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HOPE VI Revitalization Grants: Weighing the Costs and Benefits, and Considering a Solution in the Context of Liberty City, Miami

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**HOPE VI REVITALIZATION GRANTS: WEIGHING THE
COSTS AND BENEFITS, AND CONSIDERING A SOLUTION
IN THE CONTEXT OF LIBERTY CITY, MIAMI**

ETHAN BARLIEB

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The HOPE VI program was created to fix the public housing problem in this country. Its mission was to select the most distressed neighborhoods and to revitalize them with new housing and infrastructure. This revitalization changes the makeup of the community from one of isolated poverty to one of self-sufficiency and economic diversity. The Department of Housing and Urban Development (HUD) is able to substantially achieve these goals by combining federal grant money with funds from private investors, but this is not to say that HOPE VI is without problems. In truth, this well-intended mission has yielded some troubling results. Most notably, HOPE VI decreases the availability of public housing in a municipality, and in turn, many of the displaced residents cannot return to the revitalized area. These problems, however, do not invalidate HOPE VI's mission or render the program unworkable. HOPE VI is the only federal program that targets and restores communities of distressed public housing. Therefore, HOPE VI must continue its mission, but with changes that address its weaknesses.

An effective solution is one that independently provides a supply of low-income housing. HUD, in evaluating whether a given location deserves a HOPE VI grant, should require the municipality to have in place a mechanism that will balance the inevitable decrease in low-income housing. One such mechanism is inclusionary zoning.

This paper will discuss the HOPE VI program and highlight some of the more prominent problems in the context of an ongoing HOPE VI project in Miami. Next, the paper will put forth possible solutions to the negative effects that HOPE VI projects traditionally have on an area's supply of public housing. The solution upon which this paper will focus is inclusionary zoning.

I. HOPE VI GRANTS

A. *Brief History of the Program*

Congress established the National Commission on Severely Distressed Public Housing in 1989. The Commission's duty was to identify the severely distressed public housing existing in this country and formulate a plan to combat the problem.¹ In 1992, based on the Commission's findings and recommendations, Congress created the HOPE VI program. The HOPE VI program targets severely distressed public housing and issues grants to local Public Housing Authorities (PHA) for the costs associated with demolition, the development of replacement housing, community services, as well as construction and rehabilitation.² Since 1992, HUD, which administers the HOPE VI program, has awarded such grants to 166 cities.³ Congress reauthorized the program in 2003, adding protections for tenants and encouraging the involvement of the affected residents at all phases of the revitalization process.⁴

B. *The Purpose of HOPE VI*

The program enumerated four major objectives: (1) to improve the living environment for residents of severely distressed public housing through the

¹ Nat'l Low Income Hous. Coal., *HOPE VI* (Feb. 8, 2006), in 2006 Advocates' Guide to Housing and Community Development Policy, at http://www.nlihc.org/detail/article.cfm?article_id=2772&rid=46.

² *Id.*

³ SUSAN J. POPKIN ET AL., URBAN INSTITUTE, A DECADE OF HOPE VI: RESEARCH FINDINGS AND POLICY 2 (2004), at http://urban.org/UploadedPDF/411002_HOPEVI.pdf.

⁴ Nat'l Low Income Hous. Coal., *supra* note 1.

demolition, rehabilitation, reconfiguration, or replacement of obsolete projects (or portions thereof); (2) to revitalize sites on which such public housing projects are located and contribute to the improvement of the surrounding neighborhood; (3) to provide housing that will avoid or decrease the concentration of very-low-income families; and (4) to build sustainable communities.⁵ Essentially, the program attempted to improve the quality of life of residents living in depressed housing by revitalizing the existing housing, transforming the community into one of mixed-income, and promoting the self-sufficiency of the residents through the provision of a number of support services.

In theory, the HOPE VI program targets only the most depressed public housing, that which is beyond improvement by standard rehabilitation efforts due to a number of reasons.⁶ Generally, these developments are located in predominately minority communities ravaged by high crime rates and other problems. Also, the targeted communities are typically segregated and extremely poor, and lacking in the appropriate public services.⁷

C. Structure and Process

HUD's Office of Urban Revitalization, a part of the Office of Public and Indian Housing, manages the HOPE VI program. As mentioned above, HUD awards the HOPE VI grants yearly to the Public Housing Authorities (PHA) operating distressed public housing. Additionally, HUD advises each PHA with regard to the financing of the project and helps the PHA to establish community and support services.⁸ HUD distributes the grants based on four factors: (1) the need for assistance; (2) the ability of the PHA to use the grant effectively; (3) the quality of the plan proposed by the PHA; and (4) the PHA's ability to get funding from other sources to supplement

⁵ 42 U.S.C. §1437v (2006).

⁶ SUSAN J. POPKIN ET AL., URBAN INSTITUTE, HOPE VI PANEL STUDY: BASELINE REPORT iv (2002), at http://www.urban.org/UploadedPDF/410590_HOPEVI_PanelStudy.pdf.

⁷ *Id.* at 9-2. The residents affected by the program are often in as poor a condition as the communities. Poor health is a common problem in these depressed areas. The poor conditions also affect the children of the community, manifesting in low performing and racially and economically segregated schools. To compound the problem, the families relocate frequently, taking away from the children any chance of educational stability. Also to no surprise, well above the majority of the affected residents earn below the poverty line and have high rates of unemployment. Many residents receive some form of welfare assistance from the government.

⁸ LINDA B. FOSBURG, SUSAN J. POPKIN & GRETCHEN P. LOCKE, A HISTORICAL AND BASELINE ASSESSMENT OF HOPE VI 3-28 (1996), at http://www.huduser.org/Publications/pdf/hopevi_vol1.pdf. To begin the grant process, HUD publishes a notice of available funds. A PHA can then prepare an application for these funds.

the plan.⁹ Once selected, a PHA must develop a revitalization plan, subject to approval, which includes a budget and schedule for the redevelopment project.¹⁰

D. Funding

For three consecutive years, the Bush Administration drafted proposals eliminating funding for the HOPE VI program. Congress has not gone this far, but funding has nevertheless been cut significantly over the last few years to where it now stands at \$140 million.¹¹ The large majority of the HOPE VI monies go to the revitalization programs, but a portion of the grants go to planning and demolition.¹²

II. THE SCOTT/CARVER HOMES PROJECT

A. The Revitalization Plan

As stated earlier, the HOPE VI program has provided grants across the country since 1992. The next portion of this paper will discuss one example of a HOPE VI grant and the resulting problems it encountered.¹³ Scott Homes is a public housing development located in the Liberty City area of Miami. Liberty City, one of the poorest areas in the city, has a median family income well below the city average.¹⁴ Some 800 low-income families, almost exclusively black, lived in Scott Homes.¹⁵ However, Miami-Dade County characterized the development as "extremely deteriorated, functionally obsolete and beyond repair."¹⁶ Consequently, in 1999, the Miami-Dade

⁹ Nat'l Low Income Hous. Coal., *supra* note 1.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ The Miami-Dade HOPE VI project is being used to highlight some of the problems common to HOPE VI projects. This is not to suggest that every HOPE VI project turns out in this way. For more case studies, see LARRY BURON ET AL., URBAN INSTITUTE, THE HOPE VI RESIDENT TRACKING STUDY: A SNAPSHOT OF THE CURRENT LIVING SITUATION OF ORIGINAL RESIDENTS FROM EIGHT SITES 11 (2002), at http://www.urban.org/UploadedPDF/410591_HOPEVI_ResTrack.pdf.

