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Assembly California Legislature

RICHARD J. DONOVAN
MEMBER OF THE ASSEMBLY, SEVENTY-SEVENTH DISTRICT

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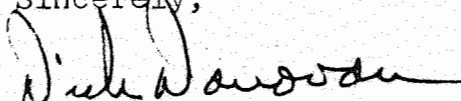
Dear Fellow Legislator:

The attached opinion was requested by me to help me answer the many questions that I receive on the status of Civil Rights in California and the relationship of the State Act, the Federal Act and the effect of Proposition #14.

I found it so informative that I felt that each member of our legislature should have a copy. It has been released to the public, so if any of your newspaper people wish copies, they can get them from Legislative Counsel.

To those of you who are running this year, my sincere wishes for good luck, and I hope to see all of you in January.

Sincerely,



Richard J. Donovan

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Sacramento, California
August 26, 1964

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Honorable Richard J. Donovan
1003 Plaza Boulevard
National City, California

Civil Rights - #6540

Dear Mr. Donovan:

You have asked several questions concerning the Federal Civil Rights Act of 1964 (Public Law 88-352)¹ and the California laws relating to discrimination based on race, color, religion, national origin or ancestry.

QUESTION NO. 1

To what extent, if any, is there an overlap between the provisions of the Federal Civil Rights Act and the so-called Rumford Fair Housing Act (Ch. 1853, Stats. 1963)²?

OPINION AND ANALYSIS NO. 1

Generally speaking, the Federal Civil Rights Act relates to voting rights and discrimination in public accommodations, public facilities, public education, federally assisted programs, and employment practices.

Title I of the federal act enacts various provisions designed to protect against the denial of voting rights and makes certain provisions for enforcement of voting rights through a three-judge federal court.

Title II bars discrimination on the grounds of race, color, religion, or national origin in certain enumerated public accommodations if the discrimination or segregation in such accommodations is supported by state law or official act, if lodgings are provided to transient guests or interstate travelers

¹ Hereafter referred to as the Federal Civil Rights Act or the federal act.

² Hereafter referred to as the Rumford Act or the act.

are served, or if a substantial portion of the goods sold, or entertainment presented, moves in interstate commerce. The title authorizes suit by anyone denied his rights (and authorizes the court to permit intervention therein by the Attorney General if he certifies the case is of general public importance), and permits the United States Attorney General to bring an action where he has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to granting the rights under the title. The title further provides that if state law authorizes relief from such discrimination no civil action under the federal act may be brought until 30 days after notice of the discrimination has been furnished appropriate state authority, and it authorizes a federal court in which such a civil action has been brought to stay the proceedings pending the termination of state or local enforcement proceedings. Finally, the title provides that it shall not preclude action under other laws not inconsistent with the title.

Title III permits, upon written complaint of an aggrieved individual, suit by the Attorney General under specified circumstances to secure desegregation of state or locally owned, operated, or managed public facilities. The title further provides that nothing therein shall affect adversely the right of any person to sue to obtain relief in any court against discrimination covered by the title.

Title IV requires the United States Commissioner of Education to make certain surveys and reports and authorizes him to give certain technical and financial assistance to state or local public school systems relating to segregation. The title also authorizes the Attorney General to file a suit for the desegregation of public schools and colleges under certain specified circumstances. The title further provides that nothing therein shall affect adversely the right of any person to sue to obtain relief in any court against discrimination covered by the title.

Title V extends the life of the Federal Civil Rights Commission for four years and makes various provisions with respect to the duties of the commission and enacts various requirements regarding commission procedures.

Title VI bars discrimination under any program or activity receiving federal assistance against any person because of his race, color, or national origin and directs every federal department and agency extending financial assistance to any program or activity by way of grant, loan or contract, other than a contract of insurance or guaranty, to issue rules and regulations approved by the President to

carry out the purposes of the title. The title also provides for various procedural requirements relating to denial of federal assistance because of failure to comply with the requirements of any such rule or regulation, including the right to judicial review of the action of the federal department or agency involved.

Title VII prohibits various specified unfair employment practices involving, generally speaking, discrimination against employees or applicants based upon race, color, religion, sex, or national origin. The title creates a five member Equal Employment Opportunity Commission and authorizes the commission to investigate charges of such unlawful employment practices and to attempt to settle problems by informal methods of conference, conciliation and persuasion. The title further authorizes civil suits, in federal court, if commission action is unsuccessful, by persons aggrieved, in which the Attorney General may be permitted to intervene. The title also authorizes suits by the Attorney General whenever he has reasonable cause to believe that a person or group of persons is engaging in a pattern or practice of resistance to the title with intent to deny the rights guaranteed. The title makes certain provision for priority for state actions under state laws concerning unfair employment practices, provides that the title shall not relieve any person from state laws other than those purporting to require or permit unlawful employment practices, and authorizes cooperation and agreements between the commission and state and local fair employment practices agencies.

Title VIII directs the Secretary of Commerce to gather certain registration and voting information based on race, color and national origin.

Title IX makes provision for judicial review in civil rights cases and authorizes the Attorney General to intervene in certain private civil rights suits.

Title X creates a Community Relations Service in the Department of Commerce to aid communities in resolving disputes relating to discriminatory practices based on race, color or national origin, and authorizes the Service to take various actions in this regard.

Title XI enacts various miscellaneous provisions relating to criminal contempt proceedings under the federal act, including the granting of the right to a jury trial, and the powers of the Attorney General and the government. The title states that it is not the intent of the federal act to occupy the field to the exclusion of state laws or to invalidate state laws unless they are inconsistent with any of the purposes of the federal act.

The Rumford Act, on the other hand, prohibits, generally speaking, discrimination with respect to the sale, lease, rental, terms, conditions, privileges, facilities or services in housing accommodations on the basis of race, color, religion, national origin or ancestry. The act covers three types of owners of housing accommodations:

1. An owner of a publicly assisted housing accommodation which is in, or is to be used for, a multiple dwelling (subds. 1, 2, and 3, Sec. 35720)³.

2. An owner of a publicly assisted housing accommodation which is a single family dwelling occupied by the owner (subd. 4, Sec. 35720).

3. An owner of any dwelling containing five or more units, whether or not such dwelling is publicly assisted (subd. 5, Sec. 35720).

The act defines "housing accommodation" as any improved or unimproved real property which is used or occupied or intended to be occupied as a home, residence or sleeping place of any human being (subd. 2, Sec. 35710).

The term "publicly assisted housing accommodation" is defined in the act as including the following types of housing accommodations:

1. A housing accommodation which at the time of any alleged discrimination is exempted in whole or in part from state or local taxes. Excepted is any housing accommodation exempted by reason of the owner's status as a veteran (subd. 3(a), Sec. 35710).

2. A housing accommodation which is constructed on land sold below cost by the State or a local agency pursuant to the Federal Housing Act of 1949 (subd. 3(b), Sec. 35710).

3. A housing accommodation which is constructed in whole or in part on property acquired by the State or a local agency through the power of condemnation or otherwise for the purpose of such construction (subd. 3(c), Sec. 35710).

4. A housing accommodation which, at the time of any alleged discrimination, is financed in whole or in part by a loan the repayment of which is guaranteed or insured by the federal government or the State, or any agency of either (subd. 3(d), Sec. 35710).

³ All sections referred to are in the Health and Safety Code.

The term "multiple dwelling" is defined by the act as a dwelling which is occupied, as a rule, for permanent residence purposes, and which is rented or leased to be occupied as the residence or home of three or more families living independently of each other (subd. 6, Sec. 35710).

In addition to the discrimination by owners of housing accommodations described above, the Rumford Act makes it unlawful for any person subject to the provisions of Section 51 of the Civil Code⁴ (the Unruh Civil Rights Act), as that section applies to housing accommodations and to transactions relating to sales, rentals, leases, or acquisition of housing accommodations, to discriminate (subd. 6, Sec. 35720), and for any person, bank, mortgage company, or other financial institution to whom application is made for financial assistance for the purchase, organization, or construction of housing accommodations to discriminate, in the terms, conditions, or privileges relating to the obtaining or using of any such financial assistance (subd. 7, Sec. 35720).

Finally, the Rumford Act authorizes the State Fair Employment Practice Commission to enforce the provisions of the act and provides for various procedural requirements with respect to such enforcement (Sec. 35730 et seq.).

It appears to us from the foregoing review of the Federal Civil Rights Act and the Rumford Act that for the most part there is no overlap between the Federal Civil Rights Act and the Rumford Act because the two acts relate to discrimination in different types of situations. The federal act relates to voting

⁴ Section 51 of the Civil Code provides as follows:

"This section shall be known, and may be cited, as the Unruh Civil Rights Act.

"All persons within the jurisdiction of this State are free and equal, and no matter what their race, color, religion, ancestry, or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

"This section shall not be construed to confer any right or privilege on a person which is conditioned or limited by law or which is applicable alike to persons of every color, race, religion, ancestry, or national origin."

rights and discrimination in certain public accommodations, publicly owned public facilities, public education, federally assisted programs (from which federal assistance by contract of insurance or guaranty is expressly excluded), and employment practices, while the Rumford Act relates to discrimination with respect to housing accommodations. One possible area of overlap is with respect to housing accommodations made available through redevelopment agencies and housing authorities. Discrimination in connection with such housing accommodations would appear to be covered both by Title VI of the federal act and by the Rumford Act (Secs. 35710 (3) (b), 35720).

QUESTION NO. 2

What legal effect, if any, will the Federal Civil Rights Act have upon the Rumford Act?

OPINION AND ANALYSIS NO. 2

To the extent that the federal act and the Rumford Act cover different types of situations, the federal act will have no legal effect upon the Rumford Act. Furthermore, even if there is an overlap in the coverage of the two acts, in our opinion the federal act will have no legal effect upon the Rumford Act, in view of the provision contained in Title XI of the federal act expressly disclaiming any intention to preempt or invalidate state laws in the same field unless they are inconsistent with any of the purposes of the federal act. In our opinion the Rumford Act is consistent with the purposes of the federal act.

QUESTION NO. 3

Does the Federal Civil Rights Act: supersede state laws prohibiting discrimination; permit persons aggrieved a choice of remedy under federal or state law; or provide that state law shall prevail?

OPINION NO. 3

Generally speaking, under the Federal Civil Rights Act a person aggrieved by some unlawful discrimination under federal law may nevertheless seek his remedy under applicable state laws against such discrimination and in some instances he is encouraged and may even be required to do so.

ANALYSIS NO. 3

State laws prohibiting discrimination are, chiefly, the Rumford Act, relating to discrimination in housing; the Unruh Civil Rights Act, relating to discrimination in "business

establishments"; and the California Fair Employment Practice Act (Pt. 4.5 (commencing with Sec. 1410), Div. 2, Lab. C.⁵), relating to discrimination in employment.

As we discussed with respect to Question No. 1, the only area of overlap of which we are aware between the federal act and the Rumford Act concerns housing accommodations made available through redevelopment agencies, since the Rumford Act prohibits discrimination in "publicly assisted housing," which is defined to include land sold below cost by the State or a local agency pursuant to the Federal Housing Act of 1949 (subd. 3 (b), Sec. 35710), and Title VI of the federal act bars discrimination under any program or activity receiving federal assistance (with certain exceptions) by grant, loan or contract. Title XI of the federal act provides, however, in Section 1104, that:

"Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of state laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of state law unless such provision is inconsistent with any of the purposes of this Act or any provision thereof."

It thus appears to us that since the Rumford Act is not inconsistent with the provisions of the federal act, the remedies against discrimination provided by the Rumford Act are open to any person aggrieved. Title VI of the federal act does not provide for any preference for state actions (as do some other titles of the federal act, as discussed hereafter), and we think a person aggrieved may seek any remedy he may have either under state or federal law.

With respect to the Unruh Civil Rights Act, there is considerable overlap between this act and the federal act. The Unruh Civil Rights Act provides that all persons are entitled to full and equal treatment in all "business establishments," whereas Title II of the federal act contains similar provisions with respect to "places of public accommodation" (subsec. (a), Sec. 201, federal act).

Subsection (b) of Section 207 in Title II provides that:

"(b) The remedies provided in this title shall be the exclusive means of enforcing the rights based on this title, but nothing in this

⁵ Hereafter referred to as the Fair Employment Act.

title shall preclude any individual or any state or local agency from asserting any right based on any other Federal or State law not inconsistent with this title, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right."

As a result of this provision of Title II and the provisions of Section 1104 in Title XI quoted earlier, we think it is clear that an aggrieved person retains the remedies for discrimination provided under the Unruh Civil Rights Act and may seek his remedy there or under the federal act.

In this regard, however, it should be noted that subsection (c) of Section 204 in Title II of the federal act provides:

"(c) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or authorizing a state or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under such section (a) before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of state or local enforcement proceedings."

It could be contended under subsection (c) of Section 204 that, since Section 52 of the California Civil Code provides that a violation of the Unruh Civil Rights Act is punishable by an action for damages, any person aggrieved may be required to seek his remedy under the Civil Code prior to federal action under Title II. We do not think that such is the case, however, as subsection (c) refers to "state or local authorities" and provides for "notice" thereto. These provisions appear to contemplate specific state or local anti-discrimination agencies, such as the State Fair Employment Practice Commission, which are authorized to institute enforcement proceedings upon the filing of a complaint by the person aggrieved, and not to court action instituted directly by the person aggrieved.

Finally, with respect to the California Fair Employment Practice Act, this act and Title VII of the federal act overlap in that they both contain similar prohibitions against discrimination in employment (compare Sec. 703, federal act and Sec. 1420, Lab. C.). Title VII of the federal act contains the following provisions, however, relating to state laws respecting such discrimination in Sections 706, 708, and 709:

"Sec. 706. * * *

"(b) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

"(c) In the case of any charge filed by a member of the Commission [the Equal Employment Opportunity Commission] alleging an unlawful employment practice occurring in a State or political subdivision of a State, which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a

reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

* * * "

"Sec. 708. Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title."

