace expenses incurred for electricity, gas, water, telephone, sewage, and garbage collection.

66. Fed. Reg., *supra* note 63.

a full 35 percent of its net effective income for housing, would not comply with this regulation.

Consider the plight of those families whose incomes are less than $5200 a year, estimated to be at least 40 percent of the 235 population in Columbia. For them the total housing expense can approach 40-50% of their incomes. Is this a house they can afford?

Because the mortgage payment is only a part of the total housing expense, assistance in its payment has alleviated only part of the cost of homeownership. In Columbia, South Carolina this has not been enough. From the data gathered in this study, it appears that approximately forty percent of the people involved in the 235 program should not be in it. For them the housing expense is too great. The realities of the situation are such that almost a third of the families in South Carolina should not be allowed to participate because they would not be able to afford it.[67]

The financial situation of the 235 family is further complicated by major purchases made subsequent to the acquisition of the house. For 75 percent of the families, the 235 house had more room than they had had before. For many this necessitated the purchase of additional furniture, an expense which 53 percent of the families had to face. Thirty-eight percent had to buy a refrigerator. Other items varied, but of the 400 people interviewed, 229 (or 57%) made major purchases after they bought their house.[68] Sixty-three percent stated they were carrying installment loans at the time of the interview. For a family which is generally paying at least 35 percent of its income on housing, the added expense of these items is staggering. Except for the attraction of the 235 program these expenses might never have been incurred.

It is apparent that many 235 families in South Carolina are walking a financial tightrope. They have little in the way of necessary cash reserve to protect them in emergency situations.

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67. Approximately 30 percent of the families in South Carolina earned less than $5000 in 1969. U.S. BUREAU OF THE CENSUS, DEP'T OF COMMERCE, FINAL REPORT PC(1)-C42 SOUTH CAROLINA, CENSUS OF POPULATION: 1970 GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS 42-154 (1972).

68. Raleigh W. Greene, Jr. of the National League of Insured Savings Associations had warned of this problem in 1968: "Moreover, in order to minimize the possibility that low and moderate income families will overload themselves with debt in order to furnish and equip their new homes, section 5(c) of the Home Owner's Loan Act of 1933 should be amended to allow Federal Savings and Loan Associations to make loans for such purposes." *1968 Senate Hearings, supra* note 42, at 469.

Forty-five percent of the persons interviewed responded that they had checking accounts and 31 percent had savings accounts. The existence of these accounts is not as important here as the amount held in each. While the respondents were not asked about this, the national average for amount of assets held by families moving into newly constructed 235 homes was approximately $468. Basically, therefore, 235 families rely on the monthly or weekly paycheck to meet their financial obligations. The vulnerability of their financial stability is such that an unexpected major expense could destroy any potential they might have for continual homeownership by taking away their ability to meet their mortgage obligations.[69]

In March, 1972 the Columbia Area Office of HUD originated a survey of 235 homeowners in default on their house payments in an attempt to determine the reasons for these defaults.[70] The mortgagors' reasons were as follows:

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69. Although testifying on a proposed homeownership program other than Section 235, Dorothy Duke of the National Council of Negro Women in 1970 made a valid point pertinent to 235:

> Even though this proposal is designed to serve a higher income family than the existing homeownership programs, homeownership for the poor of our country can be a snare, and delusion. A program to achieve a goal of a self-sustaining, financially secure, taxpaying, title-holding family must be carefully and painstakingly planned. Simply having the title to a home does not mean the family will "enjoy the benefits of homeownership immediately." To move from years of tenancy to the obligations of ownership requires the provisions of supportive services that reflect the needs and life styles of the families to be served. Supportive services must include, for example, a fund available to the families for use in major maintenance problems. The margin of financial solvency is extremely narrow when you are poor, there is very little room for emergency situations. A city housing inspector could require new wiring in a house. The family in the house is a title holder, as proposed in the bill, and responsible for providing the wiring. This becomes a financial crisis rather than a wiring crisis. As a result, the family either borrows the money at high interest rates or defaults.

Hearings on Housing and Urban Development Legislation of 1970 Before the Subcomm. on Housing and Urban Affairs of the Senate Comm. on Banking and Currency, 91st Cong., 2d Sess., pt. 1, at 731-732 (1970).

70. *Columbia Area Office, U.S. Dep't of Housing and Urban Development, Survey of Section 235 Housing in Default in South Carolina* —May 1972 (unpublished report).

Reason	*Number*
Medical	61
Fluctuating Income - Unstable Employment	21
Too Much Debt	9
Unemployed	8
Marital - Domestic	6
Construction Defects	5
Misunderstanding with Mortgagee	3
Claims they were never delinquent	2
No transportation to job	2
N/A	1

The term "medical" was used by HUD to include "expenses in connection with illness, hospitalization, surgery, childbirth, etc., and even more importantly, the loss of income associated with incapacitation."[71] This seems to be the biggest threat to the homeowner. While 71 percent of the people stated that they did have health or medical insurance, only 18.9 percent had any form of income protection plan. The HUD survey went on to state:

> The basic picture that evolves from the survey is that the mortgors (sic) (1) have temporary reversals (slack employment, period of unemployment, illness, etc.) for which they have no reserves to tide them over. In these times, food and other necessities come first ahead of the mortgage payment, as well as payments to other creditors who press harder, especially the finance companies. Apparently, for a time at least, HUD underwriting policies did not give proper weight to the likelihood of these economic reverses.[72]

The possibility of an economic reverse hangs over the head of every 235 mortgagor. The fact that he is a low or moderate income earner creates the problem; the increase in housing expense he experiences aggravates it. As the Area Office of HUD points out, this is a problem which must be reckoned with.