¹⁴ MARCOS FELDMAN & JEN WOLFE-BORUM, FLORIDA INTERNATIONAL UNIVERSITY, AFFORDABLE HOUSING COST FOR FAMILIES RESIDING IN LOW-INCOME MIAMI-DADE NEIGHBORHOODS 4 (2005), at http://www.risep-fiu.org/reports/AffordableHousingCost_Families LowIncDadeNeighborhoods .pdf.

¹⁵ Miami-Dade Hous. Agency, *Scott Homes and Carver Homes: HOPE VI Revitalization Plan—Revised Plan* (July 2004).

¹⁶ *Id.*

Housing Agency (MDHA) applied for a HOPE VI Community Revitalization Grant, which HUD approved.¹⁷

The community of Liberty City, based on promises by MDHA, initially supported the plan for redevelopment. These promises included the establishment of social services programs and the prospect of new and improved housing.¹⁸ That said, there were still many concerns about the project. To realize the revitalization goals, the project required that a substantial public housing development in a County already dealing with a shortage of available public housing be destroyed.¹⁹ Also, since African Americans made up almost all of the current residents, it raised concerns about inner city gentrification. Finally, as will be discussed below, the project's makeup prevented a large number of the displaced residents from moving back into the development once the project was finished. Residents voiced these concerns in a complaint filed against the County of Miami-Dade and MDHA, aiming to stop the HOPE VI demolition of Scott Homes. The action failed and demolition proceeded in 2003.²⁰

As mentioned above, the Scott Homes community housed over 800 low-income families in dilapidated conditions, with a density of 15.9 units per acre.²¹ The plan intended for the new housing not only to physically improve the quality of the buildings but also to change the economic makeup of the community, decreasing population density in the process. In order to accomplish this, MDHA planned to replace the original 850 units with a total of 411 units, varying both in form and in the number of occupants allowed. Moreover, a large number of these units would not be designated as public housing but as affordable housing, and thus would be sold privately upon completion.²² Simply based on the numbers presented above, over half of the occupants would not be able to return to the Scott Homes development after the project's completion. In addition, MDHA had not determined how many previous occupants would be restricted from returning based on the extra costs associated with the new housing units.

¹⁷ *Id.*

¹⁸ Miami-Dade Hous. Agency, HOPE VI Grant Application (1999). Interviews with residents of Scott Homes revealed that in preparation for the HOPE VI application and to get the residents of Scott Homes behind the proposed project, the residents were bused to Atlanta, GA to take a look at a completed HOPE VI project there. *Id.*

¹⁹ The Miami-Dade waiting list for public housing released in the fall of 2005 had in excess of 40,000 names. Miami-Dade Hous. Agency, Waiting List (Oct. 2006), at <http://www.miamidade.gov/housing/waitlist.asp>.

²⁰ *Reese v. Miami-Dade County*, 2003 WL 22430313 (11th Cir., Jan. 29, 2003).

²¹ Miami-Dade Hous. Agency, *Scott Homes and Carver Homes: HOPE VI Revitalization Plan – Revised Plan* (July 2004).

²² *Id.*

In selling the HOPE VI plan, besides promising temporary housing to the displaced residents, the MDHA also promised numerous community services.²³ MDHA planned to provide homeownership training along with credit and counseling services.²⁴ Additionally, the employment and job training services played an important role in the passage of the Scott Homes Project. These particular services had over \$3 million earmarked for their implementation. Miami-Dade County, along with several educational institutions, promised to provide job and educational training to eligible residents. Additionally, the HOPE VI Grant enlisted the help of private entities, in order to facilitate residents in obtaining employment through the provision of business clothing and dental work. In its employment initiative, MDHA obtained commitments from a number of local businesses, which promised to provide employment to jobless residents. Also, in order to further the employment program, the plan budgeted in excess of \$2 million to the Miami-Dade Department of Human Services for childcare services.²⁵

B. Updated Situation

As of October of 2006, seven years since the initiation of the project, the status of Scott Homes is discouraging. MDHA's latest report lists site work and infrastructure now underway, but despite three years passing since the demolition phase began, the construction of only five units has begun with the help of Habitat for Humanity, and none of those are public housing.²⁶ Due to these setbacks, the MDHA has now split the project into two phases. The first phase includes 57 affordable units, which will be finished by the beginning of 2008, at the earliest.²⁷ Meanwhile, the updated plan schedules the construction of housing available for sale to eligible homeowners to begin

²³ *Id.* MDHA promised to provide administrative services and case management to better meet the needs of the residents. See the Uniform Relocation Act of 1970 and the Quality Housing and Work Responsibility Act of 1998, which require the provision of temporary housing for households displaced by a federal program.

²⁴ This may have been a questionable proposal, considering that Scott Homes residents were mostly very-low-income people who qualified for public housing. However, coupled with other services, including employment and job training, the program becomes feasible.

²⁵ Miami-Dade Hous. Agency, *Scott Homes HOPE VI Revitalization Plan: Program Services Matrix* (July 2004); Miami-Dade Hous. Agency, *HOPE VI Community and Supportive Services Work Plan* (July 2004).

²⁶ Miami-Dade Hous. Agency, *HOPE VI News: A Publication for the Scott & Carver Homes Community*, Fall 2005, at http://www.miamidade.gov/housing/library/Newsletters/HOPE_VI_fall05.pdf.

²⁷ Miami-Dade Hous. Agency, *Scott/Carver Homes HOPE VI Revitalization Program Highlights & Fact Sheet* (Oct. 2006), at http://www.miamidade.gov/housing/library/hopevi_fact_sheet.pdf.

in the summer of 2008.²⁸ The plan projects that 160 public housing units will be built during phase two.²⁹ By the project's completion, 351 affordable units will be built, mixing single-family homes with town homes.³⁰

Because of the delayed onset of the building phase, the status of the homeownership program cannot be evaluated. As mentioned previously, some serious questions exist about whether a family qualified to live in public housing will ever be able to buy a home in a market like that of Miami.

The success or failure of the Community and Supportive Services aspect has also been difficult to judge. However, one gains some perspective through examining Miami-Dade's claim that of the over 1200 displaced adults, only 347 found jobs.³¹ Overall, the ex-residents of Scott Homes report a general dissatisfaction with the HOPE VI program.³² This frustration derives from the empty lot where their homes used to be, their likely inability to move back when complete, and what they perceive as broken promises by MDHA.

III. THE PROBLEMS ARISING WITH HOPE VI GRANTS

Despite its commendable objectives, the HOPE VI program in application has encountered a number of problems. Disconcertingly, these problems exist independent of the constant reduction in budget, as they are merely a byproduct of an innately flawed program.