"Sec. 709. * * *

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements and under which no person may bring a civil action under section 706 in any cases or class of cases so specified, or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

* * * "

Furthermore, subsection (e) of Section 706 in Title VII authorizes courts to stay further proceedings on enforcement of the federal provisions for not more than 60 days pending the termination of state or local proceedings described in subsection (b) of Section 706 or the efforts of the federal Equal Employment Opportunity Commission to obtain voluntary compliance with the federal act.

It is clear from these provisions of the federal act that the remedy under state law of any person aggrieved by discriminatory employment practices is preserved. Indeed, the state remedy has priority over the federal remedy for a limited period of time in some cases (subsecs. (b), (c), and (e), Sec. 706), and action under the federal act may be barred in favor of the state law in certain instances (subsec. (b), Sec. 709).

From the foregoing discussion, it can be seen that under the Federal Civil Rights Act a person aggrieved by some unlawful discrimination in housing, public accommodations, or employment under federal law may nevertheless seek his remedy under applicable state laws against such discrimination, and in some instances he is encouraged and may even be required to do so.

QUESTION NO. 4

What effect will the Federal Civil Rights Act have upon Proposition 14 of the 1964 General Election relating to the sale and rental of residential real property?

OPINION AND ANALYSIS NO. 4

Proposition 14 would add a Section 26 to Article I of the State Constitution, to read as follows:

"Neither the State nor any subdivision or agency thereof shall deny, limit or abridge, directly or indirectly, the right of any person, who is willing or desires to sell, lease or rent any part or all of his real property, to decline to sell, lease or rent such property to such person or persons as he, in his absolute discretion, chooses.

"'Person' includes individuals, partnerships, corporations and other legal entities and their agents or representatives but does not include the State or any subdivision thereof with respect to the sale, lease or rental of property owned by it.

"'Real property' consists of any interest in real property of any kind or quality, present or future, irrespective of how obtained or financed, which is used, designed, constructed, zoned or otherwise devoted to or limited for residential purposes whether as a single family dwelling or as a dwelling for two or more persons or families living together or independently of each other.

"This Article shall not apply to the obtaining of property by eminent domain pursuant to Article I, Sections 14 and 14-1/2 of this Constitution, nor to the renting or providing of any accommodations for lodging purposes by a hotel, motel or other similar public place engaged in furnishing lodging to transient guests.

"If any part or provision of this Article, or the application thereof to any person or circumstance, is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end the provisions of this Article are severable."

Proposition 14, by its terms, would prohibit the State and its subdivisions and agencies from directly or indirectly denying, limiting, or abridging the right of a private individual or entity to decline to sell, lease or rent his residential real property to such person or persons as he chooses.

The only area of possible conflict between Proposition 14 and the federal act of which we are aware arises out of Title VI of the federal act, relating to nondiscrimination in federally assisted programs (other than when the assistance is by contract of insurance or guaranty), since the subject matter of Proposition 14 (that of state or local governmental action respecting residential real property) is not included in any of the other subjects regulated by the federal act.

Section 601 in Title VI of the federal act provides:

"Sec. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Section 602 in the title provides, in part:

"Sec. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: . . ."

Section 602 further provides for notice to appropriate persons prior to any action authorized and for notice to congressional committees. A determination that voluntary compliance cannot be secured is also required by the section.

Title VI also provides for judicial review of the actions of federal agencies under the title (Sec. 603) and provides that nothing in the title shall: (1) be construed to authorize action with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the federal financial assistance is to provide employment (Sec. 604) or (2) add or detract from any existing authority with respect to any program or activity under which federal financial assistance is extended by way of a contract of insurance or guaranty (Sec. 605).

The federal law on urban development (42 U.S.C. 1450 et seq.) contains provisions authorizing advances, loans, and

grants to local public agencies engaged in urban renewal projects in accordance with the provisions of that law. The federal program is supervised by the Administrator of the Federal Housing and Home Finance Agency, and is administered by the Director of the Urban Renewal Administration of that agency (42 U.S.C. 1456).

In the absence of any rules, regulations or orders by the Urban Renewal Administration implementing Title VI as required by Section 602 in the title, it is not possible for us to reach any categorical conclusions with respect to the effect of Title VI, and thus the federal act, upon Proposition 14.

In this regard we note, however, that the Urban Renewal Administration has, since 1962, imposed certain requirements upon local agencies participating in the programs administered by the administration.

Local Public Agency Letter No. 256, dated November 30, 1962, by the Urban Renewal Administration, relates specifically to that agency's requirements relating to nondiscrimination. The letter quotes a portion of Executive Order No. 11063, November 20, 1962, by President Kennedy, relating to equal opportunities in housing, and specifically implements the order by requiring that each Contract for Loan and Grant, or Early Acquisition Loan Contract, executed after November 20, 1962, contain the following:

"Include in every agreement, lease, conveyance, or other instrument whereby Project Land is disposed of for uses which may include housing or facilities related to residential uses (as defined by the Administrator) an affirmative covenant binding on the contractor, lessee, grantee, or other party to such instrument and on the successors in interest to such contractor, lessee, grantee, or other party that there shall be no discrimination upon the basis of race, color, creed, or national origin in the sale, lease, or rental or in the use or occupancy of such land or any improvements erected or to be erected thereon; and the Local Public Agency will take all steps necessary to enforce such covenant (such enforcement obligation to survive this Contract) and will not itself so discriminate."

The California Community Redevelopment Law found in Sections 33000 to 33714, inclusive, of the Health and Safety Code provides for the establishment of local redevelopment agencies and contains provisions enabling such agencies to participate in federal urban redevelopment programs. This law also contains provisions prohibiting discrimination because of race, color, religion, national origin or ancestry in California community redevelopment or urban renewal projects (Sec. 33050, H. & S.C.) and requiring nondiscrimination clauses in deeds, leases or

contracts which bind purchasers or lessees, and all successors in interest and subsequent transferees, not to discriminate against any person or group of persons, on account or race, color, creed, national origin or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property (Secs. 33435 and 33436, H. & S.C.).


From the terms of Proposition 14 we think it would be held that it applies to redevelopment agencies subject to federal provisions such as those set forth above in the Local Public Agency Letter No. 256, since these agencies are clearly "agencies of the State" (see Fellom v. Redevelopment Agency (1958), 157 Cal. App. 2d 243, 247-248; Housing Authority v. City of Los Angeles (1952), 38 Cal. 2d 853, 861-62).

As agencies of the State these redevelopment agencies would, we think, at least indirectly, if not directly, limit the right of a purchaser, lessee or tenant of property acquired through redevelopment or urban renewal to decline to sell, lease or rent such property to such persons as they choose by the insertion of such required nondiscrimination clauses in deeds, leases and contracts under which residential real property is sold or leased by a redevelopment agency.

Such a limitation upon the rights of such purchasers, lessees and tenants of such property is, we think, prohibited by Proposition 14. It follows that this prohibition by Proposition 14 could have the effect of jeopardizing federal redevelopment funds for redevelopment agencies operating pursuant to the Community Redevelopment Law by reason of the inability of a local redevelopment agency to comply with the rules, regulations and orders (such as the provisions of Local Public Agency Letter No. 256) of a federal agency (such as the Urban Renewal Administration) with respect to the sale or lease of residential realty by the agency.

Very truly yours,

A. C. Morrison
Legislative Counsel


Sherwin C. MacKenzie, Jr.
Deputy Legislative Counsel

SCM:fo

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"Proposition 14 would establish Constitutional immunity for those who discriminate in the sale or rental of their property and would exempt them from present and future fair housing laws."

**A Legal Opinion
and
Description of Proposition 14
from**

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1 A Legal Opinion On Proposition 14
2
3 And A Description Of
4 Its Effects On The Constitution
5 And The Laws Of The State Of California
6

7
8 Proposition 14 is sometimes referred to as the "referendum
9 to repeal the Rumford Act," or "the anti-Rumford initiative."
10 In our opinion, these statements do not accurately describe the
11 proposed constitutional amendment. This letter explains briefly
12 what Proposition 14 would do and what it would not do.

13 The Rumford Act (Health and Safety Code §§ 35700-35744)
14 forbids discrimination on the basis of race, color, religion,
15 national origin or ancestry in the sale and rental of certain
16 housing. Covered by the Act are owner-occupied single family
17 dwellings with government insured mortgages or other public
18 assistance, all multiple dwellings (except duplexes) that are
19 government assisted and all multiple dwellings containing five
20 or more units, whether publicly assisted or not. In addition
21 to property owners, certain other persons who are not owners
22 but who are in the housing business are covered by the Rumford
23 Act, principally lenders and real estate brokers.

24 Proposition 14 would apply only to a "person, who is
25 willing or desires to sell, lease or rent any part or all of
26 his real property" Person is defined to include an
agent of a property owner.

 Thus, the first important point to be noticed is that,
while adoption of Proposition 14 would nullify some of the
Rumford Act it would not nullify all of it. Real estate brokers
and mortgage lenders would still be covered by the Act, unless
they were acting as an agent for an owner who had previously
instructed them to discriminate. To give but one example, if a
Negro seeks the services of a broker in the purchase of a house,
the broker is subject to the Act and cannot refuse his services
on the basis of color.

1 This is what Proposition 14 would not do to the Rumford
2 Act. But far more important is what Proposition 14 would do
3 to civil rights legislation other than the Rumford Act.

4 Four years prior to the enactment of the Rumford Act, the
5 Unruh Civil Rights Act (§§ 51 and 52 of the Civil Code) forbade
6 discrimination by "all business establishments of every kind
7 whatsoever." This statute has been interpreted by the Cali-
8 fornia Supreme Court to apply to the sale of houses by real
9 estate developers, to the rental of housing by most landlords,
10 and to the business of real estate brokers. The Unruh Act
11 also applies, of course, to most other businesses.

12 The second important point to be noticed about Proposition
13 14 is that it would exempt the real estate business from the
14 anti-discrimination provisions of the Unruh Act. By forbidding
15 state laws from operating against any owner of real estate,
16 Proposition 14 would free landlords and real estate developers
17 not only from the Rumford Act, but also from the Unruh Act. It
18 would thus carve out an exception for the real estate business
19 from a civil rights law that continues to apply to other
20 business establishments "of every kind whatsoever."

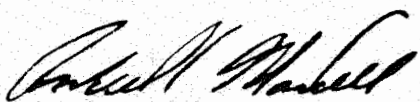
21 The proponents of Proposition 14 have a legal right to
22 seek a constitutional amendment achieving this result -- but,
23 it is vital that the people know about it. To call it a repeal
24 of the Rumford Act is to obscure the issue and mislead the
25 voter, for the Proposition would not repeal all of the Rumford
26 Act and would go far beyond it.

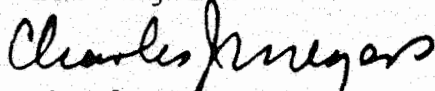
27 Lastly, Proposition 14 is not a referendum on anything.
28 The referendum petition circulated shortly after passage of
29 the Rumford Act failed for want of sufficient signatures within
30 the prescribed period. Proposition 14 is a constitutional
31 amendment that got on the ballot by the initiative procedure.
32 It would do far more than wipe out parts of a statute; it would,
33 if it accomplishes the purposes of its sponsors, forbid the
34 legislature from ever enacting any legislation that "shall
35 deny, limit or abridge, directly or indirectly, the right of
36 any person . . . to decline to sell, lease or rent such property
37 to such person or persons as he, in his absolute discretion,
38 chooses." (Italics added). Moreover, it would even prohibit
39 the courts from creating legal remedies for those who are hurt
40 by discriminatory actions of property owners. These are far
41 reaching steps, which the public should know about when it votes.

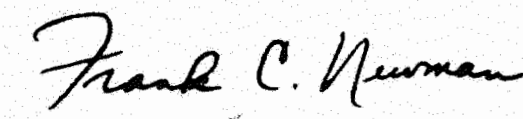
1 In summary, Proposition 14 is not accurately described by
2 such labels as "the anti-Rumford referendum," etc. It is not
3 a referendum, it is a constitutional amendment. It would not
4 repeal all of the Rumford Act, only part of it. It would not
5 be limited to the Rumford Act but would go far beyond it.


6 In our opinion, a short, accurate description is:

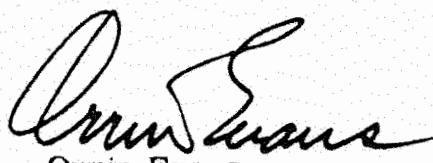
7 Proposition 14 would establish constitutional
8 immunity for those who discriminate in the sale
9 or rental of their property and would exempt
10 them from present and future fair housing laws.

11 
12 Richard C. Maxwell
13 Dean, School of Law
14 University of California
15 Los Angeles

16 
17 Charles J. Meyers
18 Professor of Law
19 Stanford University

20 
21 Frank C. Newman
22 Dean, School of Law
23 University of California
24 Berkeley

25 
26 Richard R. Powell
Professor of Law
Hastings College of Law
San Francisco

27 
28 Orrin Evans
29 Dean, School of Law
30 University of Southern California
31 Los Angeles

Repealed from this bill

Assembly Bill No. 1240

CHAPTER 1853

An act to repeal Part 5 (commencing with Section 35700) of Division 24 of, and to add Part 5 (commencing with Section 35700) to Division 24 of, the Health and Safety Code, and to add Section 1419.5 to, and to amend Section 1414 of, the Labor Code, relating to discrimination in housing.

[Approved by Governor July 18, 1963. Filed with Secretary of State July 19, 1963.]

The people of the State of California do enact as follows:

SECTION 1. Part 5 (commencing with Section 35700) of Division 24 of the Health and Safety Code is repealed.

SEC. 2. Part 5 (commencing with Section 35700) is added to Division 24 of the Health and Safety Code, to read:

PART 5. DISCRIMINATION IN HOUSING

CHAPTER 1. FINDINGS AND DECLARATION OF POLICY

35700. The practice of discrimination because of race, color, religion, national origin, or ancestry in housing accommodations is declared to be against public policy.

This part shall be deemed an exercise of the police power of the State for the protection of the welfare, health, and peace of the people of this State.