The operation of Section 235 has gotten people into houses, but it has also gotten them into houses they find difficult to afford. The increase in housing expense over that paid prior to the move presents a substantial problem which can only be overcome by an increase in earnings. Unfortunately, such increases are the

71. *Id.* at 5.
72. *Id.* at 14.

exception rather than the rule. The threat of unexpected expense or suspension of earning power looms even greater. This situation cannot remain if Section 235 is to achieve its Congressional purpose. For many in South Carolina, 235 homeownership is not housing which low and moderate income families can afford.

IV. HOMEOWNER SATISFACTION

Since the program's inception, the quality of housing made available under Section 235 has been the subject of criticism.[73] Throughout the country homeowners voice their complaints about the shoddy housing they have received; the program in Columbia has not escaped attack.[74] One aspect of the operation of the program in Columbia which might distinguish it from some of the other parts of the country in the amount and kind of criticism leveled is the fact that, until the middle of the summer of 1972, there was no rehabilitated housing subsidized under Section 235 (j) in Columbia. In fact there was none in South Carolina at all. Certainly, this area of the 235 program has come under the most publicly visible leverage of criticism.

This section of our study will deal, therefore, with defects in new houses, houses constructed almost exclusively for sale to 235 applicants. In conducting this study, our researchers soon came to realize that they were not qualified to judge the validity of the many complaints about home construction, as no one had had any experience in building or engineering. In light of this, our study sought generally to measure, from the homeowners subjective point of view, their satisfaction with their new homes, and their situation in general. In this regard, two basic questions were put to the homeowners: (1) What repairs have been made on your house? (2) Do you have any complaints about your house or yard? The answers to these questions were then classified as either major or minor, according to liveability and cost of repair to a low income family, in order to evaluate the seriousness of the complaint. These questions were based upon the premise that a person could not be expected to develop a stake in society unless a proper foundation were laid. This foundation, according to the aims of Congress, was to have been the existence and availability

73. See *e.g.*, N.Y. Times, Feb. 1, 1972, § C, at 27; National Observer, June 24, 1972, at 1.

74. N.Y. Times, March 26, 1972, at 48.

of "better housing." In the conceptual context of the operation of Section 235, the term "better housing" has two meanings. As to the practical implementation of the program, it means the construction of dwellings of a quality better than that which its occupants previously had enjoyed. As to the long range goal of Section 235, it means homeowner satisfaction, for unless the family is satisfied that its lot had been bettered, how can it be expected to take the second step of the family members feeling within themselves that they possess, along with their new home, a viable "stake in society." The effect was to be subjective. If the homeowner could be made to see that his living environment, his new "stake in society," was worth maintaining, he would come to realize the importance of an orderly society. One could not exist without the other.

The first question (concerning repairs) with which this section deals is necessarily preliminary to the second: first we wanted to establish how much repair work had been done before eliciting answers concerning satisfaction. When asked if any repairs had been made on their new home, 41 percent of the people responding answered in the affirmative. Of those people whose houses had been repaired, approximately 20 percent had made the repairs and paid for them themselves; for the remaining 80 percent, either the builder or the realtor had done the repair work and paid for it. The repairs which were made have been classified as follows:

	Major as to liveability, *Major* as to cost	*Major* as to liveability, Minor as to cost	Minor as to liveability, *Major* as to cost	Minor as to liveability, Minor as to cost	No Complaint
Plumbing	7.3%	2.4%	2.4%	17.0%	70.9%
Heating	6.7	3.0	2.4	7.3	80.6
Wiring	4.2	0	0.6	4.2	91.0
Interior Construction	3.0	0.6	3.0	35.8	57.6
Roof and Foundation	3.6	0	0	0	96.4
Exterior Construction	1.2	0	0.6	8.5	89.7
Appliances	0.6	1.8	0	5.5	92.1
Landscape	0.6	0	0	2.4	97.0
Water Under House	1.2	0	3.6	2.4	92.8

As the figures point out, the percentage of major repairs that were made is not unusual. In almost every newly constructed house there are going to be some things that will need more work. It should be pointed out here, however, that these figures do not represent the percentage of repairs that were needed to be made. Rather, they only represent those repairs which actually were made. The difference will be made clear by examining the table summarizing the following section.

The second question along this line put to the homeowners was: "Do you have any complaints about the physical features of your house or yard?" Eighty percent said "Yes." As stated before, these complaints were categorized as to the seriousness which the researchers felt was involved in each. Examples of specific complaints by individual homeowners which fell into each grouping are attached as Appendix B.

The chart which follows will show that, with the exception of interior construction, the incidence of major defects as to *each* element of construction is low. If all of these defects were found in the same houses, only 12 percent of the homes would have serious defects. Unfortunately this is not the case. The study revealed that of the people having complaints as indicated by their positive response to the second question, 39% had at least one defect which the researchers would consider major not only as to liveability but also as to the cost to a low income family of repairing it. This figure translates into 30 percent of the total 235 population having at least one major housing defect.

	Major as to liveability, Major as to cost	Major as to liveability, Minor as to cost	Minor as to liveability, Major as to cost	Minor as to liveability, Minor as to cost	No Complaint
Plumbing	5.4%	0.3%	0.6%	7.6%	86.1%
Heating	4.1	1.6	0.6	2.5	91.2
Wiring	2.5	0.3	0.6	3.2	93.7
Interior Construction	12.3	0.3	6.3	39.6	41.5
Roof and Foundation	2.9	0.3	0.3	0.6	95.9
Exterior Construction	2.8	0.6	1.9	9.5	85.1
Appliances	2.9	1.6	0	2.5	93.0
Landscape	8.2	0.6	4.1	44.0	43.0
Water Under House	7.9	1.0	0	0	91.1
Floors	2.2	0.3	4.7	9.8	81.9

Since much of the success of Section 235 was predicated on the proposition that a decent home would be provided, the high percentage of major defects found by this study indicates that the first and basic criterion of the program has not been met for nearly 1/3 of the program's participants. It is hard to see how a low income family, given a new home with major defects affecting its liveability, can be expected to develop a better attitude toward society.