A. *The Displacement of More Households than can Return*

Initially the HOPE VI program required a one-for-one replacement of targeted public housing, meaning that for every destroyed public housing unit, a new one must be built. However, Congress repealed this requirement

²⁸ *Id.*

²⁹ *Id.*

³⁰ For the latest information regarding the Miami-Dade HOPE VI project, see MDHA's website at <http://www.miamidade.gov/housing/hope6.asp>.

³¹ Miami-Dade Hous. Agency, Scott-Carver Homes HOPE VI Revitalization Program High-lights & Fact Sheet (Jan. 31, 2006).

³² Former Scott/Carver residents created grassroots organizations in an attempt to obtain more services from MDHA. Teamed with local nonprofits, they have harshly criticized the handling of HOPE VI in Miami-Dade. For more information, see Andrea Robinson, *Opponents of HOPE VI Redevelopment Plan Gain Allies*, The Miami Herald (Feb. 7, 2003); Susan Eastman, *Our Lady of the Projects* Octavia Anderson and the last days of the James E. Scott Homes, Miami New Times (July 5, 2001); Gaspar Gonzalez, Native Son Billy Hardemon has been running around Liberty City, and away from allegations of wrongdoing, forever, Miami New Times (June 20, 2002).

in 1996.³³ Since then, PHAs have demolished public housing units at a rate much greater than that of replacement.³⁴ Considering the HOPE VI program in isolation, this change in policy has resulted in a net loss of available public housing nationwide.³⁵ In turn, public housing waiting lists have increased nationwide to the point where, on average, an eligible family must wait approximately one year for a public housing unit.³⁶ Over the last decade and a half, there has been a declining supply of affordable housing available to households with the lowest income.³⁷ Whereas affordable housing to families considered "low income" actually increased in the 1990's, families classified as "very low income" saw availability of affordable housing drop drastically.³⁸ During that time, HUD estimates that affordable housing to households earning 50% of the average median income (AMI) decreased by 8%, or by nearly 1.3 million units nationally.³⁹ Compounding that fact, only about 70% of these affordable units are actually available to the "very low income" families, as households making more money than these truly destitute family units may occupy the cheaper units.⁴⁰ Therefore, by not requiring a one-for-one replacement, HOPE VI actually contributes to an already serious problem.

HUD justified the change in policy requiring the one for one replacement of public housing by championing the mixed-income development model.⁴¹ The mixed-income model is designed to economically integrate communities by moving higher income families into a revitalized area. Through housing vouchers, this model allows some of the

³³ FOSBURG, POPKIN & LOCKE, *supra* note 8 at 5-4.

³⁴ See NAT'L HOUS. LAW PROJECT ET AL., FALSE HOPE: A CRITICAL ASSESSMENT OF THE HOPE VI PUBLIC HOUSING REDEVELOPMENT PROGRAM 2-7 (2002), at <http://www.nhlp.org/html/pubhsg/falsehope.pdf>.

³⁵ The importance of public housing to very-low-income communities is not the focus of this paper, however, providing housing to very-low-income families at 30% of their income is one of the few programs which provides individuals of that socioeconomic status a viable opportunity to live affordably.

³⁶ See U.S. Dep't of Hous. and Urban Dev., *Waiting in Vain: An Update on America's Rental Housing Crisis* (Mar. 1999) (on file with author).

³⁷ HUD considers families with an income at or below 50% of the area median income to be of "very low income" and thus qualified for public housing assistance.

³⁸ See Kathryn P. Nelson, *Testimony before the House Committee on Financial Services, Subcommittee on Housing and Community Opportunity*, U.S. Dep't of Hous. and Urban Dev., at <http://financialservices.house.gov/media/pdf/050301ne.pdf>.

³⁹ *Id.*

⁴⁰ NAT'L HOUS. LAW PROJECT ET AL., FALSE HOPE: A CRITICAL ASSESSMENT OF THE HOPE VI PUBLIC HOUSING REDEVELOPMENT PROGRAM 9 (2002), at <http://www.nhlp.org/html/pubhsg/FalseHOPE.pdf>.

⁴¹ Jill Khadduri, *Deconcentration: What Do We Mean? What Do We Want?*, 5 CITYSCAPE: J. OF POL'Y DEV. & RES. 69 (2001), available at <http://www.huduser.org/periodicals/cityscape/vol3num2/unanswer.pdf>.

displaced residents to move into other communities in better condition.⁴² HUD implements this mixed-income model by setting aside an amount of units, which must be dispersed, to families with varying income levels. HUD recommends a composition of approximately one-third public housing, one-third subsidized affordable housing for "low-income" families, but not the "very low income" families, and one-third sold at market rate.⁴³

HUD claims that the mixed-income model and social integration yields many benefits. The goal of economic integration is to "reduce the social pathology caused by the concentration" of lower income households.⁴⁴ In addition, the integration allows for the higher income residents to become a positive influence on the residents with a lower income. The higher income families also bring with them more services and amenities to the entire community, which results in a social benefit for all.⁴⁵

These benefits aside, the nature of the mixed-income model coupled with HUD's preference for it affects the residents displaced by the HOPE VI project. Many of them cannot move back into the revitalized communities. So, these households, displaced in the name of social benefit, may not in reality be receiving any benefit. HUD does not keep adequate records of the HOPE VI projects, or their impact on displaced residents; but an independent study by the Urban Institute estimates that only between 14 to 40% of the displaced residents move back.⁴⁶ This appears to be in line with the HUD mixed-income model targeting around one-third of the new units to be designated as public housing.

Given the decrease in available public housing, it must be determined whether the benefits of the mixed-income model are worth the associated drawbacks. Little evidence demonstrating the actual benefits of these mixed-income developments exists.⁴⁷ Further, [t]here is no strong evidence that it is even possible to artificially create a community where people interact rather than a development or neighborhood where people of different

⁴² *Id.*

⁴³ Dep't of Hous. and Urban Dev., *Notice of Funding Availability: Revitalization of Severely Distressed Housing Fiscal Year 2002* (July 2002), at http://www.novoco.com/low_income_housing/resource_files/hud_data/HOPEVI_NOFA_02.pdf.

⁴⁴ Paul C. Brophy & Rhonda N. Smith, *Mixed-Income Housing: Factors for Success*, 3 CITYSCAPE: J. OF POL'Y DEV. & RES. 3, 5-6 (1997), available at <http://www.huduser.org/periodicals/cityscape/vol3num2/success.pdf>.

⁴⁵ *Id.* at 6. Regarding the Miami-Dade project, MDHA states that the project will reduce the concentration of poverty in Liberty City by lowering the density of the on-site housing units by 56% along with the general theoretical benefits mentioned above. See Miami-Dade Hous. Agency, *supra* note 27.

⁴⁶ BURON ET AL., *supra* note 13, at ii..