CHAPTER 2. DEFINITIONS

35710. When used in this part:

1. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy and receivers or other fiduciaries.

2. The term "housing accommodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings, but shall not include any accommodations operated by a religious, fraternal, or charitable association or corporation not organized or operated for private profit; provided, that such accommodations are being used in furtherance of the primary purpose or purposes for which the association or corporation was formed.

3. The term "publicly assisted housing accommodation" includes any housing accommodation within the State:

(a) Which at the time of any alleged unlawful discrimination under Section 35720 is granted exemption in whole or in part from taxes levied by the State or any of its political subdivisions; provided, that nothing herein contained shall apply to any housing accommodations solely because the owner thereof enjoys any type of tax exemption by virtue of his veteran status.

(b) Which is constructed on land sold below cost by the State or any of its political subdivisions or any agency thereof, pursuant to the Federal Housing Act of 1949.

(c) Which is constructed in whole or in part on property acquired or assembled by the State or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction.

(d) The acquisition or construction of which is, at the time of any alleged unlawful discrimination under Section 35720, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the State or any of its political subdivisions or any agency thereof.

4. The term "owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the State and any of its political subdivisions and any agency thereof.

5. The term "discriminate" includes to segregate or separate.

6. The term "multiple dwelling" means a dwelling which is occupied, as a rule, for permanent residence purposes and which is either rented, leased, let or hired out, to be occupied as the residence or home of three or more families living independently of each other. A "multiple dwelling" shall not be deemed to include a hospital, convent, monastery, public institution, or a building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one housing accommodation occupied by not more than two families. The term "family" means either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder," "roomer" or "lodger" residing with a family means a person living within the household who pays a consideration for such residence and does not occupy such

space within the household as an incident of employment therein.

CHAPTER 3. DISCRIMINATION PROHIBITED

35720. It shall be unlawful:

1. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodation because of the race, color, religion, national origin, or ancestry of such person or persons.

2. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to discriminate against any person because of the race, color, religion, national origin or ancestry of such person in the terms, conditions or privileges of any publicly assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

3. For any owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to make or to cause to be made any written or oral inquiry concerning the race, color, religion, national origin or ancestry of a person seeking to purchase, rent or lease any publicly assisted housing accommodation for the purpose of violating any of the provisions of this part.

4. For the owner of any publicly assisted housing accommodation which is a single family dwelling occupied by the owner, with knowledge of such assistance, to commit any of the acts prohibited by subdivisions 1, 2, and 3.

5. For the owner of any dwelling, other than a dwelling containing not more than four units, to commit any of the acts prohibited by subdivisions 1, 2, and 3.

6. For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, as defined in this part, and to transactions relating to sales, rentals, leases, or acquisition of housing accommodations, as defined in this part, to discriminate against any person because of race, color, religion, national origin, or ancestry with reference thereto.

7. For any person, bank, mortgage company or other financial institution to whom application is made for financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, national origin or ancestry of such person or persons, or of prospective occupants or tenants, in the terms, conditions or

privileges relating to the obtaining or use of any such financial assistance.

8. For any person to aid, abet, incite, compel or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

CHAPTER 4. ENFORCEMENT

35730. The State Fair Employment Practice Commission created by Section 1414 of the Labor Code is empowered to prevent violations of Section 35720, after a verified complaint has been filed with the commission pursuant to Section 35731.

35730.5. The commission, in connection with its functions under this part, shall have the following powers and duties:

- (a) To meet and function at any place within the State.
- (b) To appoint an attorney, and such clerks and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.
- (c) To obtain upon request and utilize the services of all governmental departments and agencies.
- (d) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this part.
- (e) To receive, investigate and pass upon verified complaints alleging discrimination in housing accommodations, as defined in this part, because of race, religious creed, color, national origin or ancestry.
- (f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers at such hearings relating to any matter under investigation or in question before the commission.
- (g) To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, national origin, or ancestry, and to foster, through community effort or otherwise, good will, co-operation, and conciliation among the groups and elements of the population of the State and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.
- (h) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religious creed, color, national origin, or ancestry.

(i) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

35731. Any person claiming to be aggrieved by an alleged violation of Section 35720 may file with the commission a verified complaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission. However, no such complaint may be made or filed unless the person claiming to be aggrieved waives any and all rights or claims that he may have under Section 52 of the Civil Code and signs a written waiver to that effect.

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days, if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence.

The State Fair Employment Practice Commission may thereupon proceed upon such complaint in the same manner and with the same powers as provided in Part 4.5 (commencing with Section 1410) of Division 2 of the Labor Code in the case of an unlawful employment practice, and the provisions of that part which are not inconsistent with this part as to the powers, duties and rights of the State Fair Employment Practice Commission, its chairman, members, attorneys or agents, the complainant, the respondent, the Attorney General and the superior court, shall apply to any proceeding under the provisions of this section. However, Section 1430 of the Labor Code shall not apply to this part, and the Attorney General may not make, sign, or file a complaint under this part.

35732. (a) If such verified complaint alleges facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Section 35720, the chairman of the commission shall designate one of the commissioners to make, with the assistance of the commission's staff, prompt investigation in connection therewith. If such commissioner determines after preliminary investigation that probable cause exists for believing the allegations of the complaint, he shall immediately endeavor to eliminate the alleged unlawful practice by conference, conciliation, and persuasion.

(b) If, after the preliminary investigation, probable cause does not exist for believing the allegations of the complaint, the assigned commissioner shall dismiss the complaint. Notice of dismissal shall be sent to the respondent and the complainant by registered mail—return receipt requested and the com-

plainant then shall have 15 days from the receipt day to file an appeal to the dismissal.

If the assigned commissioner fails to eliminate such alleged unlawful practice and believes probable cause still exists, he may issue and serve in the name of the commission, a written accusation together with a copy of such complaint, as the same may have been amended, requiring the owner named in such accusation, hereinafter referred to as "respondent," to answer the charges of such accusation at a hearing.

The written accusation, hearings, and all matters pertaining thereto shall be in accordance with the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, and the commission shall have all the powers granted therein.

35733. After a verified complaint has been filed with the commission pursuant to Section 35731, and the preliminary investigation thereof has been carried out, or a 20-day period has elapsed from the filing of the verified complaint, if the preliminary investigation has not then been completed, an appropriate superior court may, upon the motion of the respondent, order the commission to give to the respondent, within a specified time, a copy of any book, document, or paper, or any entries therein, in the possession or under the control of the commission, containing evidence relating to the merits of the verified complaint, or to a defense thereto. The commission shall comply with such an order.

35734. The commission, at any time after a complaint is filed with it and it has been determined that probable cause exists for believing that the allegations of the complaint are true and constitute a violation of this part, may bring an action in the superior court to enjoin the owner of the property from taking further action with respect to the rental, lease, or sale of the property until the commission has completed its investigation and made its determination; but a temporary restraining order obtained under this section shall not, in any event, be in effect for more than 20 days. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction in accordance with Section 527 of the Code of Civil Procedure.

35735. All matters connected with any conference, conciliation, or persuasion efforts under this part are privileged and may not be received in evidence. The members of the commission and its staff shall not disclose to any person what has transpired in the course of such endeavors to conciliate. Every member of the commission or its staff who discloses information in violation of this section is guilty of a misdemeanor. Such

disclosure by an employee subject to civil service shall be cause for disciplinary action under the State Civil Service Act.

35736. When an owner is contacted by the commission, a commissioner, or a member of the commission's staff, he shall be informed whether the contact is for the purpose of investigation or conference, conciliation, or persuasion; and if it is for conference, conciliation, or persuasion, he shall be informed that all matters relating thereto are privileged.

35737. The commission shall without undue delay cause a copy of the verified complaint that has been filed under the provisions of this part to be served upon or mailed to the owner alleged to have committed the violation complained of.

35738. If the commission finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take one of the following affirmative actions, as, in the judgment of the commission, will effectuate the purpose of this part:

(1) The sale or rental of the housing accommodation to the aggrieved person, if it is still available.

(2) The sale or rental of a like accommodation, if one is available, or the next vacancy in a like accommodation.

(3) The payment of damages to the aggrieved person in an amount not to exceed five hundred dollars (\$500), if the commission determines that neither of the remedies under (1) or (2) is available.

The commission may require a report of the manner of compliance.

If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such respondent. A copy of its order shall be delivered in all cases to the Attorney General and such other public officers as the commission deems proper.

Any order issued by the commission shall have printed on its face references to the provisions of the Administrative Procedure Act which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

CHAPTER 5. MISCELLANEOUS

35740. Nothing contained in this part shall be deemed to repeal any of the provisions of any other law of this State relating to discrimination because of race, color, religion, national origin or ancestry.

35741. Nothing in this part shall be construed to affect the title or other interest of a person who purchases, leases, or takes an encumbrance on a housing accommodation in good faith and without knowledge that the owner or lessor of the property has violated any provision of this part.

35742. Nothing contained in this part shall be construed to prohibit selection based upon factors other than race, color, religion, national origin, or ancestry.

35743. As it is the intention of the Legislature to occupy the whole field of regulation encompassed by the provisions of this part, the regulation by law of discrimination in housing contained in this part shall be exclusive of all other laws banning discrimination in housing by any city, city and county, county, or other political subdivision of the State. Nothing contained in this part shall be construed to, in any manner or way, limit or restrict the application of Section 51 of the Civil Code.

35744. The provisions of this part shall be liberally construed for the purpose of effectuating the public policy contained herein.

SEC. 3. Section 1414 of the Labor Code is amended to read:

1414. There is in the Division of Fair Employment Practices the State Fair Employment Practice Commission. Such commission shall consist of seven members, to be known as commissioners, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and one of whom shall be designated as chairman by the Governor. The term of office of each member of the commission shall be for four years; provided, however, that of the commissioners first appointed two shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. The term of office of each member of the commission appointed pursuant to the 1963 amendments to this section shall also be for four years; provided, however, that of the two commissioners first appointed pursuant to the said amendments, one shall be appointed for a term which shall expire September 18, 1966, and one for a term which shall expire September 18, 1967.

SEC. 4. Section 1419.5 is added to the Labor Code, to read:

1419.5 The commission is empowered to prevent discrimination in housing as provided in Part 5 (commencing with Section 35700) of Division 24 of the Health and Safety Code.

SEC. 5. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

OFFICE OF THE COMMISSIONER
DIVISION OF REAL ESTATE
111 Capitol Mall
Sacramento, California

BURTON E. SMITH
Commissioner



12 April 1968

The Honorable Ronald Reagan
Governor
State of California
Sacramento, California

Dear Governor:

The Rumford Act - Recommended Position

Issue:

What position should the Governor take, in the light of recent developments, with respect to modification or repeal of the Rumford Act?

Facts:

Federal open housing legislation has just been enacted. In the backwash of the King assassination tensions are high. Although it is not the major factor in racial tension, discrimination in housing does exist.

New federal legislation contemplates an aggrieved person availing himself of local and state relief, unless the coverage and remedy is substantially weaker.

It is consistent with the Governor's position and with that of many of his supporters that government should remain as close to the people as is consistent with what needs to be accomplished and which people cannot accomplish by themselves.

The Rumford Act stands as a symbol to minority groups in California of the success of their leaders in the legislative arena with respect to open housing.

Recommendations:

1. That the Governor should maintain his position that it would not be appropriate to repeal the Rumford Act at this time.

April 12, 1968

2. That the Governor should conclude, as my analysis concludes, that the Walsh Bill (S.B. 293), as presently constituted, would alter California's open housing statutes in such manner that under the new Federal law an aggrieved party could bypass local controls and petition the federal government, directly. Therefore, in the light of current events, the Walsh Bill would need substantial revision and should be set aside for the time being.
3. That in recognition of the facts set forth above the Governor should recommend that possible changes to the Rumford Act be delayed until the 1969 session; that the Governor should express his willingness, under such circumstances, to appoint a special committee of leaders of the housing and real estate industry, representatives of minority and civic groups and his own staff. The committee should be charged with the responsibility to determine how California statutes should be revised to cope most effectively with minority housing needs without the necessity for the aggrieved to seek redress from federal authorities and to minimize the difficulties for those who are unable to find relief without seeking assistance under the new federal statute. The charge to the committee should call for a report to the Governor by December 1, 1968, and should include a commitment by the Governor to give full consideration to the report of the committee, pointed toward the introduction of agreed legislation at the 1969 session of the California Legislature.

As you know, Governor, I am devoted to protection of historic American property rights. In the light of our times I feel the recommendations above would be the least divisive and most likely to conclude the conflicts over minority housing next year in an atmosphere of accommodation.

Respectfully submitted,

Burton E. Smith
Commissioner

FORM FOR USE BY THE SELLER OF REAL PROPERTY EXCLUDED FROM
OPEN OCCUPANCY LEGISLATION UNTIL THE EFFECTIVE DATE OF SUCH
LEGISLATION

The actual content of the form is to be established by regulation of either the Real Estate Commissioner or the FEPC.

The form is to be completed by the seller, a copy attached to each copy of the listing agreement, and a copy retained by the real estate broker for three years.

The statute providing for this form would contemplate that the form would include the following:

- 1) The name of the seller and the address of the property being offered for sale.
- 2) Sufficient identifying information to tie the document to the listing to which the form must be attached.
- 3) A declaration by the seller that he is aware of the exemption provided him under federal legislation and that he desires to restrict the sale of his property.
- 4) An affirmative declaration by the seller that this decision is his own and that he is aware of those sections of California law which refer to the public policy of this State as it relates to discrimination in housing.
- 5) The form would also include some excerpts from applicable California statutes.
- 6) The form would include a provision for a termination date consistent with the expiration of the listing agreement with the broker, and in no event could the restriction continue beyond the effective date of the abolition of the exemption claimed under federal open occupancy legislation.
- 7) The form would also provide for the signature of the broker, who would sign under penalty of perjury that the restrictions imposed by the seller were not as a result of any inducement by him either overt or covert.