Ascertaining those steps which must be taken to insure that a greater percentage of 235 homes will be soundly constructed and that a greater percentage of the families will find in their 235 homes a better place in which to live than their prior dwelling is beyond the scope of this study. Certainly, something must be done—not only for those who will receive 235 assistance in the future, but also for those who have already received it. Toward the end of our survey activities, it became apparent to us that there was more homeowner satisfaction in the newer neighborhoods. Perhaps it was merely the newness of the homes and the homeowners to the program; more hopefully, perhaps flaws have been discovered and corrected. The unescapable fact remains, however, that as of this writing, too many families are living in 235 homes that have major defects. Thomas Williams, a truck driver who led a community drive to save his neighborhood from becoming a slum, explained the situation this way:

> "They just move out," Mr. Williams said. "They can't cope with the problems. They don't have the money to fix the houses so they leave."[75]

Unless something is done to improve the living conditions of these families, the benefit of Section 235 for them will have been lost.

V. PARTICIPATION IN THE HOMEBUYING PROCESS

As pointed out earlier, one of the primary objectives of Section 235 of the National Housing Act was to give lower-income families "a stake in society" through homeownership. Clearly this "stake in society" is a subjective standard—an attitude or feeling—incapable of precise measurement. It was our belief, however, that the success or failure of the program in generating attitudinal changes could, to a limited extent, be determined by

75. *Id.*

measuring the degree of felt participation in the program by the 235 homeowner. It was also thought that the degree of cooperation between the homeowner and the contractor and mortgagees, as well as between the homeowner and HUD would shed some light on the progress of the program in affecting the desired attitudinal changes. The following section reports the results of this endeavor based on the foregoing assumptions.

Secretary Weaver recognized that more was needed than simply placing people in homes of their own. As he said in testimony before the Senate Subcommittee on Housing and Urban Affairs:

> [T]o promise large numbers of low-income people that in the immediate future they are going to be able to achieve homeownership is a snare and delusion, and it can be a cruel hoax . . . . I think that, in order to provide a sound program of homeownership, either for low-or for moderate-or for low-and moderate-income families, you have to do more than simply say, "It's desirable and we are going to give you some financial assistance in terms of an interest subsidy." You have to have a counseling service . . . .[76]

It appears, however, that in administering this program, HUD has clearly lost sight of this simple fact, as this contact with the homeowner is minimal.

The initial contact with the program is usually through family, friends, the media or a real estate agent. For example, thirty-seven percent (37%) of the people interviewed initially found out about the 235 program from someone working for or as a real estate agent. Fifteen percent (15%) were introduced to the program by a door-to-door real estate salesman. More than two-thirds of the people interviewed had been shown at least one model home prior to purchase and sixty-nine (69%) percent were shown three or more model homes.

In the Columbia area the majority of 235 construction is done in subdivisions in outlying areas. In many cases the builder or developer will have his own marketing team or give an exclusive listing agreement to a subsidiary or friendly realtor. Since sixty-six (66%) percent of the homeowners saw only one real estate agent, it is not surprising that fifty-two (52%) percent of them were shown only one subdivision. Of those who were shown more

76. *1968 Senate Hearings, supra* note 42, at 35.

than one subdivision, forty-three (43%) percent based their choice of subdivision on the quality of the house or the earliest availability date. Less than a third were concerned with comparative location[77] and only fourteen (14%) percent were concerned with neighborhood characteristics.

From the above, it appears that the 235 homeowners' initial contact with the program and course of home selection is guided primarily by realtors.

It seems a bit naive to abandon this phase of the program—at least to the extent that it is a social welfare program—to those who not only have no concept of the social aspects of the program but who often have a conflicting financial interest in the ultimate result of the prospective homeowner's decision. Here, too, effort should be made at an early stage of the process to insure that the prospective homeowner's decision is one based on an intelligent evaluation of his current and future housing needs in relation to his financial position. Buying a home is a difficult decision for most home buyers; for the prospective low-income home buyer who never before may have even considered homeownership, a reasoned and informed decision may be impossible without some form of counseling concerning his financial and housing needs. It is suggested, then, that some disinterested third party enter the picture at an earlier stage in the process of home buying than is currently the case.

Most 235 homeowners made initial contact with the real estate agent and decided on a particular home prior to the completion of that house. Furthermore, of the sixty percent (60%) who did select their home prior to the completion of construction, seventy-five percent (75%) said that they were able to meet with the agent frequently during the construction and eighty-five percent (85%) said they were able to inspect the home during construction. Of those who decided on their homes prior to the completion of construction, forty-six percent (46%) said they were able to specify, within limits, items to be included or excluded from the original house design and specifications. This might seem to indicate a significant role in this process for the home buyer who selects his home prior to completion. However, this

77. This might be explained by the fact that the 235 subdivisions in the Columbia area tend to be grouped in clusters, so that many of those who were shown homes in more than one subdivision may not have had the opportunity to inspect homes in significantly different locations.

feeling of participation must result in added frustration when the homeowner realizes, as did forty-three percent (43%) of those who said they were able to specify certain items to be included or excluded from their homes, that selections are totally ignored.

Of course, as is the case in the sale of most new subdivision homes, the price was set by the contractor and was not subject to negotiation; in this respect the 235 homebuyer did not differ from any other new homebuyer. However, almost seventeen percent (17%) of the interviewed homeowners signed the contract of sale prior to any inspection and ten percent (10%) signed prior to the completion of the construction of the house. Many of the homeowners told us that they were sold their homes by door-to-door salesmen on the basis of photographs and sketches. Virtually all of the homeowners in this situation purchsaed their homes prior to 1970, however, and this practice is no longer utilized in the Columbia area.

Nearly all the 235 homeowners interviewed had someone explain the terms of the sale contract to them. However, in the usual case the terms were explained by the sellers' attorney at the closing. The terms of the contract were explained to ninety-three percent (93%) of the homeowners. Of this group, eighty percent (80%) received the explanation from the sellers' lawyer at the closing. Eighty-seven percent (87%) said that they were satisfied with the explanation they had been given.