⁴⁷ Susan J. Popkin et al., *The Gautreaux Legacy: What Might Mixed-Income and Dispersal Strategies Mean for the Poorest Public Housing Tenants?*, 11 HOUSING POL'Y DEBATE 911 (2000).

income levels simply share the same physical space.⁴⁸ Furthermore, some of the benefits that HUD cites could be achieved without the mixed-income model if the HOPE VI more adequately implemented the community and supportive services aspects of the project. The services and amenities that higher income residents supposedly bring could simply be provided to the low-income community as part of the HOPE VI grant. Alternatively, mixed-income communities could be formed naturally by offering the very-low-income residents employment opportunities in the implementation of the HOPE VI project.⁴⁹

Because of the problem discussed above, an evaluation of HOPE VI's success depends largely on HUD's definition of community. As stated earlier, the HOPE VI program is intended to revitalize targeted communities.⁵⁰ But is a "community" under the HOPE VI objectives defined as the actual area of land where the public housing sits, or the families that inhabit it? If HUD focuses its concern on the actual area, then a mixed-income model may appropriately offer a solution. The severely distressed physical community itself will be revitalized both physically and socially. Not being the primary concern, the displaced residents' inability to return to the revitalized community is a tolerable externality. If, however, by "community" HUD refers to the residents themselves, then a mixed-income development model that results in the reduced availability of public housing is problematic. The HOPE VI project does not make a large portion of the "community" any better off because the project serves only to displace its members.

B. Targeting Problems

As stated above, the HOPE VI program came about based on the report of the National Commission on Severely Distressed Public Housing.⁵¹ The Commission identified severely distressed public housing around the country and made recommendations to address the problem.⁵² Hence, Congress originally created HOPE VI to revitalize only the most severely distressed housing, as opposed to public housing in general.

⁴⁸ *Id.* at 928.

⁴⁹ This paper does not intend to debate the merits of the mixed-income model, but it does recognize that currently HUD has placed that model's implementation as a higher priority than the provision of public housing.

⁵⁰ POPKIN ET AL., *supra* note 6.

⁵¹ Nat'l Low Income Hous. Coal., *supra* note 1.

⁵² *Id.*

However, this original purpose has not been strictly followed in large part because HUD lacks a concrete definition of severely distressed public housing.⁵³ While HUD itself defined and classified such housing numerous times, in practice, the definitions do not even matter anymore.⁵⁴ In order to be eligible for a HOPE VI grant, a PHA must simply certify that the targeted development is severely distressed and then hire an architect to support the classification.⁵⁵ In a report published by the General Accounting Office (GAO), it was noted that in recent years HOPE VI has been less focused on the most isolated and severely distressed communities and more upon smaller communities, that while still distressed, are located in areas in which private interests are more likely to invest.⁵⁶ HUD has admitted to this shift in its response to the GAO report.⁵⁷ "[T]he funds have largely been used to replace housing that could be repaired, but which for one reason or another, HUD officials believe should be destroyed. A classic example can be found in the Atlanta development. The diverted HUD funds helped influential leaders in Atlanta build housing for the Olympics and remove a perceived blight on the sparkling city."⁵⁸

This HUD policy leads to obviously negative effects. The communities that receive attention do not necessarily need it the most. The targeting problem compounds the displacement problem discussed earlier. HOPE VI projects demolish public housing units that potentially could be repaired, and in their place, fewer units are constructed. HUD's failure to enforce a clear definition of severely distressed housing allows PHA's to use HOPE VI monies not only to reduce the overall number of public housing units in a community, but also to reduce the number of salvageable public housing communities in a municipality.

⁵³ See Lawrence J. Vale, *Beyond the Problem Projects Paradigm: Defining and Revitalizing "Severely Distressed" Public Housing*, 4 HOUSING POLY DEBATE 147, 152 (1993), available at http://www.fanniemae.foundation.org/programs/hpd/pdf/hpd_0402_vale.pdf.

⁵⁴ *Id.*

⁵⁵ DEP'T OF HOUS. AND URBAN DEV., SUPPLEMENT TO THE FISCAL YEAR (FY) 2006 SUPERNOfA FOR HUD'S DISCRETIONARY PROGRAMS 20-21, March 8, 2006, at <http://www.hud.gov/offices/pih/programs/ph/hope6/grants/fy06/revwdeadline.doc>.

⁵⁶ U.S. GEN. ACCOUNTING OFFICE, REPORT TO CONGRESSIONAL COMMITTEES, HOPE VI PROGRESS AND PROBLEMS IN REVITALIZING DISTRESSED PUBLIC HOUSING 25 (July 1998) at <http://www.gao.gov/archive/1998/rc98187.pdf>.

⁵⁷ U.S. Dep't of Hous. and Urban Dev., *Nationwide Audit: HOPE VI Urban Revitalization Preprogram* 13-14 (Dec. 1998), at <http://www.hud.gov/oig/ig960001.pdf>.

⁵⁸ Fitzpatrick, Michael. *A Disaster in Every Generation: An Analysis of HOPE VI: HUD's Newest Big Budget Development Plan*, 7 GEO. J. ON POVERTY L. & POL'Y 421, 443 (2000).

C. Ineffective Implementation

As the problems discussed in the previous two sections show, the HOPE VI program has not met its stated objectives. The Urban Institute conducted a study of eight HOPE VI sites in order to track the displaced residents and the program's effect on them.⁵⁹ Of the households surveyed, 19% lived in the revitalized HOPE VI development, 29% lived public housing elsewhere, 33% rented units else with the assistance of housing vouchers, and 18% no longer relied on assisted living.⁶⁰

The study shows that the majority of residents, approximately 56%, have experienced improved housing conditions since the relocation.⁶¹ Obviously, the households that returned to the HOPE VI development enjoyed the improved conditions the most. Those residents now renting with the housing vouchers reported much less satisfaction with their new residence.⁶²

Further, the study found that the displaced families have been dispersed among many different communities, but as a whole families now live in areas with lower poverty rates than that of their original communities.⁶³ Still, a significant portion of the households surveyed reported problems with drugs, gangs and crime in their new community.⁶⁴

The report concludes on this note: a HOPE VI project results in the improvement in housing conditions and neighborhood conditions for the majority of households. However, a very significant portion of the displaced residents, especially those unable to return to the original development, face serious problems in their new locations. These include problems with crime and an increased difficulty in meeting their expenses.⁶⁵ The overall conclusion is that, "there is no evidence that as a group original residents are worse off as a result of HOPE VI, and indeed most are considerably better off as a result of the changes associated with leaving."⁶⁶

This conclusion reveals a fundamental problem with the HOPE VI program, that only half of the affected families see the improved housing conditions. Thus Hope VI, a program aimed at revitalizing the entire community is failing to achieve a main objective.

⁵⁹ BURON ET AL., *supra* note 13, at i.

⁶⁰ *Id.* at ii.

⁶¹ *Id.* at iii.

⁶² *Id.* at iv.

⁶³ *Id.* at v.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.* at viii.