4/22/68

CONFIDENTIAL

PROPOSED TOPICS FOR DISCUSSION
WITH GOVERNOR REAGAN AND HIS ADMINISTRATIVE STAFF,
COMMISSIONER BURTON E. SMITH, ROBERT W. KARPE, PRESIDENT,
CALIFORNIA REAL ESTATE ASSOCIATION, AND H. JACKSON PONTIUS,
EXECUTIVE VICE PRESIDENT, CALIFORNIA REAL ESTATE ASSOCIATION

Monday, April 22, 3:30 p.m.
State Capitol

- I. EQUAL RIGHTS---CREA has sponsored for several years an Equal Rights Program as an educational means to encourage the availability of housing to all people regardless of race, color or creed. Emphasis this year has been for voluntary, peaceable, equal opportunity and fair housing.
- II. LEADERSHIP MEETINGS---CREA is anxious to meet with as many leaders of minority groups, and others, in order to create greater communication in the field of housing. Our leaders are hopeful that the problem will disappear when there are negros in all neighborhoods.
- III. A FILM IN COLOR---is proposed for development by CREA for communication purposes to encourage an understanding of the law, property owner, and the rights of individuals. The rights of (all) individuals (on both sides). The problem we wrestle with is public acceptance of the minority individual. This film would courage voluntary acceptance of negros in all housing. QUESTION: In what way can the Governor suggest support for such a CREA activity?
- IV. CALIFORNIA HOUSING LAW---(Rumford and Unruh) must now be reviewed in light of the recently passed Federal Act---an educational program will be developed by CREA to clarify the responsibilities of Real Estate Licensees under these laws and to continue to provide leadership to its implementation.

Assuming the Rumford Act is a symbol that should not now be tampered with, how can we free, in the future, the property owner from government control? The Association wishes to support the administration and our position in this regard should be reviewed.

file

HOUSING BILLS

SB 293 - Walsh, Burns, Collier, Cusanovich & Whetmore, Cologne
Marler, Schrade, Richardson & McCarthy -

Creates 5-man Fair Housing Commission to encourage open housing, investigate alleged discrimination, and take affirmative action to educate and foster understanding. Commission also empowered to mediate housing discrimination complaints. They can exert persuasive power only. Commission has no coercive or injunctive powers. Does have subpoena powers. Any owner (except State or redevelopment) would have complete freedom in sale or rental of his property (regardless of number of units) but it would be illegal for him to interfere in sale or rental of someone else's property, (including single family).

Where owner discriminates in sale or rental of his own property, aggrieved person can file verified complaint and seek mediation with Fair Housing Commission.

Where state agency discriminates or private person interferes in sale or rental of someone else's housing property, the courts would have jurisdiction to enjoin or award damages.

Preempts housing discrimination field and prevents overlapping regulation by local gov't. and Unruh Act.

Realtor could not encourage discrimination but he could legally accept restrictive or discriminatory listing from owner.

Eliminates enforcement by FEPC in housing area and transfers housing portion of their budget allocation to new commission.

SB 319 - Schmitz, Schrade, Bradley, Richardson, Coombs, Cusanovich
and Whetmore -

1. Repeals Rumford.
2. Cuts FEPC from 7 to 5 members.
3. Prevents Unruh Act overlap into housing.

AB 217 - Wakefield, Badham, Briggs, Burke, Campbell, Collier,
Conrad and Moorhead -

1. Repeals Rumford Act.
2. Reduce FEPC from 7 to 5 members.
3. Doesn't cover Unruh Act overlap into housing.

SENATORS

NICHOLAS C. PETRIS
ELEVENTH DISTRICT
MILTON MARKS
NINTH DISTRICT

MICHAEL J. BEVIER
ROBERT N. KLEIN, JR.
CONSULTANTS ON
HOUSING NEEDS

California Legislature

Joint Committee on Community Development and Housing Needs

ROOM 1081, STATE BUILDING
350 McALLISTER STREET
SAN FRANCISCO, CALIFORNIA 94102
TELEPHONE: (415) 557-0818

GEORGE N. ZENOVICH
SIXTEENTH DISTRICT
CHAIRMAN

ASSEMBLYMEN

FRANK HOLOMAN
VICE CHAIRMAN
SIXTY-FIFTH DISTRICT
WILLIAM T. BAGLEY
SEVENTH DISTRICT
PETER R. CHACON
SEVENTY-NINTH DISTRICT

MEMORANDUM

April 17, 1974

To: Don Livingston

From: George B. Beattie, Principal Consultant, Assembly
Committee on Urban Development and Housing
Michael J. BeVier, Consultant on Housing Needs
Robert N. Klein, Jr., Consultant on Housing Needs
Joint Committee on Community Development and
Housing Needs

Subject: The California Housing Finance Corporation

INTRODUCTION

The California Housing Finance Corporation is an entity which would provide low-cost financing to assist the "forgotten Californians" who, by virtue of hard work, earn a moderate income which, after taxes, is too high for them to qualify for federal subsidies, but too low to enable them to rent or own a decent home for their families.

EXISTING STATE ASSISTANCE PROGRAMS

The goal to provide decent housing for all Californians is one very deeply rooted in our national and state programs. The major assistance program to provide decent quality housing is the interest and property tax deduction on personal income tax returns at the state or federal level. Generally this benefit flows to middle and upper income families and individuals. In 1972, the State of California provided an estimated indirect assistance of \$239 million through such deductions. The average tax savings for the individual earning \$30,000 or more was \$450, while the average tax savings for the individual or family earning \$16,000 was \$94. In recognition of our basic values, we must admit that the indirect assistance through the state income tax plays a helpful role in insuring quality housing for California citizens, but it points out that moderate and low income individuals and families have been relatively ignored. Even the Veterans Home Loan Program principally serves middle-income (or upper-moderate) citizens because of high down payment requirements.

A concern for equity requires some basic balance in the state's approach for those who need assistance most are presently receiving the least assistance. The creation of a California Housing Finance Corporation could bring a greater measure of equity to our state programs and honor the basic American philosophy of providing decent housing for all.

A PUBLIC CORPORATION

The concept of a public corporation for housing finance is unique from any proposal which thus far has been placed before the Legislature. It does not create a large bureaucratic agency in Sacramento to provide housing services and it bears no resemblance to FHA or the federal Department of Housing and Urban Development. It empowers a public corporation to raise capital through issuance of tax-exempt securities for the purpose of financing new construction, rehabilitation and resale of rental and homeowner units. The proceeds from the sale of such securities will not be loaned directly to mortgagors, but made available to savings and loan associations, banks, mortgage bankers and local public entities whose expertise in mortgage lending is utilized for both the origination and servicing of the loans. By emphasizing the use of private enterprise in this manner, the Corporation will require only a small staff of highly professional personnel.

FINANCIAL SELF-SUFFICIENCY

The Corporation will be financially self-sufficient. Its basic financing will be provided by a proposed issue of \$500 million in general obligation bonds to be placed on the November 1974 ballot for voter approval. These bonds would be self-servicing with loan repayments fully covering bond payments; the general fund would only be drawn upon in an emergency. Start-up expenditures would be covered by an initial loan from the general fund of \$750,000 and the arbitrage on bond proceeds which are invested in taxable securities between the time they are received and the time they are committed to a loan is more than sufficient to cover administrative expenses and repay the loan to the state. The experience with this type of program in other states has resulted in outstanding records. With over 120,000 units produced with state assistance in this country, there has never been an instance in which the mortgage payments were not sufficient to service the bonds issued to finance those mortgages.

One of the most appealing aspects of this corporate concept is its financial independence and stability. It is created to be independent of state appropriations and therefore has enforced upon it the same financial and managerial discipline imposed by a private corporation which depends on wise reinvestment of its capital funds. The corporation is managed by a Board of Directors appointed in nearly equal shares by the Governor, the President pro Tempore of the State Senate and the Speaker of the Assembly. The Board will hire executives to perform day-to-day management of the corporation and a proposed constitutional amendment which is part of the legislative package would exempt all of the corporation's employees from the civil service.

IMPETUS FOR CREATION

The impetus behind the creation of the California Housing Finance Corporation comes from two sources. First are the statistics gathered by the Census Bureau which imply the existence of substantial amounts of indecent housing in the state. Second is the substantial amount of assistance which this corporation can provide in helping a moderate income family to obtain better housing.

1. Statistics on Housing Need

There are three normally acceptable criteria of housing need: a) structural quality; b) overcrowding; c) financial availability. Each of these criterion are defined below and followed by a summary of statistics reflecting housing need in California.

Structural Quality: The accepted method of judging housing quality used by the Census Bureau, the Department of Housing and Urban Development (HUD), as well as the California Department of Housing and Community Development (HCD), is to classify it as either standard or substandard. The California HCD includes under substandard housing those units which (1) lack plumbing facilities such as running water or a flush toilet, (2) are so structurally dilapidated that it is more economical to demolish and reconstruct rather than repair, or (3) can be repaired, but require substantial structural rehabilitation.

In 1960, the Census Bureau counted 735,000 substandard units in California. Based on local surveys of housing starts and the Census Bureau's "Components of Inventory Change" study conducted in 1970, the amount of substandard housing in the state has increased since 1960. The California Statewide Housing Element estimates that a minimum of 300,000 units in the state are in such a severely dilapidated condition that they need to be replaced and another 700,000 require major rehabilitation.

Overcrowding: The Census Bureau uses the generally accepted definition of an overcrowded housing unit as one which is occupied at a density of more than one person per room.

According to the 1970 Census, there are slightly over 500,000 households living in overcrowded units in California. The average size of such households is 6.29 persons resulting in 3,177,000 persons in the state, or 16% of the 1970 population, living in overcrowded housing. This burden is not spread evenly through the population, but affects disproportionately minority ethnic groups such as blacks and Spanish-Americans. Possibly the most significant is that a large percentage of those living in overcrowded housing are children. A statistical example is that 51.5% of all Spanish-American children in the state live in overcrowded housing.

Financial Availability: Measurement of the ability of households in the state to afford decent housing presents complex problems. The most that can be done here is to provide several statistics which merely sketch the problem of financial availability.

One million households, or 19% of all California households, have total annual incomes under \$3,000 according to the 1970 Census.

The appropriate percentage of income to be spent on housing by low and moderate income families, according to HUD and the Bureau of Labor Statistics, is approximately 25% of adjusted gross or 20% of gross income. One million low income households must therefore find decent housing which costs no more than \$63 per month. General familiarity with rents in California suggests the difficulty.

A comparison between the number of households eligible for federally subsidized housing and the number of subsidized housing units available in the state indicates the shortage of low income housing. Approximately 37% of all renter households in the state have incomes below the maximum eligibility requirements for public housing. The number of public housing units in the state in 1973 was sufficient to house only 6% of this 37%.

A state study (SHE) also showed 800,000 California households--12% of all California households--to be eligible by income for federally assisted moderate income housing. Less than 10% of those eligible are presently living in assisted housing.

2. Who Can a California Housing Finance Corporation Aid?

Whether the housing problem is one of quality, overcrowding or financial availability, a California Housing Finance Corporation could generally serve only the moderate income group. This income group is defined basically by federal standards for Section 236 housing. On a state average, the incomes would go from one person with a maximum income of \$5,800 per year to eight persons with a maximum income of \$11,800 per year. High cost areas like San Francisco would have somewhat higher maximums going to perhaps \$15-16,000 per year.

The federal government has chosen to concentrate its efforts on the low income range. By abandoning the moderate income housing programs and concentrating on the Section 23 leasing program for low income families and individuals, the federal government has left to the states the task of providing for that moderate income group which can be efficiently reached through a public corporation of the kind proposed. The federal decision may in part have been based upon the realization that their moderate income programs in the United States were running 10-15% foreclosure rates while state housing finance agencies in existence for more than ten years have built 120,000 units of housing for moderate income persons with no foreclosures. State programs with state supervision have proved to be incomparably more effective in serving the needs of moderate income individuals in this country than have federally administered programs.

To demonstrate quickly the need of the moderate income family or individual, examples of housing costs in the Fresno, Livermore, and San Francisco/Marin County areas will be used. These examples represent three different cost ranges within the state.

Fresno: The lowest price single family, new construction development in Fresno sold for approximately \$22,000 in the first months of 1974 (2 bedrooms). Assuming a 95% loan at 8½% for 30 years, figures below show the minimum income required to purchase such a unit.

Example:

Sale price (2-bedroom)	\$22,000
Down payment (5% minimum)	<u>1,100</u>
Loan (95%)	\$20,900
30 years at 8½%; \$160.71 monthly	
Taxes of \$687.50; \$57.30 monthly	
Insurance at \$7.00 monthly	
Utilities at \$27.00 monthly (includes water & garbage)	
\$252.00 monthly payment	

Lender requires 4:1 ratio of income to monthly payment.
 $\$252 \times 4 = \$1,008$ monthly income or \$12,096 per year minimum
 income to purchase the lowest price, 2-bedroom unit available.

Assuming the minimum priced 2-bedroom existing unit of standard quality would be \$14,600, the minimum income to qualify would be \$8,424.*

The U.S. Bureau of Labor Statistics set up an ascribed minimum budget for a family of four living in California during the autumn of 1972. That total budget was \$7,691. Adjusted by 12% to bring it current for the fall of 1974, the amount needed for a family of four would be \$8,613. This is very close to the minimum needed to purchase an existing house in Fresno with conventional financing.

The monthly housing cost for purchasing an existing \$14,600 dwelling in Fresno would be \$166.32 with utilities, or \$1,995 per year for housing costs. However, the minimum budget requirement for a family of four only allows \$1,880 per year (21% of the family budget) for housing expenses (after an adjustment for inflation). The family using a minimum budget and earning \$8,613 per year, therefore, cannot actually afford to pay the monthly housing costs necessary to purchase an existing dwelling. The Bureau of Labor Statistics budget goes on to say that given that the family pays no more for its housing than \$1,880 per year, the food budget is already so low that it is estimated that only about 1/4 of those who spend amounts equivalent to the cost of this food purchase plan actually have nutritionally adequate diets. In the transportation category, the budget assumes that only 1/2 of the families will own cars, that those cars will be about 8 year old, and no allowance was made for repairs. Clearly the family has no room for economies and has a family budget which is already under intense strain. Housing costs for this moderate income family must be reduced if adequate budgets are to be left for other essentials such as food, transportation and medical care.