It is clear that HUD's dealings and concerns are with the mortgage companies and builders, and that little attention is given the homeowner. Perhaps the most revealing statistics in regard to the federal government's administrative efforts in insuring the social welfare aspects of the 235 program are those dealing with HUD's involvement and cooperation with the 235 homeowner. The administration of the program by HUD places the prospective homeowner in the hands of the mortgagee, for it is the mortgagee who is required to gather the information to be used in determining the applicant's eligibility for mortgage insurance and assistance payments. Form 2900, known as the Mortgagee's application for Mortgage Approval and Commitment for Mortgage Insurance Under the National Housing Act, supplies information which will enable HUD to project the likelihood of the applicant's meeting his financial obligations once his mortgage payments have begun. Data is requested on the applicant's employment status and monthly income. The mortgagee has the duty to verify the facts given by the buyer. In conjunction with

this, therefore, HUD requires that the mortgagee submit a Verification of Deposits (Form 2004-F) and a Verification of Employment (Form 2004-G).

The application for assistance payments (Form 3100) is also submitted by the mortgagee. The information on this form will be used to determine eligibility under Section 235 and also the amount of assistance to which the applicant will be entitled. As would be expected, the calculations for determining the adjusted annual income is one of the first items. This will be checked, as will asset limits and property eligibility.

Usually the preparation of these forms is done by the secretaries in the mortgage companies on the basis of information supplied to them. It is not necessary under the program's administration that the prospective homeowner ever have any contact with HUD, and generally this is the case.

Less than seventeen percent (17%) of the homeowners interviewed had ever talked to or had any correspondence with any government official. Of those who had had contact with HUD, sixty-two percent (62%) had contacted HUD only after the closing and moving into the home—presumably after some problem, of such a magnitude as to cause them to seek outside help, had arisen. Less than six percent said that an official from HUD attended the closing to represent their interests and of those who did say that a government official attended the closing, fifty percent (50%) said the HUD official did nothing and another seven percent (7%) could not remember what he did.

Another indication of the lack of success in creating a feeling of confidence in the program and in the government on the part of the 235 homeowner is their response to questions about the FHA inspection of and certification of their homes. While eighty-three percent (83%) of the people interviewed were aware that the house was inspected by a government official, of those, forty-two percent (42%) felt the inspection was insufficient to insure compliance with FHA construction standards. Most people who complained about the sufficiency of the government inspection, said that the inspector missed structural defects because of an insufficient inspection (46%) or purposedly overlooked known defects (52%). Regardless of the realities of the FHA inspection, the 235 homeowner lacks confidence both in the effectiveness and ability of the FHA inspection. Such a situation cannot help but adversely affect the new homeowner's concept of his "stake in society".

It appears, then, that through a lack of identity between Congressional purposes and administrative implementation, the program has failed to accomplish the ideal of creating a new outlook on the part of the 235 homeowner. Whether proposed counseling services and more individual contact between HUD and the homeowner would in fact accomplish this goal is clearly speculation. It is also clear, however, that without them Congress' goal has not been reached and that no attempt to achieve the desired result, other than the placing of people in homes of their own, has been adequately made.

VI. CONCLUSION

Homeownership has been an American ideal since the country's inception. Section 235 in theory presented to lower and moderate income families the opportunity to achieve this dream. The "stake in society" concept was exhalted and families in South Carolina were encouraged to take advantage of this new federal program. In the area of new housing purchased with 235 assistance, South Carolina became a national leader. In 1971 the Columbia area office had the third largest number of 235 housing units in the country.

Today, almost four years after the initiation of the program, we have stopped to take a look at what has been done. In Hollywood Hills, a 235 subdivision outside of Columbia, a retired black man lives in the first house he has ever owned. His immaculate lawn and flower gardens would be the envy of any person, homeowner or renter. Diagonally across the street from him lives another black worker, recently promoted to foreman. He's building a workshop in his backyard for his tools. For both these families Section 235 has been a means of turning dream into reality, and they are not alone.

On the surface, it appears that the program has worked for these two men. The question which our empirical study has asked is "How has the program worked?" The study of 235 homeowners in Columbia, South Carolina, sought to discover whether or not the operation of the program has been such as to further the intent of Congress. Has the situation created coincided with that foreseen by the nation's legislators? To determine this answer, our group administered a professionally designed six page questionnaire to four hundred families, with questions ranging from family makeup to personal finance. The pages which follow summarize the conclusions which were drawn from that study.

1. At the outset it must be stated that homeownership is a valid and worthy objective. Whether or not we agreed with the administration of the program, it is our consensus that the purpose of Section 235 is worthy. The theory behind the program is sound. A homeownership program, carefully and properly planned and administered should be a housing blessing to the low and moderate income families formerly unable to purchase a home of their own because of the lack of financial resources. Such a program should be made available to this segment of the American public.

2. The program over the last four years has reached the people it was intended to reach. In the Columbia area the average income of a 235 participant is approximately $5200. With people above and below this figure, it can be safely said that the objective of extending the program to families with the income range of $3000-$7000 per year has been achieved. The people who moved into the homes were those Congress intended to benefit.

It is the opinion of this study, however, that this income spread cannot continue under the present Federal Regulation requiring that a person be able to expend 35 percent of his income on prospective housing expense. Applying actual housing costs as determined from data gathered during the study to the formula set by the Regulation, the program becomes unavailable to families with less than $5000 annual income. At this time, and, unless things are changed, from here on, the 235 opportunity will only be extended to moderate income families, those making over $5000 a year, and the program will not be fulfilling the intent of Congress.

3. Much more control must be exercised by HUD in its acceptance of subdivision locations. Such locations in Columbia are far away from almost every necessary community service. Schools, playgrounds, jobs and stores are now a matter of miles, rather than blocks. With the new houses have not come needed shopping centers and recreation areas. Without these, little more than moving the inner city to the suburbs has been accomplished. A home has been provided, but the development of a suitable living environment and sense of community has been stiffled by the barren location. This aspect of the program must be given a higher priority.