Other problems with the implementation of a HOPE VI project include the exclusion of the residents from participation in the process itself. Existing policies supposedly require that the residents be given an opportunity to participate in the HOPE VI plan. The policies require PHAs applying for funding to hold resident training sessions and public meetings even before a HOPE VI application is submitted.⁶⁷ Unfortunately for the residents, HUD has not provided mechanisms to enforce these requirements upon a non-complaint PHA. This lack of recourse can be attributed to HUD's refusal to issue formal regulations for HOPE VI.⁶⁸ So, without regulations or clear rules for the program, public participation has been frustrated.⁶⁹ In place of the regulations, HUD administers the program through notices of funding availability and grant agreements.⁷⁰ These grant agreements do indeed spell out the rights of the affected community, but do not provide for enforcement by the community residents.

Inevitably, problems arise for residents because the actual revitalization process may differ greatly from that originally proposed in the application.⁷¹ For example, while a PHA must include public participation in the original plan and application, once HUD has approved the project, the PHA can then substantially change it.⁷² Thus, yet again, the residents do not have recourse against the changed plan if a PHA chooses to terminate public participation.

The HOPE VI program intends to improve the living environment of the targeted public housing residents. However, these residents unfortunately do not always receive the intended benefits. As discussed above, relatively few of the residents displaced by the project are ever able to return to the revitalized housing. Moreover, the displaced residents face additional hardships. First, residents have very little control about where they are relocated. Families generally relocate to other public housing or are provided with housing vouchers. It appears that the PHA loses track of as many as 20% of the displaced families.⁷³ This means that in the process of displacement and relocation the PHA has lost track of a household, which occurs at the time the household stops receiving housing assistance. Harassment, neglect, and exclusionary screening policies all contribute to these families becoming lost to the PHAs which are responsible for them.⁷⁴

⁶⁷ NAT'L HOUS. LAW PROJECT ET AL., *supra* note 40, at 17.

⁶⁸ *Id.* at 18.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 19.

⁷² *Id.*

⁷³ *Id.* at 26.

⁷⁴ *Id.*

Lastly, the community and supportive services that HUD markets with each HOPE VI project have not been provided to the extent promised. HOPE VI promises to provide these services to all of the families living in the targeted community when the HOPE VI process begins.⁷⁵ However, in reality this does not occur. HUD primarily focuses the services on the families who live and then return to the actual site, where the newly installed and revitalized infrastructure supports the services.⁷⁶ Thus, a family that cannot return to a site does not benefit from the redevelopment and the services it supports. This inequality is compounded by an overall decrease in the provision of supportive services.⁷⁷ Moreover, as mentioned before, the amount of HOPE VI grants have been reduced in recent years.⁷⁸ All of these factors have resulted in the HOPE VI program providing fewer community and supportive services than that which was originally intended.

The problems implementing HOPE VI grants, which were discussed in this section, along with the problems discussed earlier, reveal that HOPE VI in its current form is not effectively meeting its objectives. These problems can be further illustrated by examining how they have manifested in the HOPE VI project currently underway in Miami.

IV. THE NEXT STEP

As discussed above, there are several problems with the HOPE VI program. Many have suggested that HOPE VI itself, because of its inherent problems, should be eliminated.⁷⁹ Others, like the Bush Administration, believe that HOPE VI has effectively run its course and is now moot.⁸⁰ The first question then must be whether HOPE VI is worth fixing at all. Perhaps the whole program should be scrapped in favor of a new methodology for revitalizing poor communities.

A. HOPE VI Cannot be Abandoned

The HOPE VI program is replete with problems. Because of its vague mandate and a change in political sentiment, HOPE VI's original purpose of

⁷⁵ U.S. Dep't of Hous. and Urban Dev., *HOPE VI: Community Building Makes a Difference* (Mar. 2005), at <http://www.huduser.org/publications/pubasst/hope2.html>.

⁷⁶ NAT'L HOUS. LAW PROJECT ET AL., *supra* note 40, at 28.

⁷⁷ *Id.* at 29 (evidence of this decrease can be seen in the dropping percentage of grants used for such services, down to 9% currently from the original 13%).

⁷⁸ See Nat'l Low Income Hous. Coal., *supra* note 1.

⁷⁹ See Fitzpatrick, *supra* note 58.

⁸⁰ Nat'l Low Income Hous. Coal., *supra* note 1.

revitalizing the nation's most severely depressed public housing seems to have been forgotten. Instead, HOPE VI has targeted communities not always in need of revitalization by basing its selection process on factors such as desirability to developers. Furthermore, to meet the needs of the private developers and HUD's mixed-income model, HOPE VI has allowed for the displacement of thousands of low-income families. Nevertheless, HOPE VI is a program worth saving.

President Bush asked Congress to eliminate HOPE VI in an attempt to reduce the federal government's role in affordable housing.⁸¹ The Administration claimed that HOPE VI served its purpose and that more effective yet less costly alternatives exist for the revitalization of public housing.⁸²

Despite the Administration's claim, HOPE VI has not fully served its purpose, as the problem of distressed public housing communities is still rampant. In a recent study, the Urban Institute strongly recommended for the continuation of the HOPE VI program despite its problems.⁸³ HOPE VI is virtually the only federal program that provides for the revitalization of very-low-income communities by rebuilding the housing and bringing in new opportunities that reform the community. These new opportunities include supermarkets, stores, parks, schools and recreational facilities.⁸⁴ Additionally, HOPE VI provides employment opportunities and supportive services that may not reach everyone, but still serve at least those who return to the community.

Conceding its weaknesses, HOPE VI has still supported and improved the condition of a portion of the families in a targeted community. Absent HOPE VI, no federal program would have provided help. To its credit, the program has embraced the market by leveraging private investments, thus enabling it to not rely solely on government money in order to achieve its goals.⁸⁵ This has created a flexible investment initiative geared toward the

⁸¹ *Id.*

⁸² *Id.* The Bush Administration claims that the average HOPE VI unit costs \$120,000 to rebuild whereas the average unit under the HOME program costs \$80,000. *Id.*

⁸³ See POPKIN ET AL., *supra* note 3, at 47.

⁸⁴ Renée L. Glover, *Making a Case for Mixed-Use, Mixed Income Communities to Address America's Affordable Housing Need*, Presentation to Ctr. for Am. Progress 4 (Oct. 12, 2005), at <http://www.americanprogress.org/atf/cf/%7BE9245FE4-9A2B-43C7-A521-5D6FF2E06E03%7D/glover.pdf>.

⁸⁵ Harry J. Wexler, *HOPE VI: Market Means/Public Ends – The Goals, Strategies, and Midterm Lessons of HUD's Urban Revitalization Demonstration Program*, 10 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 195, 213-16 (2001).

improvement of public and affordable housing in a given community.⁸⁶ The fact that HOPE VI has been in place and working for years and has substantially met its goals of improving the conditions of certain blighted communities shows its worth. Also, if HOPE VI were eliminated, PHAs trying to redevelop communities in depressed areas would have no leverage to bring about private funding.