The hypothetical family for whom the Bureau of Labor Statistics budget was designed included a 38-year old employed man, a woman not employed outside the home, a 13-year old boy and an 8-year old girl. This typical taxpaying family which is neither rich nor poor could not afford decent housing today in a relatively low cost area such as

* Current utility estimates with an 18-month horizon are \$27/month for a 2-bedroom home (assuming a family of four).

Fresno, and their plight is even more severe in areas such as Livermore and San Francisco.

HOUSING ACCESS WITH A HOUSING FINANCE CORPORATION

Given that a California Housing Finance Corporation existed, the maximum net interest cost to the purchaser, under general obligation bond financing, would be 6% including all origination and servicing fees to private lenders providing those services. On the construction loan, also handled through a "qualified mortgagee", the savings would be about \$400 in interest cost because of 4% yields being paid on short term bond anticipation notes. The net construction interest would run nearly 4.5% when fees were added; the \$400 savings reflects the net savings after fees.

The impact of these savings on the same \$22,000 home can best be illustrated by the following example:

Example:

Sale price (2-bedroom)	\$21,600	(\$400 construction
Down payment (5% minimum)	1,080	interest savings)
Loan (95%)	\$20,520	
40 years at 6%; \$112.90 monthly		
Taxes at \$675; \$56.25 monthly		
Insurance at \$7.00 monthly		
Utilities at \$27.00 monthly (includes water & garbage)		
	\$203.15 monthly payment	

Lender requires 4:1 ratio of income to monthly payment.
 $\$203.15 \times 4 = \812 monthly income or \$9,768 yearly income.

The qualifying income is reduced from \$12,094 to \$9,768 because of \$400 in construction interest savings and approximately \$48 per month savings in principal and interest.

Assuming again that the minimum priced 2-bedroom existing unit of standard quality would be \$14,600, the minimum income to qualify would be \$7,265.76.*

As the following examples will show, the moderate income group from \$8,500 to \$14,500 is the sole beneficiary on new or existing single family, except in a few rural or central valley low cost areas. Although apartment housing costs will not be reviewed herein, new construction apartments in Fresno under FHA are running \$19,000 for a 2-bedroom unit and rehabilitated units cost about \$14,000. This leaves the income range served at between \$7-14,000 (Central Valley area).

The only low income Californians who could be reached in significant numbers are the elderly. With a 100% tax exemption for elderly

* Monthly income \$605.48 = 4 x \$151.37 monthly housing payment (\$80.75 principal and interest; \$38.02 taxes; \$6.00 insurance; \$27.00 all utilities).

housing projects owned by non-profit corporations, aged singles or couples in the \$4,000 to \$5,000 annual income range could be reached. (This assumes studio or 1-bedroom apartments; the elderly/non-profit tax exemption is available under existing law.)

Low income families could not be housed under this program without federal subsidies. The needs of the low income family must continue to be met by units leased under the federal Section 23 programs.

Livermore: In Livermore, the lowest price single family, 2-bedroom home is selling for about \$27,000 to \$28,000. Taking the correct minimum to be \$27,000, a total monthly payment of \$297 would be necessary at 8½%/30 years for a 95% loan of \$25,650. At 6% for 40 years, adding in savings from the lower construction interest, the purchaser's payments would be \$58 a month less, requiring a yearly income of \$11,510 to qualify; at market rate financing with the \$297 monthly payment, a yearly income of \$14,294 would be needed to qualify.

San Francisco/Marin: San Francisco shows a minimum 2-bedroom apartment cost of \$35,000 even with a redevelopment agency land writedown, and Marin County has a minimum price for a 2-bedroom town-house of \$29,000. Single family homes are selling for \$35,000 and up.

Using the \$29,000 figure, with a 95%/30-year loan at 8½%, one has a \$318.20 monthly payment which requires a minimum annual income of \$15,273.50. The minimum income to qualify is reduced with 6% financing -- a \$64 a month savings* -- to \$12,228. These same figures apply to existing 2-bedroom homes in San Francisco, in the lowest income areas. Except for an extremely depressed high crime neighborhood, even the low income areas do not have older existing single family residences available for less than \$27-29,000.

ECONOMIC IMPACT

A significant impact which creation of the Corporation would have on California is the additional capital investment which it may attract. To the extent that the Corporation's securities are sold out-of-state to investors who would not otherwise have invested within California and to the extent that in-state investors purchase these bonds with money that would have been invested out-of-state, the Corporation results in additional capital investment in California. While the extent of impact is difficult to anticipate, the experience of Michigan may be indicative. The Michigan State Housing Development Authority finances approximately \$200 million annually. A study by Applied Decision Systems, Inc. concluded that the \$200 million in mortgage financing would, in addition to creating 12,100 new housing units, generate the following:

- \$7 million in state tax revenues;
- \$4 million in local property tax revenues;
- \$183 million in receipts to general building contractors;
- \$165 million in receipts to special trade contractors;
- \$85 million in sales for wholesalers and distributors of

* Including construction interest saving.

building materials; and
15,900 jobs in all industry sectors.

These figures represent only the primary and direct positive impacts on the state economy and do not include an estimate of the multiplier effect of additional investment. Such estimate requires an input-output analysis from which the velocity of money within the economy can be determined. Application of national multiplier factors is inexact, and it will suffice here to indicate that the estimate of primary impact is conservative and multiplier effects may result in a total impact that is several times greater.

BONDING CAPACITY

Moody's Investor Service bond credit report on California for 1972 noted that total bonds issued were \$5,294,529*. To derive the net direct debt load on the state, Moody's then subtracted out \$2,774,264* in harbor, veterans, and water bonds arriving at a net direct debt load of \$2,520,265*. Their analysis explains that these bond issuances are self-supporting from revenues (loan repayment, harbor fees, etc.) and therefore must be deducted out before figuring any direct debt load figures. It is critical that it be understood that such self-supporting programs do not significantly influence the credit rating of the state.

It is also important that one realize that the State has completed or neared completion on several major bond financed projects which will, therefore, not create future recurring demands. The State Water Project is far advanced and although \$200 million remains in unissued but authorized authority, many of the major projects have neared completion and projected issuances for the next few years seem to be in the \$20 million a year range. Of the \$150 million authorization for clean water bonds providing money for sewage treatment plants, etc., \$100 million will have been used by July 1, 1975. Of the \$200 million in revenue authority authorized for pollution control issuance, all of this authority shall be exhausted in the fiscal year 1974-75. By the end of fiscal 1974-75, two-thirds or \$200 million of the \$325 million authorized for school earthquake rehabilitation assistance will have been utilized. Finally, falling enrollment projections in the state public higher education system would appear to indicate a lower use of bond authorities by the state for higher education.

With these major programs having expended the bulk of the funds authorized, the state is in an excellent position to enter a major new program area, such as housing finance assistance, without undermining its credit. Were the general obligation bond authority for housing to come on line in 1975-76, one would expect a \$100 million maximum issuance in that year of general obligation bonds, with a \$200 million plateau (maximum) being reached and sustained for the following years. At the \$200 million per year maximum plateau, the housing programs would just match the water bond issuance levels in 1970-71 and 1971-72 at \$200 million and \$190 million respectively.

Between 1964 and 1971 fiscal years, the State of California sold \$1,550,000,000 in general obligation bonds for the California Water

* Should be billions; add three zeroes.

Project with no evident impairment of California's credit. For several consecutive years, the issuances were above \$200 million per year reaching \$300 million at one point. The success of the California Water Project bond sales appears to be strong evidence that California can undertake a major housing finance program without undermining its bond credit rating.

The State Treasurer's Office projects \$742,000,000 in bonds to be issued in 1974-75 and \$880,000,000 in 1975-76, without any bonds for a Housing Finance Corporation. These figures assume new authorizations of issuances for a number of specific projected or existing programs which will have exhausted any existing authority by that time. Even adopting the assumption that all these new authorizations will be approved by the voters or Legislature (revenue bonds), the total issuance in 1974-75 would only be raised to \$842,000,000 and to \$1,080,000,000 in 1975-76 by projected sales of a California Housing Finance Corporation. These levels relate proportionately to the \$721,175,000 issued as far back as 1970-71. In the last decade, personal income (one of the principal rating factors in evaluating state credit*) in California has grown at an average rate of 10% a year. Based on a proportional rate in bonding capacity, a proven capacity of \$721,000,000 in 1970-71 should substantiate issuances of \$1,161,177,000 in 1975-76 (compare to projection with California Housing Finance Corporation bonds of \$1,080,000,000). It must be noted also that in 1972 the state's credit rating was raised from AA to AAA. This tends to indicate that the state issues in 1970-71 of 721,000 or of \$1,045,000,000** in 1971-72 did not subject the state's credit capacity to a heavy strain.

BASE OF SUPPORT

Because the proposed California Housing Finance Corporation legislation (SB 1633/AB 2966) abandons a direct lending model of previous legislation and structures the program for lending through "qualified mortgagees", the private financial structure of California now enthusiastically supports this legislation in principle. The California Savings and Loan League recently made the historic switch from opposing and state involvement in residential financing to officially supporting a State Housing Finance Corporation. The Mortgage Banker's Association also strongly endorses this legislation; but the Banker's Association is neutral. Merrill Ring, Vice President of the Bank of America Securities Division, reportedly favors the state role, but wants direct lending by the state. His position of extreme liberalism has strongly influenced the Banker's Association's reluctance to take a position on the more conservative approach of the California Housing Finance Corporation bills which provide the very central role for private enterprise in the lending and servicing activity.

* Other credit rating factors have shown a similar growth path.

** \$630,000,000 in long term issues and an average of approximately \$170,000,000 continually outstanding in short term revenue anticipation notes.

Besides backing from the private lenders, listing all the particular organizations in support would be too time consuming since more than 50 groups in the Los Angeles basin alone have endorsed the concept; however, the largest most active backing has come from the following:

- 1) League of Women Voters
- 2) California Builders Council
- 3) The League of California Cities
- 4) The Urban Coalition, chapters lead by the Los Angeles unit
- 5) The California Labor Federation
- 6) California Bar Association, lead by the Los Angeles and American Bar Association Joint Committee on Low and Moderate Income Housing
- 7) California Chapters of the National Association of Housing and Redevelopment Officials
- 8) The California Real Estate Association appears to be breaking into several factions -- some in support, but generally neutral.
- 9) Private mortgage insurance companies
- 10) Association of Bay Area Governments
- 11) In principle, the Southern California Associated Governments -- no formal vote has been taken at this time.
- 12) Numerous public interest and consumer groups.

Michael J. BeVier
Consultant on Housing Needs

Robert N. Klein, Jr.
Consultant on Housing Needs

George B. Beattie, Consultant
on Urban Development & Housing

MJB:RNK:GBB:mw

The following low income budget for an urban family of four in California is based upon the Bureau of Labor Statistics data for autumn, 1972. Four SMSA's in California -- Bakersfield, Los Angeles/Long Beach, San Diego, and San Francisco/Oakland -- were used to determine an average low income budget for California.

The family of four includes a 38-year old employed man, a woman not employed outside of the home, a 13-year old boy and an 8-year old girl. The budget assumes that the family is well-established and has average inventories of clothing, house-furnishings, major durables, and other equipment.

TOTAL BUDGET: \$7,691

Expenditures for

Food \$2,045 (26% of total budget)

Costs for food are based on USDA low cost food plan which has larger quantities of foods like potatoes, dry beans and peas, flour and cereal, and smaller amounts of meat, poultry and fish, and fruits and vegetables other than potatoes than do the budgets for intermediate and higher income levels. It has been estimated that only about $\frac{1}{4}$ of those who spend amounts equivalent to the cost of the USDA plan actually have nutritionally adequate diets.

Housing \$1,679 (21% of total budget)

This allows for rental housing only and approximately \$139 a month for an "unfurnished, 5-room unit (home or apartment) in sound condition; a complete private bath; fully equipped kitchen; hot and cold running water; electricity; central or other heating; access to public transportation; schools, grocery stores, play space for children; and location in a residential neighborhood." Included in this amount are costs for furnishings and operations, such as heating fuel, gas, electricity, water, insurance on household contents.

Clothing \$ 716 (9% of total budget)

This provides approximately \$167 a year for each family member, or about \$14 a month per family member for essential replacement clothing (coats, shoes, sweaters, etc.). It is assumed that the family members have a basic inventory of clothing. The quality of items in the lower income budget is likely to be lower than that in the intermediate or higher income budgets developed by the Bureau. The amount includes cleaning and shoe repair services.

Transportation \$ 769 (10% of total budget)

Assumes that over $\frac{1}{2}$ of the families will own cars that are about 8 years old. The mileage allowance was less than for intermediate and higher income level budgets, as was the allowance for repairs. No comprehensive insurance allowed for, and no out of town travel on planes, trains or other public vehicles was specified.

Medical Care \$ 726 (9% of total budget)

Includes family membership in a group hospital and surgical insurance plan, visits to doctor, dental and eye care and drugs. Expenditures lower at this income level because families will either defer needed treatment or get it in free clinics.

Personal Care \$ 202 (2% of total budget)

For haircuts, beauty shop, supplies such as toilet soap, toothpaste, shaving cream, kleenex, shampoo, etc. Approximately \$4 per month per person.

Other Family Consumption \$370 (5% of total budget)

Includes costs for reading, recreation, tobacco (not cigarettes), alcohol, education and miscellaneous expenses.

Other Items \$ 374

Includes allowances for gifts, contributions, life insurance, and occupational expenses.

Social Security &
Disability Payments \$475

Personal Income Taxes \$548

18% of
total
budget

HOUSINGBOON OR BOONDOGGLE

For several years the California Legislature has had under consideration a number of bills proposing that State government enter the field of providing various forms of assistance to "low and moderate-income people" in the area of housing. Those proposals have been predicated on the following assumptions:

1. That there is an inadequate supply of acceptable housing in California within price ranges that can be afforded by those mentioned above;
2. That private industry is incapable of solving this problem; and
3. That the use of state resources is the only remaining alternative available.