4. The expenses of homeownership have run so much higher than originally anticipated that the average 235 family in Colum-

bia has been hard put to meet them. HUD has established 35% of income as a national guideline and this seems to fit the realities of the situation. In Columbia this means that almost forty percent of the 235 homeowners are paying over 35 percent of their income for housing expenses. The realities of the housing expenses are such that they frustrate Congress' attempt to put the people in homes they can afford. The costs of homeownership are prohibitive to the low and moderate income families.

5. There is no contingency fund or insurance in the event the family faces an unexpected and unavoidable major expense, such as hospitalization or major medical costs. As was pointed out, this is a predominant reason for defaults on mortgage payments since few families have sufficient financial resources to tide them over. If a serious illness occurs which causes loss of income, there is nothing in Section 235 to which the homeowner might resort for a reprieve from his mortgage payments. He could, of course, request a recertification of income, but at best this will only partially ease the burden. The bills will continue to come, the mortgage payment will continue to become due, and if the homeowner is unable to meet the unexpected expense or regain his source of income, foreclosure will result.

6. It appears that, through a lack of identity between Congressional purposes and administrative implementation, the 235 program has failed to accomplish the ideal of creating a new outlook on the part of 235 homeowner. Clearly, little has been done to foster an untended goal of the problem: inculcating in the homeowner the feeling of having a "stake in society." Whether the funding of the contemplated counseling services and increased individual contact between HUD and the homeowner can, in fact, accomplish this goal is clearly speculative. It is clear, however, that, without these services and contacts, this goal has not been achieved and no attempt to accomplish this result, other than the placing of people in homes of their own, has been made.

7. The construction of the houses is a sorespot in the program across the nation. The study avoided this area by limiting itself to questions pertaining to homeowner satisfaction. The response would suggest that more help is needed from HUD in making some of the builders live up to their warranties and guarantees. A review of minimum property standards would seem in order also.

VII. RECOMMENDATIONS

1. We urge that Congress and the Administration reevaluate the financial structure of the 235 program. To require a low or moderate income family to pay a minimum of 35 percent of his net effective income for housing expenses for the next thirty years seems to defeat the purpose of the Act. There simply is not enough money left to enable 235 participants to develop their homes and their lives. The necessities of life do, and will, eat up the remainder of the paycheck, leaving the homeowner with little to save or spend on improvements.

The change recommended can be accomplished in one of two ways. The first alternative is to increase, or deepen, the subsidy. This means subsidizing the mortgage payment beyond the interest on the mortgage above one percent, which at present is the maximum the government will pay. The second alternative is to lower the cost of the house to the homeowner by eliminating much of the profit the builder-seller receives under the present system. This can be accomplished by limiting the role of the private builder to that of the contractor, thereby returning the federal government to the role played when it first entered the housing area in the public housing program. In the first instance, reduction of the mortgagee's housing expense can be accomplished by increasing the government's share of the mortgage payment. In the second, the mortgage payment itself would be decreased, since a lower cost per unit means that there is a smaller mortgage amount to be paid off.

Choosing between these alternatives necessarily will involve a choice of philosophies. The involvement of private enterprise in the federal housing area only recently has begun to develop on a significant scale (with the exception of Urban Renewal). The second alternative would deny this and return private enterprise to the position it held in the 1930's. The first alternative, on the other hand, would permit the housing industry to participate to the extent of its present involvement, but would mean extending an already substantial subsidy beyond its present limits.

The resolution of the problem will not be an easy one. Whether the choice be to increase the subsidy, or whether it be to decrease the size of the mortgage, something must be done about 235 housing expense if the program is to accomplish its objectives as originally set forth. The homeowners' share must be reduced to a reasonable percentage of his effective income. If a

way can be found to do this, then the opportunity for homeownership once again realistically can be extended to the nation's low and moderate income families.

2. It is recommended that the counseling program already on the books, be funded by the Congress, so as to provide financial counseling for all prospective 235 homeowners. In addition, the program should be expanded to include not only financial counseling but also aid in obtaining a realistic assessment of the family's current and future housing needs, with the ultimate decision resting, of course, with the prospective homeowner. This service should also include providing the homebuyer with estimates of utility costs and other costs incidental to homeownership, so that he accurately can determine the monthly cost of homeownership. To ensure that this information and counseling is provided at a time when it still will be beneficial to the homeowner, real estate agents and brokers should be required to refer all prospective 235 homeowners to this HUD provided service prior to closing the sale.

The Department of Housing and Urban Development also should institute procedures designed to deal with homeowner complaints more adequately. This can be accomplished by insuring that all homeowners fully understand what to expect from homeownership and that they can call the department to register complaints. Furthermore, the department should have designated employees to investigate these complaints and insure a satisfactory resolution. Regulations should be adopted which would penalize or remove from the program those builders and developers against whom an unreasonable number of legitimate complaints are lodged.

William B. Traxler, Jr., Chairman
Jefferson Boone Aiken, III
John E. Carbaugh, Jr.
James M. Griffin
John Milling

APPENDIX A

Responses to our empirical inquiry indicated the total amount of housing expense borne by the average 235 family; additionally, the study sought to secure information on the average utility consumption in the respective counties covered by the survey. With such information we sought to determine whether there was any reason for the 235 communities to experience higher utility costs than other county neighborhoods.