B. *The One-for-One Replacement Solution*

The practice of constructing mixed-income developments generates an overall loss of affordable housing with every approved project. In 1998, HUD reported the scheduled demolition of 11,538 units. Only some 5,541 units were scheduled to be built in their place; of those, approximately one-third were likely to be slated to be subsidized as public housing.⁸⁷ In light of this statistic and the national shortage of affordable housing, there have been recommendations that, "[a]ll public housing rental units affected by demolition or redevelopment should be replaced with new or redeveloped public housing rental units on a one-for-one basis."⁸⁸ The replacement units could be built on the HOPE VI site or off-site, so long as the off-site units enjoyed access to the same services.⁸⁹

The one-for-one replacement solution is inadequate for two reasons. First, such solution would be financially infeasible based on the current structure of the HOPE VI program. As mentioned above, the HOPE VI program works because the HUD grant allows a PHA to leverage other funding. Especially with the increasing budget cuts passed down by Congress, PHAs have been forced to come up with mixed finance models to fund the HOPE VI projects. The new trend for these models uses public

⁸⁶ MARGERY AUSTIN TURNER ET. AL., URBAN INSTITUTE, WHAT NEXT FOR DISTRESSED PUBLIC HOUSING? (2004), at <http://www.urban.org/url.cfm?ID=1000654>.

⁸⁷ Sabrina L. Williams, *From HOPE VI to HOPE SICK?*, DOLLARS & SENSE: THE MAGAZINE OF ECONOMIC JUSTICE July/August 2003, available at <http://www.dollarsandsense.org/archives/2003/0703williams.html>.

⁸⁸ NAT'L HOUS. LAW PROJECT ET AL., *supra* note 40, at 15. In Atlanta's Techwood project 1081 units were demolished and 360 replaced on the site, of which 72 were public housing. In Los Angeles's Pico Aliso project 481 units were replaced with 265. Williams, *supra* note 87.

⁸⁹ NAT'L HOUS. LAW PROJECT ET AL., *supra* note 40, at 15. Communities can always individually negotiate with PHA's in the pursuit of one-for-one replacement. In 1996, residents of the North Beach public housing development worked out a contract with the San Francisco Housing Authority that guarantees the residents one-for-one replacement of demolished low income units. James Tracy, *Tenant Organizing Wins One-for-One Replacement* (Jan./Feb. 2000), at <http://www.nhi.org/online/issues/109/organize.html>.

and private funds to spawn the development.⁹⁰ A PHA will combine low-income housing tax credits and private loans with the HOPE VI grant.⁹¹ In some cases, the combined funds even exceed the original grant.⁹² The use of leveraging allows the PHAs to form partnerships with public agencies and private organizations. An example of a PHA effectively using combined funding sources to develop a community is Centennial Place in Atlanta. In that development, the HOPE VI grant money funded the public housing units, the low-income tax credits financed the low to moderate-income units, and the private funding was used to build the market rate units.⁹³

As mentioned above, there is less money available for new projects than ever before, which forces PHAs to leverage other resources just to complete the project. These other sources, as is the growing trend, will often include Low Income Tax Credits, used when a partnership forms with private developers. Low Income Tax Credits however have limits; they can provide housing for low-income households, but not public housing. Requiring the development of public housing using the tax credits would generate a significant loss for developers, scaring potential partners away. And, in one-for-one replacement, the developers have no opportunity to recoup their losses by the production of market-rate units. Even taking Low Income Tax Credits out of the equation, the replacement policy suggested by some would eliminate developers' incentive to partner with PHAs, as any potential for profit will have been eliminated.⁹⁴

A second reason that a one-for-one replacement policy is an inappropriate solution is that it takes away any benefits associated with the mixed-income model. The mixed-income model promotes two goals that should not be abandoned. First, it furthers the de-concentration of poverty, and second, it promotes the self-sufficiency of communities.

Mixed-income communities break the traditional mold of clustered low-income neighborhoods. These clustered communities were isolated in their poverty and left to decline. The mixed-income model attracts higher income residents into a community, and these higher income residents bring with them the public and private resources mentioned earlier. In theory, even the

⁹⁰ Wexler, *supra* note 85, at 213-214.

⁹¹ *Id.* at 214. The Low Income Housing Tax Credit provides a tax credit to investors willing to develop units affordable at particular income levels.

⁹² U.S. GEN. ACCOUNTING OFFICE, *supra* note 56, at 21.

⁹³ *Id.* at 21; See the Kennedy Brothers Memorial project in El Paso and the Ellen Wilson project in Washington DC for other examples of how PHA's are using mixed finance models to fund HOPE VI projects.

⁹⁴ There are also arguments that insertion of private finding in HOPE VI projects is good for the effectiveness of the program. It is argued that private investment creates incentives for more effective management. For more on this, see TURNER ET AL., *supra* note 86.

displaced households have an opportunity to relocate into better communities, through the utilization of housing vouchers.⁹⁵ However, given the difficulty a family may face in finding a landlord who accepts the voucher and the fact that mixed-income communities may not be widespread throughout a municipality, this theory is innately flawed.

The influx of services into a mixed-income community establishes self-sufficiency in residents previously living in hopeless conditions. Furthermore, new schools and employment opportunities instill this change. An example of self-sufficiency and community-wide change can be seen in Atlanta where an elementary school sits where distressed public housing once did. The school obviously provides for the children in the revitalized community, employment among assisted families has increased, and crime has been reduced by 90%.⁹⁶ While the mixed-income model has some drawbacks because it excludes certain residents from any real benefit, these new communities begin to combat the concentrated poverty in urban America, and promote the self-sufficiency of once hopeless communities. The mixed-income model is the base from which a solution to HOPE VI's problems may be found.

C. *The Inclusionary Zoning Solution*

The most significant deficiency of the HOPE VI program is the reduction in affordable housing that a project creates. As mentioned, because a segment of the displaced residents cannot return, HOPE VI ends up straining the supply of affordable housing across a municipality. Therefore, any proposal to fix HOPE VI must address this problem directly by providing a supply of affordable housing outside of the targeted development area. Because of the funding constraints discussed earlier, the potential to change the HOPE VI project is limited. The best solution for HOPE VI may be to change the eligibility criteria for targeted communities.

I propose that HUD, in selecting an applicant PHA for a grant, should require that there be in place an independent mechanism that provides affordable housing to a municipality and its residents. A number of such policies exist that may be utilized in a locality, but that which will be the focus of the remainder of this paper is inclusionary zoning. If HUD required a municipality to have an appropriate inclusionary zoning ordinance, or something generating the same effect, then some of HOPE VI's problems could be mitigated.

⁹⁵ Ngai Pindell, *Is There Hope for HOPE VI?: Community Economic Development and Localism*, 35 CONN. L. REV. 385, 415 (2003).

⁹⁶ Glover, *supra* note 84, at 6.

"Inclusionary Housing Programs promote the production of affordable housing by requiring residential developers to set aside a certain percentage of the housing units in a proposed development to be priced affordable to low and moderate income households."⁹⁷ Such ordinances have been put into effect for two main purposes, which include the economic integration of communities and the overall increase in affordable housing for the entire municipality.⁹⁸ Inclusionary Zoning's purpose of economic integration follows in line with HOPE VI's emphasis of the mixed-income model, similarly based on the rationale that economic integration allows low-income families to live in better neighborhoods and improve their access to jobs, the quality of schools, and the availability of other amenities.⁹⁹ An increase in the supply of affordable housing would directly combat HOPE VI's biggest problem.