Reports released by this administration and prepared by the Department of Housing and Community Development outlined the arguments just advanced. On all previous occasions this administration has reacted negatively to the bills passed or proposed. As we see it, there are three alternatives:

1. To deny that the problem, as detailed above, exists;
2. Accepting that a problem exists, but that there is no State role; or
3. Accepting that a problem exists, and agreeing there is a legitimate role for the State to play.

At this point we would be hard pressed to deny the problem. It would be virtually impossible to publicly argue that people are not having trouble buying a home. With the present federal thrust, we need to do some homework to select option #2, and the pressure continues to mount for option #3. We would like the opportunity to draw upon the Department of Finance and our own staff to come back to cabinet with either the 2nd or 3rd option for a decision. The arguments which we find most persuasive are:

1. "The inflationary spiral has made it almost impossible for many of our citizens to qualify for the purchase of a home, new or used. The soaring costs of land, labor, materials and money have priced many moderate-income families out of the home buying market... In each of the above needs, the private sector has not been able to solve the problem." (C. Larry Hoag, President, California Real Estate Association.)
2. Over the past several years, both the executive and legislative branches of the federal government have indicated their desire to alter the character of federal housing grants-in-aid programs by delegating the responsibility and funding authority to state and local units of government. The Nixon administration favors less restrictive funding mechanisms, those which granted states and local units of government the flexibility to design and implement programs of their own choosing. In the area of housing, the emphasis has been placed heavily upon state involvement, particularly in the area of housing finance, for moderate-income families and individuals. In the absence of state assumption of responsibility, it has been made clear that problems simply cannot be solved by the private sector acting alone.
3. Federal monetary policy, in an effort to halt inflation, traditionally affects most adversely the housing and construction industry and the purchasers thereof. On this issue, Business Week magazine reported that actions by the Federal Reserve Board "would be more tolerable if monetary policy hit every sector of the economy with equal force. But it does not. In reducing the available supply of money, or increasing the cost of money, or some

combination of both, the Fed tries to damp economic activity by squeezing people out of the financial markets. It is the nature of these markets that the process hits hardest those with the weakest claims on the money that is available. The housing market is invariably hit first, followed by state and local governments (which are often limited in what they can pay to borrow), small business, and the stock market. The Fed's ultimate target may be consumer or capital spending, but consumer loans reward banks handsomely, and big corporate borrowers usually have long, close ties to their banks. Both groups are the last to feel the rigors of tight money, and policy has to be made very tight before either group feels the pinch at all." (Oct. 6, 1973, p. 103)

In conclusion, the problem as discussed above can best be summed up in these words of George McKeon: "My first inclination and thoughts run much in tandem with the Governor's, that being, is there a need for more government, and why can't the private sector respond to these challenges? Times and conditions cause me to look at this posture in a slightly different manner than I would have even as short as three to five years ago... and I assure you that when we see on the horizon that money is beginning to tighten and its availability pinched, we begin to build for those of our state who are most able to buy, who can arrange the credit, and who can qualify. This means that our normal thrust of supplying housing at the \$17,000 to \$23,000 per unit level is obviated."

BASE OF SUPPORT

- . California Savings and Loan Association
- . California Mortgage Bankers Association
- . League of Women Voters
- . California Builders Council
- . League of California Cities
- . Urban Coalition
- . California Labor Federation
- . California Bar Association
- . California Chapters-National Association of Housing and Redevelopment Officials
- . California Real Estate Association
- . Private Mortgage Insurance Company
- . Association of Bay Area Governments
- . Southern California Associated Governments
- . Numerous Public Interest and Consumer Groups

CALIFORNIA ANNUAL
HOMEOWNER'S ASSISTANCE

\$239,265,000

Cost to State Treasurer

Deduct for interest on Home Mortgage

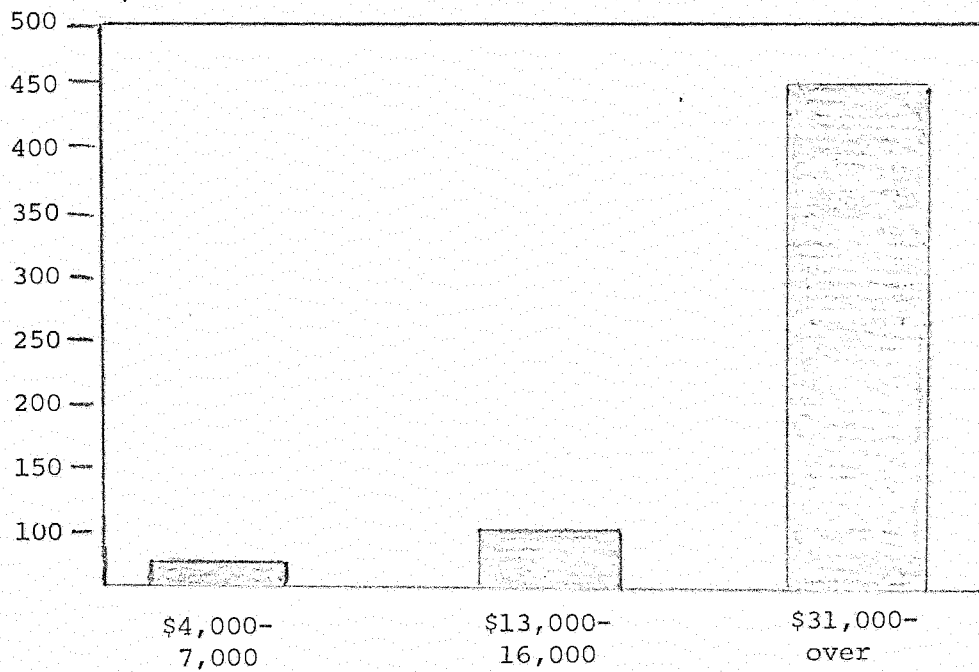
Payments and Home Property Tax Deduction

CALIFORNIA MAIN

HOUSING ASSISTANCE PROGRAM

(State income tax deductions)

Hundred of
dollars savings



FINANCIAL SELF-SUFFICIENCY

Record of State

Housing Finance Agencies

120,000 units financed with debt service
requirements of all bonds being met on time.

SELF SERVICING BONDS

- . Proposed \$500M. G.O. Bond Issue:

Voter approval on November 1974 ballot

- . Mortgage revenues cover cost of retiring bonds plus a reserve fund so State General Fund shall not be drawn upon.

STATISTICS ON HOUSING NEED

- a. Structural Quality
- b. Overcrowding
- c. Financial availability

SUBSTANDARD HOUSING IN CALIFORNIA

HAS INCREASED SINCE 1960

1960 - 735,000 substandard units in California

1970 - 1,000,000 substandard units in California

1970 - 300,000 of the 1,000,000 so severely dilapidated
they must be demolished.

CHARACTERISTIC OF SUBSTANDARD UNIT

- . Lack plumbing facilities - running water or flush toilet
- . So structurally dilapidated it's more economical to demolish and reconstruct than repair
- . Can be repaired, but require substantial structural rehabilitation

OVERCROWDED UNITS

- . 500,000 households living in overcrowded conditions
- . Average household size: 6.29 persons, with 3,177,000 Californians living in overcrowded housing
- . Children are disproportionately affected
- . 51.5% of all Spanish-American children in California live in overcrowded housing

FINANCIAL AVAILABILITY

- . Approximately 25% of California households have income below maximum eligibility for public housing
- . 1973 - 3% of 25% eligible are housed in public housing
- . 12% of California households have income below maximum for for eligibility for federal moderate income housing programs
- . Less than 10% of those eligible are presently living in assisted housing

Federal Government announced they will end all moderate income housing programs in favor of state action for those persons.

MODERATE INCOME

FAMILY NEEDS

ASSISTANCE

WHO CAN A CALIFORNIA

HOUSING FINANCE CORPORATION AID?

- . California's 800,000 moderate income families in need will be the main beneficiary
- . Income range benefitted will be \$6 - 14,000 per year
- . Low income elderly can also be reached, because of non-profit property tax exemption for elderly developments

HOW MUCH CAN MODERATE INCOME FAMILY

PAY FOR HOUSING - 20% OF INCOME?

- . Bureau of Labor statistics - hypothetical family of 4 -
illustrate minimum budget requirements
- . Family - 38 year old employed man, woman not employed,
13 year old boy, 8 year old girl
- . Assuming moderate income budget minimum - \$8,600 and spending
maximum of 20% of gross income for housing
- . Amounts left for food and transportation inadequate
- . Only 1/4 of those who spend amounts equivalent to cost of
food purchase plan act have nutritionally adequate diets
- . 1/2 of families own cars, cars will be approximately 8 years -
no allowance for repairs

MINIMUM INCOME NECESSARY
TO QUALIFY TO PURCHASE A HOME

Fresno

Sale price - 2 bedroom	\$22,000
Down payment - 5% minimum	<u>1,100</u>
	\$20,900

Loan - 95%

30 years - 8-1/2%	\$160.71 mo.
Taxes - \$687.50	57.30 mo.
Insurance	7.00 mo.
Utilities	27.00 mo. (includes water and garbage)

\$252.00 Monthly Payment

Lender requires 4:1 ratio income to monthly payment.

$\$252 \times 4 = \$1,008$ monthly income

or \$12,096 per year minimum income.

Purchase lowest price, 2 bedroom unit available.

MINIMUM INCOME NECESSARY
TO QUALIFY TO PURCHASE A HOME

Assuming minimum priced 2 bedroom existing unit of standard
quality - \$14,600 - minimum income to qualify \$8,424.

MINIMUM INCOME TO PURCHASE A HOME

WITH MORTGAGE FUNDS RAISED BY HOUSING FINANCE CORPORATION

Sale price - 2 bedroom \$21,600

Down payment - 5% minimum 1,080

\$20,520

Loan - 95%

40 years - 6% \$112.90 mo.

Taxes - \$675 56.25 mo.

Insurance 7.00 mo.

Utilities 27.00 mo. (includes water and garbage)

\$203.15 monthly payment

Lender requires 4:1 ratio of income to monthly payment.

$\$203.15 \times 4 = \812 monthly income or \$9,768 yearly income.

QUALIFYING INCOME REDUCED FROM \$12,094 TO \$9,768
BECAUSE \$400 CONSTRUCTION INTEREST SAVINGS AND
APPROXIMATELY \$48 PER MONTH SAVINGS IN PRINCIPAL AND
INTEREST

MINIMUM INCOME TO PURCHASE HOME

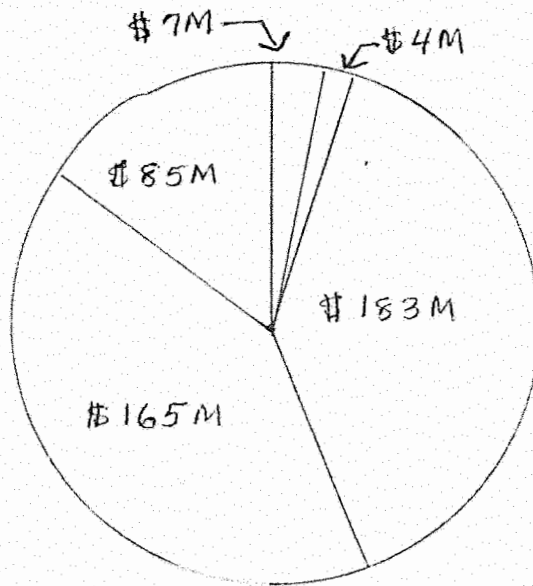
WITH MORTGAGE FUNDS RAISED BY HOUSING FINANCE CORPORATION

Assuming again minimum priced 2 bedroom existing unit
standard quality \$14,600 - minimum income to qualify
\$7,265.76

DIRECT ECONOMIC BENEFITS TO CALIFORNIA

(For each \$200M. housing financed)

Millions of Dollars



\$7 million in state tax revenues

\$4 million in local property tax revenues

\$183 million in receipts to general building contractors

\$165 million in receipts to special trade contractors

\$85 million in sales for wholesalers and other distributors of
building materials

15,900 JOBS IN ALL INDUSTRY SECTORS

BONDING CAPACITY

Status of major state bond financed projects

- . State water project - estimated \$20M/year
- . Clean water bonds - by July 1975, \$100M issued of \$150M authorized
- . Pollution control - authorized \$200M issued end of FY 74-75
- . School earthquake rehabilitation - end of FY 74-75, \$200M issued of \$325M authorized

WITH MAJOR PROGRAMS EXPENDED BULK OF
FUNDS AUTHORIZED, STATE IN EXCELLENT
POSITION TO ENTER MAJOR NEW PROGRAM AREA,
SUCH AS HOUSING FINANCE ASSISTANCE,
WITHOUT UNDERMINING ITS CREDIT