A. ELECTRICITY/GAS

According to information supplied by the South Carolina Electric and Gas Company, the average amount spent on electricity by those who live in a "totally electric" home was three hundred and thirty-six ($336.00) dollars per year, or approximately twenty-eight ($28.00) dollars per month. This figure included any discounts provided as an encouragement to convert to or purchase a "total electric" home. The average electric bill when some other type of heating system was used was approximately sixteen ($16.00) dollars per month or one hundred and ninety six ($196.00) dollars per year. With regard to the use of gas in a home, the figure of one hundred and fifteen ($115.00) dollars per year, or approximately nine dollars and fifty cents ($9.50) per month, was given as the average. Adding the "average" electrical bill (not the "total electric" home) to the "average" gas bill would give us a total of three hundred and eleven ($311.00) dollars per year or approximately twenty six ($26.00) dollars per month as a "normal" bill to expect in the areas served by the South Carolina Electric and Gas Company. As one can see, the average home would have an electric/gas bill of approximately $27.00.

Size of family and other factors such as type of construction cause variances in the above estimated "normal" figure. Along with the size of family, the age of the respective members also makes a difference. Children in the age span from six (6) to fourteen (14) years of age are estimated to use about twice as much electricity as an adult, and with infants, officials estimated that about four (4) times as much electricity is needed to maintain comfort.

Several construction factors were pointed out that cause a variance in the amount of electricity and gas consumed in heating a home: the type of duct work, ventilation, and the resulting

circulation of the heat. The cheapest heating unit to install is also the most inefficient and, unfortunately, is quite frequently used in the 235 subdivisions. This is known as the wall gas unit, and it involves no duct work. This unit is typically located in a closet in the hall and blows the hot air through a vent in the closet door. However, in order for rooms to be comfortable, the heater unit must run a great deal more often and actively than would be the case if a system using a duct in each room were utilized. With regard to the use of duct work in the ceiling, which often was found, power company officials stated that heat waste problems similar to those found where a wall unit is used arise. Since warm air rises, a ceiling duct base heating unit also must operate more constantly in order to heat a room and make it comfortable at a sitting level. As the foregoing points out, those factors which can cause increases in the normal heating bill are generally present in the 235 home. While instructions as to the maximum usefulness of such heating units could help lower heating costs, the real cause of higher heating costs cannot be eliminated for these families. For them, as far as heating costs are concerned, there seems to be little that can be done to substantially lower the monthly bill.

B. TELEPHONE

With telephone service we find a slight difference between those subdivisions which are located in Lexington County as opposed to those located in Richland County. Lexington County subscribers can have either a one (1) party, two (2) party or four (4) party line, with the rate made up of a basic charge plus a "unit mile" charge. In making mileage adjustments, the Lexington County telephone company computes four (4) units per air mile.

In Richland County the telephone subscribers can have a one (1) party rate, a two (2) party line rate, and a four (4) party rate, which is also the rate for a rural line. Rather than making a mileage adjustment on each subscriber, Southern Bell has divided the area of its operation in Richland County into twenty-four (24) zones. When someone moves into a zone farther away from the city of Columbia, the rates go up for the different "lines". Of the twenty-five (25) subdivisions covered by our survey only nine (9) fell into zones outside of the city of Columbia. Farthest from the city was Zone 9, which has an additional rate of ten dollars and eighty cents ($10.80), five dollars and forty cents ($5.40), one

dollar and thirty-five cents ($1.35) and one dollar ($1.00) for the respective lines. A move from one zone to another brings about an additional charge which, as can be seen, in some instances is rather large.

While at present only several 235 neighborhoods have to face distance charges, this number is likely to increase. As the price of land rises, developers are forced to purchase land farther away from the city in order to profitably construct the subdivisions. The distance charge is not now an overall problem, but it is an expense that should be taken into account in future planning.

C. WATER

Of the twenty-five subdivisions covered in our study, six received their water and sewage services from private utility companies; the remainder received these services from the cities of Columbia and Cayce. The cities divide their rates into separate groups (1) for those within and (2) for those without the city limits.

Residents of Columbia receive their water at a rate of one dollar and seventy-five cents ($1.75) per three hundred (300) cubic feet. Everyone outside the city limits has the same rate regardless of the distance they live from the city. This rate is twice that of those living within the city limits.

Private utility company rates are set by the South Carolina Public Utility Authority. In determining these rates, the Authority considers such factors as investment, proximity to other water systems, surrounding rates, and how quickly the service area can be expected to grow. Though the Authority intends to grant the companies a rate which will permit them to make a profit, they make no suggestions as to how high a rate should be requested. In many cases the authority will reduce a requested rate, but in no instance will they grant more than was requested. The respective rates charged by private utility companies serving some of the subdivisions covered in our study are shown in the following chart.

Tacoma Utilities — Water

0-400 cubic ft.	$3.50
Next 332.5 cubic ft.	$0.90 per 100 cubic ft.
Next 665.0 cubic ft.	$0.75 per 100 cubic ft.
All Over 1,397.5 cubic ft.	$0.50 per 100 cubic ft.

Sewage

$2.50 per month
$26.00 annually if paid in advance
$75.00 as a tapping fee which is usually included in the price of the home.

Oak Grove Utilities — Water

0-3000 gallon	$4.00
Over 3000 gallon	$0.60 per 1000 gallon

$25.00 initial deposit
$5.00 reconnection charge for failure to pay bill

Sewage

$4.00 per month
$250.00 Tapping fee

Suburban Utilities, Inc. — Water

0-400 cubic ft.	$3.50
Next 332.5 cubic ft.	$0.90 per 133 cubic ft.
Next 665.0 cubic ft.	$0.75 per 133 cubic ft.
All over 1,397.5 cubic ft.	$0.50 per 133 cubic ft.

Sewage

$2.50 per month
$26.00 if paid annually in advance
$250.00 Tapping fee

Richland Water Company — Water

0-3000 gallons	$3.50
3001-5000 gallons	$0.70 per 1000 gallons
5001-10,000 gallons	$0.65 per 1000 gallons
10,001-25,000 gallons	$0.60 per 1000 gallons
All over 25,000 gallons	$0.50 per 1000 gallons

Tap on fee $100.00
Reconnection fee $7.50

Sewage

$13.00 semi annually
$24.00 if paid annually in advance
$250.00 Tapping fee

Heater Utilities

Sewage Only

Presently undergoing a rate increase request, requesting from

$2.50 to $5.50 per month for sewage and an increase in the tapping fee from $150.00 to $250.00.