Inclusionary zoning originated in the Washington, D.C. metropolitan area in the 1970's.¹⁰⁰ Since then, it has gained widespread appeal and ordinances have popped up across the country, especially in California and Massachusetts.¹⁰¹ Throughout the years, these ordinances have faced constitutional challenges, but can be fashioned to survive such scrutiny.¹⁰² Some important elements of an inclusionary zoning policy are the set aside requirements, the income targeted, the alternatives to compliance, and the period of affordability.¹⁰³ Inclusionary zoning is not one size fits all; each municipality has to design a policy to suit its own needs. That being said, I will offer some suggestions for an inclusionary zoning program that would be appropriate for the needs created by a HOPE VI project.

The set aside requirement is simply the percentage of units that a developer must make affordable.¹⁰⁴ The typical set aside requirement is between ten and twenty-five percent.¹⁰⁵ Obviously the higher set aside a municipality requires, the more affordable units that will be created. That

⁹⁷ MARY ANDERSON, BUSINESS AND PROFESSIONAL PEOPLE FOR THE PUBLIC INTEREST, REGIONAL INCLUSIONARY HOUSING INITIATIVE, OPENING THE DOOR TO INCLUSIONARY HOUSING 3, at http://www.bpichicago.org/rah/pubs/opening_the_door.pdf (last visited Feb. 19, 2007).

⁹⁸ *Id.* at 4.

⁹⁹ *Id.*

¹⁰⁰ Nico Calavita, *Inclusionary Zoning: The California Experience: Introduction*, 3 NHC AFFORDABLE HOUSING POL'Y REV. 1 (2004), available at http://www.nhc.org/pdf/pub_ahp_02_04.pdf.

¹⁰¹ *Id.* at 2.

¹⁰² See Deborah Collins & Michael Rawson, *Inclusionary Zoning: The California Experience: Avoiding Constitutional Challenges to Inclusionary Zoning*, 3 NHC AFFORDABLE HOUSING POL'Y REV. 32, 32-37 (2004), available at http://www.nhc.org/pdf/pub_ahp_02_04.pdf.

¹⁰³ ANDERSON, *supra* note 97, at 5-6.

¹⁰⁴ *Id.* at 10.

¹⁰⁵ *Id.* at 10-11.

being said, the income level targeted, as well as alternatives to compliance, will play a large role in fixing the set aside level correctly. Going hand in hand with the set aside requirement, a municipality must decide what levels of income it intends to target. The income levels are based on the area mean income (AMI) and can range from below 50% to 120% AMI and beyond.¹⁰⁶ Again, as the targeted income level is lowered, the set aside requirement must be decreased accordingly or there must be some other modification to balance the increased cost to developers.

Because HOPE VI projects revamp the most severely distressed communities, the housing lost is traditionally that of very-low-income families. Therefore, an inclusionary zoning program will address the HOPE VI-created problem only if it can provide affordable units for very-low-income households. To this end, it would be most effective for a municipality to target income levels at or below 50% AMI. Now, as mentioned above, targeting an income this low will affect the rest of the policy to offset some of the costs developers will face. Thus, the set aside requirement may be lower than average so as to compensate for the income targeted.

A developer should be offered alternative methods of compliance because it may not always be feasible to include the targeted percentage of affordable housing units in a given development. The two most common compliance alternatives are the allowance of in-lieu fees and off-site units in place of the on-site affordable units.¹⁰⁷ Allowing the building of the affordable units at a different location has both positive and negative aspects. It is contrary to one of the goals of inclusionary zoning, doing nothing to economically integrate a municipality. On the other hand, the off-site affordable units are still affordable and increase the overall supply of such housing. In addition, off-site units may be built at a cheaper price therefore more than the original set aside may be required. Some municipalities require a certain percentage of units to be built on-site allowing the remaining to be built elsewhere, a flexible alternative for the builders; others require municipality approval before units can be built off-site.

A municipality may also allow a developer to make a payment instead of building the required affordable housing. This payment is usually put into a trust fund, which theoretically is used for future affordable housing or assistance to families needing housing.¹⁰⁸ An indispensable consideration in the setting of in-lieu fees is that the fees should be high enough so that developers have an incentive to build the affordable units. Very low fees can

¹⁰⁶ *Id.* at 23-24.

¹⁰⁷ *Id.* at 17-18.

¹⁰⁸ *Id.* at 18.

result in all developers opting for this alternative, causing the goal of economic integration not to be met.¹⁰⁹ For this option, the municipality must have plans to administer and utilize the fees and trust fund. Otherwise, affordable units may never be built, undermining the goal to increase such housing in the locality.¹¹⁰ Municipalities may determine the in-lieu fees using a number of formulas.¹¹¹

For an ordinance designed with HOPE VI in mind, a municipality should offer developers incentives to comply with the ordinance.¹¹² A municipality should also allow developers alternatives to strict compliance. Both alternatives discussed above are appropriate. While in-lieu fees do not further the inclusionary zoning goals, the fees do allow for a housing trust fund, which a PHA could use to build more affordable units within a HOPE VI project or, if necessary, elsewhere. The off-site alternative usually serves to increase the supply of affordable units. However, as the off-site is not ideal, for this option to work a higher numbers of units should be required to compensate for its drawbacks.¹¹³

The last aspect of inclusionary zoning that will be discussed here is the length of time that the affordability requirements last. Few inclusionary zoning programs require permanent affordability as most designate a period of time, 20 years for example.¹¹⁴ To ensure the units' affordability over time a municipality includes resale restrictions. Resale restrictions take the form of restrictive covenants, contractual agreements, and land trust arrangements.¹¹⁵ The two most common resale restrictions are price control and right of first refusal. The price control mechanisms run with the land and apply for a targeted amount of time. It restricts the sale price to an

¹⁰⁹ *Id.* at 19-21.

¹¹⁰ *Id.* at 19.

¹¹¹ See *id.* at 21. Some formulas are based on a unit's square footage, *id.*; others are based on the projected value of the required affordable units or a part thereof. NICK BRUNICK ET AL., BUSINESS AND PROFESSIONAL PEOPLE FOR THE PUBLIC INTEREST, LARGE CITIES AND INCLUSIONARY ZONING 14, at http://www.bpichicago.org/rah/pubs/large_cities_iz.pdf.

¹¹² There are a number of incentives that may be provided to developers to encourage building by offsetting their losses caused by the required affordable housing. See generally *id.* at 11-14, 23. The most often used developer concession is the density bonus, which allows a developer to build more units on a lot than would otherwise be permitted. *Id.* The additional market-rate units resulting from the density bonus compensates the developer for the loss generated by the affordable units. Most localities set the percentage of density bonus at or above the set aside requirement, but municipalities should also consider their ability to deal with increased density. *Id.* at 13. Other incentives used by municipalities include: the reduction of certain fees, modifying the parking requirement, flexibility on subdivision design, and the expediting of permits. *Id.* at 13-14.

¹¹³ *Id.* at 17-18.

¹¹⁴ *Id.* at 37-38.