CALIFORNIA WATER PROJECT

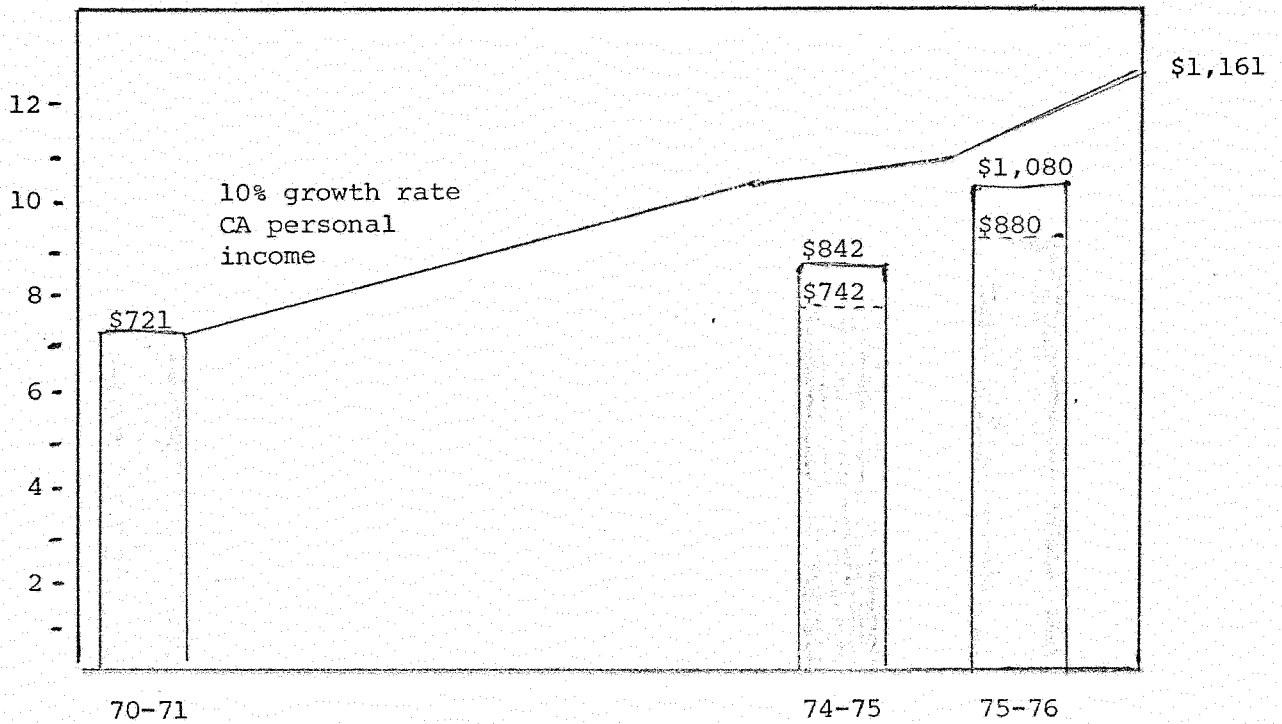
- . 1964-1971: Total issue of \$1,550,000,000 G.O.
state bonds

- . Yearly issues: up to \$300,000,000

No impairment of California's credit

PROJECTED FINANCING

\$ millions



Assuming the Housing Finance Agency
will issue \$200M per year
at its peak

BOARD OF DIRECTORS

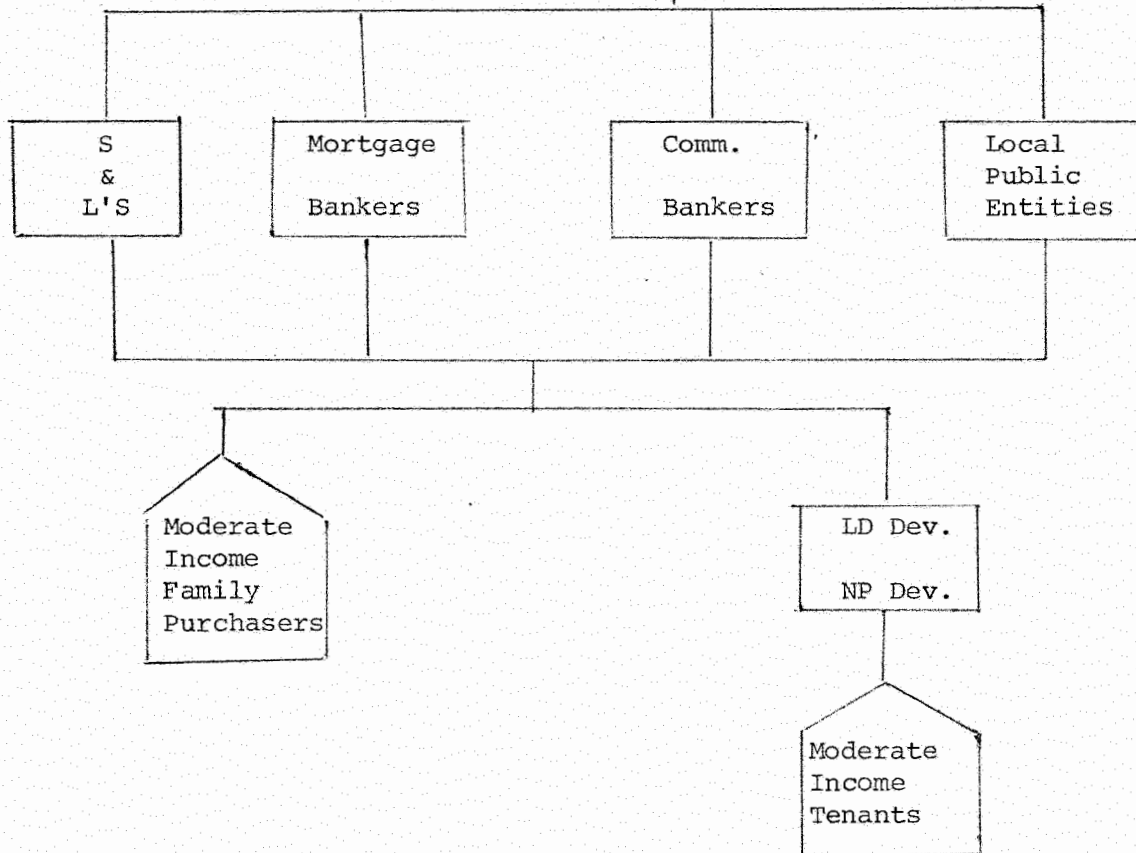
CHFC

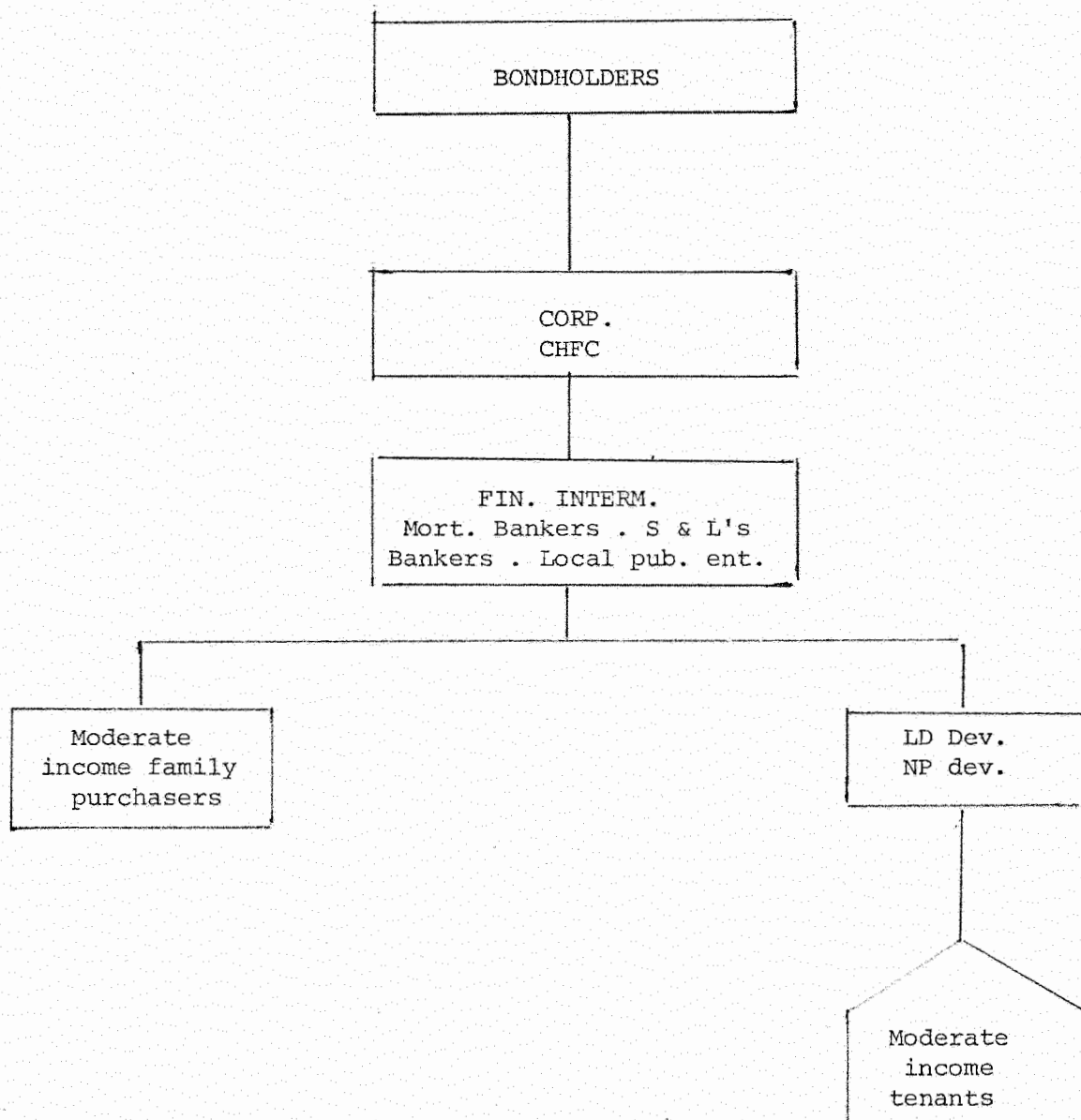
State function
limited to
providing
funds service

Executive

Staff

Private and
local function





Memorandum

To : James Crumpacker
Cabinet Secretary



Date : February 26, 1970

Subject : Attached Statement
of the Department
of Public Works

From : Business and Transportation Agency
Office of the Secretary
1120 N Street, Sacramento, (916) 445-1331

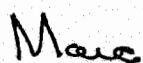
Attached is a copy of the statement presented by the Department of Public Works in Washington on February 24, 1970.

This statement relates to California's position on a proposed expansion of a Federal relocation assistance program for people involved in eminent domain actions. It states California's leadership in this area and requests certain changes in the Federal bill so that our activities are not impaired.

Of particular interest are Pages 8 and 9 relating to extreme hardship now facing homeowners who are forced to give up homes with a 5% to 6% loan rate and repurchase homes having substantially higher loan rates in the area of 10%.

As the statement points out, we intend to introduce legislation to correct this situation in California and request that the Federal Government consider a similar change. This bill will be carried by Assemblyman Lanterman and was approved by the Legislative Unit as B-53.

The Department of Public Works' testimony was discussed and coordinated with Jim Jenkins in Washington.



MARC SANDSTROM
Assistant Secretary

cc: Paul Beck ✓
George Steffes

STATEMENT
OF THE
STATE OF CALIFORNIA, DEPARTMENT OF PUBLIC WORKS
ON
S. 1 AND H.R. 14898 AND RELATED BILLS
BEFORE THE
PUBLIC WORKS COMMITTEE, HOUSE OF REPRESENTATIVES
UNITED STATES CONGRESS

February 24, 1970

STATEMENT
OF THE
STATE OF CALIFORNIA, DEPARTMENT OF PUBLIC WORKS
ON
S. 1 AND H.R. 14898 AND RELATED BILLS
BEFORE THE
PUBLIC WORKS COMMITTEE, HOUSE OF REPRESENTATIVES
UNITED STATES CONGRESS

The Department of Public Works of the State of California appreciates the opportunity to present to the House Public Works Committee its view and comments on the numerous bills now pending before the Committee dealing with relocation assistance. The relocation assistance problem has been of deep concern to the Legislature and the administration in California for many years. We are concerned not only in providing the finest of highway facilities possible, but also in fair treatment to our citizens and property owners whose property is needed for these vital public works projects. Consideration must be given to these persons not only in the route adoption and design stages of the highway projects, but also during the right of way acquisition process. We are dealing with people who not only have to pay for the highway project but who also have to bear the burden of giving up their properties and relocating themselves, their families, their businesses and farms. One of California's goals in this regard is that no individual should be displaced by a state highway project unless replacement housing is reasonably available. This philosophy governs California's right of way acquisition program.

California was the first state to actually fully implement the relocation assistance provisions of the Federal Aid Highway Act of 1968. On September 23, 1968, at the request of Governor Reagan, our Legislature enacted "The California's Highway Relocation Assistance Act" as an urgency measure to comply with the aims and objectives of the federal law. Also in 1968, the State of California enacted what has been sometimes referred to as the "Ralph Bill", a replacement housing development law. Governor Reagan in recommending this law intended to accomplish the objective of developing replacement housing which is decent, safe and sanitary and functionally equivalent to housing eliminated by highway construction. This California law is limited only to low income families whose properties are located in economically depressed areas. This legislation was enacted because studies of the impact of highway programs on low income areas such as Watts in Los Angeles County and San Ysidro in San Diego County indicated that decent, safe and sanitary housing for low income individuals and families was not available in sufficient quantity for the numbers of individuals and families to be displaced by the highway projects. Normal market activity provides adequate housing for families in the middle income bracket but a totally inadequate housing supply is being produced today for low income families to meet the exigencies of new freeway construction in urban areas. In fact the removal of large volumes of housing occupied by low

income families and individuals tends to place a premium on the remaining available housing thus driving up prices of available housing, and putting the remaining housing beyond the reach of low income displaced persons or families.

The California Governor and Legislature intended by its replacement housing law to interrupt this inflationary cycle by the production of additional housing units for low income families and individuals. The production of this housing is done through utilization and cooperation of individuals in the private sector, (1) by use of their building talents and capabilities, (2) by providing interim financing for construction and (3) by utilizing the benefits of the federal aid highway act as a direct development contribution rather than as a payment to the displaced individual. The most important aspect of providing replacement housing is the establishment of a sufficient lead time for persons displaced by freeway construction to have replacement housing immediately available to them in order not to impose a hardship upon these people and at the same time not interfere with the orderly process in planning, designing and construction of vitally needed freeways. More will be said on this subject when we dwell on the bills in detail.

S. 1 and H. R. 14898 approach the problem of drafting uniform relocation legislation from opposite points of view. First, we would like to point out that the Department of Public Works of the State of California has no objection to the extension of the relocation assistance provisions of the Federal Aid Highway Act of 1968 to all federal agencies and to other federal aid

programs. However, we feel that the approach that should be taken by the Congress is to pattern any uniform law in this area after the most recent legislation in this field, the Federal Aid Highway Act of 1968. This is particularly important in the federal aid area where the states will be required to enact implementing legislation. We believe the approach should be taken that would build on the existing statutory law rather than developing entirely new approaches which may not meet the problems and which will cause the states to drastically amend already implemented laws and procedures.