Prize Point Utilities

Sewage Only

$3.00 per month
$250.00 Tapping fee

The high housing expenses faced by the 235 homeowners are the results of many factors. Heating bills are increased by the presence of young children in the home. Inefficient heating systems contribute to expensive waste. Many people face additions to their telephone bills because the locations of their homes are far from the city. When charges for garbage collection and sewage are added to these other necessary expenses, it becomes evident that the problem is not one of mismanagement by the homeowner, but one of mismanagement by the planners and developers of the program both nationally and locally. These costs are easily foreseeable and should have been taken into consideration when housing expenses were predicted.

APPENDIX B

The following are examples of defects falling within the four complaint classifications.

Major-Liveability, Major-Income

water under house
ceiling leaving the wall
walls cracking
holes in walls
roof leaks
foundation cracking

Major-Liveability, Minor-Income

gas leak discovered
furnace won't turn off until 90°

Minor-Liveability, Major-Income

ceiling panelling sags
weak boards in kitchen
porch cement needs repouring
floors warped
blower fan with no exhaust outlet

Minor-Liveability, Minor-Income

grass won't grow
screendoor needs replacing
windows cracked
stove door weak
door latch broken
tile peeling

APPENDIX C

Notes on Sampling, Interviewing, and Computational Procedures.

Originally, the final sample of respondents was to include 100 past and 400 present homeowners. Several sources* were contacted in an effort to construct a list of past owners. These sources were unable to provide the names and locations of past owners. Thus, the original plan was altered and past owners were eliminated from the sample.

The sample of present owners was divided into two groups: 300 owners residing in subdivisions and 100 owners residing on spot lots. Owners residing in subdivisions were selected in the following manner. First, "lot" maps were obtained for each 235 subdivision in the Columbia area. Lots were then numbered consecutively from 1 to 3900. Scientific random sampling procedures were used in compiling a list of 300 lots; an alternate list of approximately the same number was also chosen at random. If there was no home on a selected lot or if interviewers were unable to contact an owner of a home appearing on a chosen lot, then an alternate lot was substituted. In contrast to these procedures, non-random (quota) sampling procedures were used in obtaining a sample of spot lot owners.

Before the final sample of owners was actually interviewed, a pre-test sample (30 in size) was used to check the clarity of various questions on the schedule, and to determine the time length of the schedule. (interviews took an average of 25 minutes.) A copy of the final schedule prepared with the aid and advice of Professor David R. King, a sociologist teaching at the University of South Carolina, is provided in Appendix D.

From May to August, 1972, owners were contacted and interviewed by the four law students involved in the project. Either the husband, or the wife, or both were interviewed depending on who was home at the time of contact. The final sample included 112 male and 288 female respondents.

Interview data were coded by the students and punched on IBM cards. From the cards an SPSS (Statistical Package for the Social Sciences) File was created. The SPSS Codebook procedure was then used to analyze the results appearing in the study.

* Sources included: Electric and gas company, water company, OEO, post offices, neighbors, public housing authority, radio appeals, tax records, and motor vehicle registration.

APPENDIX D*

Interviewer: BA JG JM BT
Subdivision or spot lot?
____

Background Information

1. Sex of respondent: male __________ female __________
2. Race of respondent: white __________ nonwhite __________
3. What is your marital status? Single ________ Married ________ Separated ________ Divorced ________ Widowed ________
4. How old were you on your last birthday? ________
5. If married and living with spouse:
   How old was your (husband/wife) on (his/her) last birthday? ________
6. How many children do you have? ________
7. If children:
   a. What are their ages? __________
   b. How many of your children attend school? __________
   c. If attending:
      Where do your children attend school? __________
      Do your children walk, ride a car, or ride a bus to school? __________
      Where did your children last attend school before you moved into this house? __________
      Did your children walk, ride a car, or ride a bus to their last school(s)? __________
      Were their last schools integrated or segregated? __________
      Does it take your children more or less time to get to school now?
      More ________ Less ________
8. Besides you, your (husband/wife), and your children, how many other people live in your house? __________
9. Are you employed at the present time? Yes ________ No ________
10. If employed:
    a. Where are you employed? __________
    b. What is your job? __________
    c. Is your job full time or part time? Full time ________ Part Time ________
    d. How long have you worked at your present job? __________
    e. Did you work at your present job before you moved into this house? Yes ________ No ________
       If no:
       Where did you last work prior to moving into this house? __________
       What was your job there? __________
       Was that job part time or full time? Part time ________ Full time ________
       How long did you work at that job? __________
    f. Is your job closer now or farther away than it was before you moved?
       Closer ________ Farther ________ Same ________
11. If married and living with spouse:
    a. Is your wife/husband employed? Yes ________ No ________
    b. If employed:
       Where is she/he employed? __________
       What is her/his job? __________
       Is her/his job part time or full time? Full time ________ Part time ________
       How long has she/he been employed at her/his present job? ________
       Is her/his job now closer or farther away than it was before you moved? Closer

________ Farther ________ Same ________

Did she/he work at her/his present job before you moved into this house? Yes ________ No ________

If no:

Where did she/he last work before you moved into this house?