¹¹⁵ *Id.* at 39.

affordable level, usually the purchase price adjusted for inflation and improvements.¹¹⁶ The right of first refusal allows the municipality to purchase the unit either before it is placed on the market or after no eligible buyer can be found.¹¹⁷

D. Counter Argument—Problems with the Inclusionary Zoning Solution

There are a number of criticisms surrounding inclusionary zoning policies. Generally, critics argue that providing an adequate supply of low-income housing is a societal burden and inclusionary zoning shifts this burden to private developers.¹¹⁸ Another criticism is that inclusionary zoning takes, "the most upwardly mobile poor from central neighborhoods and artificially transports the citizens who could do the most for reviving central city neighborhoods to the suburbs."¹¹⁹ Lastly, it has been maintained that these policies cause developers to either raise housing prices or build less, thus exacerbating the shortage of affordable housing.¹²⁰ Each criticism will now be taken in turn.

The argument that inclusionary zoning unfairly places the burden of supplying affordable housing on private entities is largely based on the Constitutional challenges that inclusionary zoning has faced. However, with numerous ordinances in place across the country, this policy has generally been accepted as Constitutional.¹²¹

The next criticism mentioned above is that these ordinances isolate the less mobile poor, as the more sophisticated citizens take advantage of the benefits of inclusionary zoning and leave the blighted communities. This criticism may be valid when directed solely at a policy of inclusionary zoning. However, when inclusionary zoning is coupled with a HOPE VI revitalization grant targeting these blighted communities, these less mobile poor will be directly benefited by HOPE VI, and any residents that are displaced will be aided by the affordable housing supply created by the zoning policy.

¹¹⁶ *Id.* at 32.

¹¹⁷ *Id.* at 40–41.

¹¹⁸ See Robert W. Burchell & Catherine C. Galley, *Inclusionary Zoning: Pros and Cons*, 1 NEW CENTURY HOUSING 3, 7 (2000), available at http://www.ilsg.org/resource_files/20555.Part%20III.pdf.

¹¹⁹ *Id.* at 8.

¹²⁰ Barbara Erlich Kautz, *In Defense of Inclusionary Zoning: Successfully Creating Affordable Housing*, 36 U.S.F. L. REV. 971, 983–85 (2002).

¹²¹ For a thorough discussion on the constitutionality of inclusionary zoning see Cal. Affordable Hous. Law Project of the Pub. Interest Law Project & W. Ctr. on Law and Poverty, *Inclusionary Zoning: Legal Issues* (2002), at http://www.pilpca.org/docs/IZLEGAL_12.02.pdf.

Perhaps the most debated issue regarding inclusionary housing is its effect on the general housing market. Certainly there are arguments that inclusionary zoning aggravates housing shortages.¹²² However, numerous case studies conducted in diverse locations like Boston, San Francisco, San Diego, Chapel Hill, and Montgomery County, MD have shown that these ordinances do not effect development negatively.¹²³

The pairing of HOPE VI and inclusionary zoning raises some issues of its own. First, HOPE VI, which is a federal grant program, and inclusionary zoning, implemented at the local level, seem to lack any logical nexus. For the federal government to require localities to legislate in a certain manner seems to reek of federalism issues. However, the fact remains that HUD's power to award HOPE VI money is discretionary. Municipalities interested in the federal money must put together a plan and apply for the project funds. This paper suggests that HUD be more discriminating in its awarding of the grant money. Inclusionary zoning, per se, must not be required, however, an applicant municipality must have in place some device that generates a supply of low-income housing to offset the effects of HOPE VI.

Another potential criticism of pairing HOPE VI with the zoning policy is that inclusionary zoning, especially with a lower set aside and the compliance alternatives mentioned above, does not produce very much affordable housing. Additionally, with inclusionary zoning, the most difficult units to produce are those that are affordable to very-low-income residents. In response, this paper suggests putting the onus on the PHA to create an effective policy. A zoning ordinance will not completely provide affordable housing for all of the very-low-income residents in a municipality, nor will it likely be able to carry the burden of all of the residents displaced by a typical HOPE VI project. Inclusionary zoning programs are not perfect. Because of the compliance alternatives, the actual number of affordable units that are produced is limited.¹²⁴ However, this just demonstrates that a municipality must carefully fashion its policy and be amenable to change.

¹²² See Robert C. Ellickson, *The Irony of "Inclusionary" Zoning*, 54 S. CAL. L. REV. 1167 (1981).

¹²³ See NICHOLAS BRUNICK, BUS. AND PROF'L PEOPLE FOR THE PUB. INTEREST, THE IMPACT OF INCLUSIONARY ZONING ON DEVELOPMENT 5-8, at http://www.bpichicago.org/rah/pubs/impact_iz_development.pdf (last visited Feb. 19, 2007).

¹²⁴ For case studies discussing how some inclusionary zoning policies have turned out see KAREN DESTOREL BROWN, THE BROOKINGS INST. CTR. ON URBAN AND METRO. POLICY, EXPANDING AFFORDABLE HOUSING THROUGH INCLUSIONARY ZONING: LESSONS FROM THE WASHINGTON METROPOLITAN AREA (2001), at <http://www.brookings.edu/es/urban/publications/inclusionary.pdf>; Anderson, *supra* note 97, at 61-103; CAL. COAL. FOR RURAL HOUSING & NON-PROFIT HOUSING ASS'N OF N. CAL., INCLUSIONARY HOUSING IN CALIFORNIA: 30 YEARS OF INNOVATION (2003), at <http://calruralhousing.org/Publications/Inclusionary30Years.pdf>.

If a municipality has in place an appropriate inclusionary zoning program or the like before the HOPE VI award, much of the negative effect of the project will be alleviated. Should this avenue be taken, there will be a structure in place that can help to cushion the blow of hundreds of displaced low-income families. Because of the ordinance, more affordable housing will already exist, and there will be a stream of newly built affordable housing as developers take on new projects. Because of the in-lieu fee alternative, the municipality will have a growing housing trust fund with which to maintain and supply affordable housing to the community.

V. CONCLUSION

Congress established the HOPE VI program to administer federal dollars to revitalize the country's most severely distressed public housing. The program has changed over time and is now supported by combined sources of funding and often partnerships with private investors. The program focuses on revamping poor communities by de-concentrating poverty and installing mixed-income and self-sufficient developments in their place. Unfortunately, in practice HOPE VI generates some significant problems. Most disconcertingly, HOPE VI ends up displacing more households than it rebuilds. This results in a net loss in the number of affordable housing in a targeted municipality. Despite this problem and the others mentioned within this Article, HOPE VI should not be abandoned, as it is the only current federal program that revitalizes severely depressed areas. Nevertheless, the problems must be addressed. A one-for-one replacement of demolished units is not the answer because it would be infeasible financially and it overlooks the benefits of the mixed-income model. An effective solution would be to require a municipality wanting HOPE VI money to have in place programs to provide affordable housing independent of the HUD program. The paper highlights the policy of inclusionary zoning, which would require developers to bear the burden of creating very-low-income units and give PHAs the power to maintain an adequate supply of affordable housing.