____

What was her/his job there? ____________________

Was her/his job full time or part time? Full time ________ Part time ________

How long did she/he work at that job? ______________

12. If children:

How many of your children work full time or part time?________

13. Do you have'

a. a checking account? Yes ___ No ___
b. a savings account? Yes ___ No ___
c. any stocks or bonds? Yes ___ No ___
d. any real estate holdings? Yes ___ No ___
e. installment loans? Yes ___ No ___
f. life insurance loans? Yes ___ No ___
g. retail credit accounts? Yes ___ No ___

14. During the last year, what was your total family income from all sources?

____

15. Are either you or your spouse covered by:

a. any life insurance? Yes ______ No ______
   Who is covered? ______________
b. homeowners insurance? Yes ______ No ______ don't know ______
   Does it cover your personal belongings? Yes ______ No ______ don't know ______
   Who sold it to you? Realtor ______ Builder ______ Lender ______ Other ______
c. health or medical insurance? Yes ______ No ______ don't know ______
d. income protection plan? Yes ______ no ______ don't know ______

16. How long have you lived at your present address? ______________

17. What was your last address just prior to moving into this house?

Street ____________________

City and State ____________________

18. Was your last residence a house or an apartment or trailer?

House ______ Apartment ______ Trailer ______

Was this government housing? Yes ______ No ______

19. If house or trailer:

Were you renting or buying? Renting ______ Buying ______

20. Does your present home have more, less or about the same amount of room as your former home. More ______ Less ______ Same ______

21. Did your last house/apartment have:

a. running water? Yes ___ No ______
b. indoor plumbing? Yes ______ No ______
c. built in heating system? Yes ______ No ______

22. If last address was out of state:

Was your last house in the city or country? City ______ Country ______

23. How much is your present monthly house payment? ______

24. How much was your monthly rent or house payment before you moved into your present house? ______

25. About how much do you spend on house repairs per month? ______

26. Is this less than, about the same or more than you spent on monthly house repairs in your last house/apartment? ______
27. a. About how much do you spend on utilities (including phone) per month? ______
    b. Was it explained to you that these costs would be in addition to your monthly house payment? Yes ______ No ______
    c. If yes:
    Who explained this to you?
    Are these usual costs more, less or about the same as what you were told they would be? More ______ Less ______ Same ______
28. Is this current utility expense less than, about the same, or more than you spent on monthly utilities in your last house/apartment?
    Less ______ Same ______ More ______

Initial Contact

29. How did you find out about 235 housing?
    a. Was that person working for a real estate company?
30. Whom did you first see about buying a 235 house?
31. How many real estate agents did you talk to before you bought your house?
32. Were you shown a model home before you purchased your house? Yes ______ No ______
33. If yes: How many homes were you shown? ______
34. Were your appliances included in the price of your home?
    stove ______ refrigerator ______ no ______
35. How many subdivisions did you look at before you purchased your home? ______
36. If more than one: Why did you select this particular subdivision?

Terms of Contract

37. Did you talk to the real estate agent before your house was completed?
    Yes ______ No ______
38. If yes:
    a. Did you meet frequently with the real estate agent?
       Yes ________ No ________
    b. Were you able to inspect your home during construction?
       Yes ______ No ______
    c. Were you able to specify certain items to be included or excluded from the house? Yes ______ No ______
39. Was the price of your house set, or were you able to negotiate the price? set ______ negotiated ______
40. Were you given a chance to inspect the house before you signed the contract? Yes ______ No ______
41. Did you sign the contract before or after the house was completed? Before ______ After ______
42. Did anyone explain the terms of the contract to you? Yes ______ No ______
43. If yes:
    a. Who? ________________
    b. Were the terms clearly explained? Yes ______ No ______
44. Did you ever talk to anyone from HUD/FHA? Yes ______ No ______
    If yes:
    Was this before or after the contract was signed? Before ______ After ______
    Was someone from HUD at the closing? Yes ______ No ______
    If yes:
    What did they do? ________________

45. Was your house inspected by a government official? Yes ______ No ______
If yes:
Were you with him when it was inspected? Yes ______ No ______
Do you feel the inspection was satisfactory? Yes ______ No ______
If no:
Why not? ______________________________

Financing

46. From whom did you obtain your housing loan? ______________
47. Did you have a choice of companies or banks from which to obtain your loan? Yes ______ No ______
48. If yes:
Why did you select (name company)?
49. How much downpayment did *you* pay? ______________
50. How many more years will you have to make house payments?______________
51. If you wanted to, do you think you would have any trouble in reselling your house? Yes ______ No ______ didn't know house could be sold ______
Do you think you could sell this house without suffering a loss?
Yes ______No ______
52. Are you satisfied with the financial arrangements of your loan?
Yes ______ No ______
53. If no: Which part(s) of the arrangements would you change?
54. Have you made any major purchases since you contracted to buy your house? Yes ______ No ______
55. If yes:
What specific items have been bought? ______________
56. Do you feel that you were pressured by the builder, realtor, or loan company to sign the contract? Yes ______ No ______
57. If yes: which one(s) pressured you? ______________

General Attitudes

If children:

58. Do you feel that your children's chances of completing high school have been affected by your moving into this house? Yes ______ No ______
59. If yes: In what ways have their chances been affected?
60. Do you feel that your children's chances of completing or going to college have been affected by your moving into this house? Yes ______ No ______
61. If yes: In what ways have their chances been affected?
62. a. Have you found food prices in the stores where you now shop to be lower, about the same or higher than the food prices in the stores where you shopped before moving into your new home.
Lower____ Same ______ Higher ____ Shop in same store now as did before move ______

b. Are the stores in which you shop closer, about the same distance or farther away from your home than before you moved into your new home? Closer ______ Same ______ Farther ______

63. Are you a registered voter? Yes ______ No ______ Were you registered before you moved into this house? Yes ______ No ______.
64. Since moving into this house have you or your (husband/wife) joined any new organizations? Yes ______ No ______.
65. If yes: Which organizations did you and/or your (husband/wife) join?

Complaints

66. Have any major repairs been necessary on your home? Yes ______ No ______

67. If yes:
    a. What had to be repaired?
    b. Did you make the repairs yourself? Yes ______ No ______
    c. Who payed for these repairs?
68. Do you have any complaints about the physical features of your house or yard? Yes ______ No ______
69. If yes: What complaints do you have?

*We acknowledge the excellent aid and advice given by Mr. David King, Professor of Sociology at the University of South Carolina, in preparing this questionnaire.