California prefers the approach taken by H. R. 14898.

California has two major concerns with regard to the bills now pending before this Committee. This concern is limited to (1) those areas in which S. 1 drastically departs from and limits the relocation assistance provisions of the Federal Aid Highway Act of 1968 and (2) to those provisions which the state highway departments will be unable to effectively carry out because of unnecessary involvement of federal agencies.

We have read the preliminary statements of the Chairman of the Legal Affairs Committee and the Chairman of the Right-of-Way Committee of the American Association of State Highway Officials and generally endorse the points made in their presentations.

The most crucial aspect of S. 1 and the one which may have the most profound effect on the highway program is its failure to contain a provision which would protect highway

projects from endless litigation and delays. The present Federal Aid Highway Act contains provisions which, in effect, require that, within a reasonable time prior to displacement, there will be available decent, safe and sanitary dwellings to the extent that can reasonably be accomplished. S. 1 contains a similar requirement without the phrase which we have underlined. We strongly believe that such a clause is necessary to prevent continuous legal proceedings and the stopping of right-of-way acquisitions for highway construction.

The matter of enforcing a state's assurance that replacement housing is available should be handled on an administrative basis by the federal agency responsible for administering the program. The administering agency should take constructive steps to require compliance with these assurances and to see that the state highway program is so managed that sufficient lead time is provided between the commencement of right of way process and the actual construction so that every person or family that is displaced will have the opportunity to move to comparable decent, safe and sanitary replacement housing.

Proper administration of this program can eliminate such problems and provide 100 percent compliance with the assurances.

On the other hand, there could be situations where the present wording of this section in S. 1 could be used as a device to harass, delay and thwart the construction of a needed freeway even though decent, safe and sanitary dwellings are available. Displaced persons could easily make unsupportable

contentions that available dwellings do not meet their personal preference with regard to public utilities, public and commercial facilities, or rents or prices are not within their means. Such unfounded contentions could cause some states to be unable to meet the target date of 1975 for the completion of the Interstate System. It is essential that the above underlined words be included in any uniform legislation in order to permit the highway program to move forward without undue delay.

Another important area of concern to California is Section 211(e)(2) of S. 1. This section gives the Secretary of Housing and Urban Development the authority and responsibility to determine the prices for dwellings prevailing in the locality in order to arrive at the administrative bonus payment to residential property owners and tenants.

State departments involved in the actual acquisition process are in a better position to determine the average price for decent, safe and sanitary dwelling as a part of its right of way appraisal process. The average price determination has to be made with reference to the specific locality of the dwelling at the time it is being acquired. A determination by the Secretary of the average price for decent, safe and sanitary dwelling for every locality at the time of each acquisition will unnecessarily duplicate and undoubtedly delay the determination of the relocation assistance payment and thereby work an added hardship on the displacee. Further, no replacement payment could be made by a state until the Secretary has made a final determination. We believe the state agency responsible for determining the

acquisition payment for the property should also make the determination of the average price of a relocation dwelling in order to arrive at the relocation assistance payment. Another federal agency should not be injected into the already lengthy process of highway right of way acquisition. The current procedures of the Bureau of Public Roads are adequate and workable. These procedures assure fair and equitable treatment and should be continued in any uniform statute.

There are several provisions in S. 1 which, if enacted into law, would require those states which have enacted legislation implementing the Federal Aid Highway Act of 1968 to cut back and to limit payments presently authorized by statute. We doubt that the California Legislature would cut back on relocation payments presently allowed. Such cutbacks would require the states to the extent of the cutback to fund them entirely without federal reimbursement. This is particularly oppressive to state legislatures when it was at the statutory directive of the Federal Aid Highway Act of 1968 that the states enacted their laws with such limitations.

For example, the payments to business and farm operators in Section 211(c) and (d) is limited to those businesses and farm operators whose average net earnings are less than \$10,000.00 per year. Present federal aid highway law and state law contains no such limitation. Section 231(c) of S. 1 limits the amount of federal participation in relocation assistance payment that is now provided in the Federal Aid Highway Act of 1968. Section 504 presently provides that the federal share of the first \$25,000.00

of such payments shall be 100 percent, and where payments exceed \$25,000.00 the federal share shall be according to the apportionment formula for the system on which the property was acquired. S. 1 limits the maximum federal contribution and participation to the first \$25,000.00 for persons displaced prior to July 1, 1972. No provision is made for federal participation in the payments in excess of \$25,000.00 or the federal contribution for such payments after July 1, 1972.

California legislation was enacted without a maximum monetary limitation on relocation assistance payments. It would be very difficult indeed for us to now ask our Legislature to enact legislation which would provide a maximum payment to displaced persons. California legislation was enacted upon the representation and with the implied assurance that there would be participation by the federal government for payments in excess of \$25,000.00.

There are other provisions of S. 1 where we have comments and suggested changes. These are included in the more detailed statement which we have presented to the Committee counsel.

We should like to conclude our statement with a very important and crucial problem and a proposal to remedy it. It is a situation which has been brought about by the present-day nationwide economic situation and is predominately a problem in the highway program. As you know, the construction of a highway requires the acquisition of many parcels of properties from one distant point to another. All of the parcels must be acquired before the project can be commenced. California has experienced resistance from some home owners and other property owners in the acquisition of these parcels because of the loss of favorable financing. Property owners who are being displaced are being

faced with the economic situation that requires them to obtain financing for a replacement dwelling at interest rates much higher than that being paid on the acquired dwelling. California believes that this is unfair and that the property owner should not have to bear the burden of this loss because of the economic circumstances prevailing when his property is acquired.

We believe that in the highway acquisition field an additional payment should be made to such property owners computed on the basis of a schedule which relates to (1) the increase in the interest rate, (2) the remaining term of the original mortgage, and (3) the amount of the unpaid balance on the old mortgage. Such payment should also take into account the average length of time that property owners own their property and should be paid only when the owner has acquired his new residence. Such a payment should be administered at the discretion of the acquiring agency when financing conditions are such that the prevailing interest rate is substantially higher than the mortgage interest rates on the existing loans.

Governor Reagan intends to request the California Legislature to pioneer legislation to resolve this pressing hardship and inequity, and legislation will probably be introduced at the State level next week on this subject. We strongly urge that this Committee and the Congress make this problem a part of its consideration of the relocation assistance law and provide for federal participation in reimbursement for this badly needed type of payment.



April 15, 1968

The Honorable Ronald Reagan
Governor of the State of California
The Governor's Office, State Capitol Building
Sacramento, California

RE: Flanner House
"Self Help" housing

Dear Governor Reagan:

In respect to my letter to you of March 1, 1968, and your favorable wire of March 7th, with follow up by Secretary Kenneth F. Hall, at your request I would like to give you some idea of the reaction to the Flanner House "Self Help Housing" idea, resulting from our six panel discussion held March 8th before the Oakland Citizen Committee for Urban Renewal. So I am enclosing a copy of the Tribune article giving this meeting some attention, and also enclosed is the OCCUR's secretary's report of the meeting at which Mr. Carl Mak, Chairman, (and Oakland General Manager of P.G. & E.) requested that I act as coordinator.

Also enclosed is a copy of Mr. E. S. Arnst's proposal for Urban Renewal, as mentioned in the above Tribune article.

After talking with Mr. Frank Crosby, Executive Secretary of the Oakland Real Estate Board, and Vice Chairman of OCCUR as well, he has recommended to the Board's Committee on Housing that this "self help" housing idea be subject to detailed discussion, at which time your wire and Secretary Kenneth Hall's letter will be read and discussed.

The OCCUR membership expressed appreciation of your response to my letter, and the recognition that you have given this self help participation idea for our disadvantaged citizens. We will try to extend this interest further to and through our local Real Estate Board members, where I believe its opportunity for further development will fall on fertile ground.

Sincerely yours,

A handwritten signature in cursive script, reading "John K. Lawler".
John K. Lawler

JKL/jkd

cc: Mr. Paul Beck
Mr. Kenneth F. Hall
Mr. Frank L. Crosby
Mr. Carl C. Mak

'Sweat Equity' Plan Examined Here

Wartime
Now S&

An Oakland citizens committee is examining a "sweat equity" approach to low-income home ownership which was dramatically successful in Indianapolis prior to tight money.

The Flanner House Homes program, in which the man of the house contributed 900 hours labor as a down-payment he otherwise could not

have afforded, was formed in 1945 as a private self-help organization.

Through excellent leadership and with the aid of technical help provided by Purdue University, dozens of blocks of rotting wooden tenements and rubbish-strewn lots were transformed into neat neighborhoods of attractive frame and brick houses.

Although incomes of resident families ranged in the 1950's from only \$3,500 to \$4,200, the minority group breadwinners toiled 20 hours a week at night while also holding their regular day jobs.

Working in groups of 20, the "help do it yourself" moonlighters completed their

Continued Page 7-C, Col. 4

Frank H. I
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1951.

Continued from Page 1-C

homes in nine months to a year.

Most components were pre-fabricated in the assembly-line factory. Quality discounts on materials were obtained through a \$200,000 revolving fund contributed mostly by interested local businessmen.

Plumbing, heating and electric work was done by contractors hired to do the job.

Unfortunately the Flanner House program skidded to a stop in late 1965 when competition for the lender's mortgage money climbed past FHA 6 per cent ceilings and required payment of points. Although no government help previously had been required the Indiana people now are asking subsidies to circumvent financing headaches to start their work again.

A week ago the Oakland Citizens Committee for Urban Development (OCCUR) heard a panel discussion of the Indianapolis program.

Reaction was favorable but participants wondered whether changing times required new financial tools — existing government programs were mentioned — and "bugs" were seen in the length of time the do-it-yourself building consumed while loans were in a state of flux.

John B. Williams, executive director of the Oakland Redevelopment Agency, said:

"I don't believe it can be done on a scattered lot approach. Maybe there is some suitable redevelopment acreage, possibly in Oak Center, where it could be tried in volume. Another thing, the standards of nearby houses would have to be good enough to justify the sweat equity man's dollars and work.

"I doubt seriously whether income levels in West Oakland are sufficient enough but if we could get business and banking support as was done in Indianapolis there would be encouragement to try it perhaps in the Model Cities program."

San Rafael contractor Ed Arntz said he would be willing to form a private non-profit corporation to which he would volunteer a part of his time without remuneration.

The corporation, operating on an "open-book" basis, would seek funds or subsidy from public sources to attract "a cadre of full-time employees, experienced in the business and responsive to such goals." They would do the more complex work such as plumbing.

Arntz would give "utmost consideration" to obtaining good design which also combined construction simplicity,

low operation and maintenance costs.

"The total labor budget would be split into a step payment arrangement so the more work the buyer would complete, the larger cash payment he would receive for his efforts," Arntz said.

Stressing that he foresaw plenty of problems, he nonetheless added:

"Compare the tonic to the ego that would accrue to the down-trodden person or family who had successfully completed a venture of this kind, with the deadening paralysis that one usually encounters in a public housing tract. We anticipate awesome difficulties but success here would be sweet indeed."

Another person who feels the same is Gov. Reagan who said in a telegram to John K. Lawler, program moderator for OCCUR:

"The idea of sweat equity certainly is worthy of serious consideration for it already has been used successfully and has the advantage of encouraging private initiative. I would appreciate being kept advised of the plans and progress of your group."

Oakland Tribune
Sun., March 17, 1968 7-C

OAKLAND CITIZENS' COMMITTEE FOR URBAN RENEWAL

March 8, 1968
8:00 - 9:30 a.m.

SUBJECT: Flanner House Homes, Inc.

The regular meeting of the Oakland Citizens' Committee for Urban Renewal was convened by Chairman Carl Mak.

ANNOUNCEMENTS

The Model Cities discussion scheduled for today's meeting was postponed in order to contact speakers for that program.

SUMMARY OF MEETING

A panel of six speakers was introduced to present their viewpoints of the Flanner House Homes project, a self-help organization founded in 1945 by Mr. Cleo W. Blackburn for group-building houses. The headquarters for this organization is in Indianapolis, where several hundred Negro families with incomes from \$3500 to \$4200 built their own prefabricated homes during evenings and weekends. Plumbing, heating and electrical work was done by hired professionals. This assembly-line home building production was done without subsidy by the federal government (although one is being sought now). Businessmen contributed much of a \$200,000 revolving fund for purchase of construction materials and banks advanced most of the mortgage loans. There was no downpayment required -- only "sweat equity." The finished home was worth about \$14,000 with a FHA insured mortgage loan of about \$9,500 which returns construction costs to the revolving fund. While the men worked on the houses, women attended classes in upholstery and other fields of housekeeping. The residents of the Flanner project in Indianapolis formed neighborhood groups and persuaded the city government to build a new elementary school and a swimming pool.

The first speaker on the panel was Mr. John B. Williams, Executive Director of the Oakland Redevelopment Agency. He described his "sweat equity" efforts years ago in building a home. The results of his endeavors convinced him that "sweat equity" is not designed for low-income families, but for people in the middle-income bracket who have an amateur's knowledge of good housing and building construction. Mr. Williams noted that if the Flanner housing concept were to be considered for Oakland, scattered site construction would be preferable and the business community of unions, teachers, Council of Churches, Economic Development Council and Redevelopment Agency would have to lend their support in terms of contributions of dollars in staff time. Mr. Williams pointed out that there are not large areas of unused land on the fringes of Oakland as there are in Indianapolis. He suggested that Oakland study the tools available through the

Model Cities Program to clear lands for development of "sweat equity" tracts and to study new 1968 housing legislation under Section 221(h).

Section 221(h) of the Model Cities Act of 1966 authorizes the FHA to provide insurance for the purchase of a single-family unit at 3% interest. Non-profit corporations may purchase five or more single-family units, rehabilitate them, and resell them to low-income families. Mortgages of \$12,300 to \$20,000 are available up to 30 years for eligible families whose incomes range from \$3,000 to \$7,000 depending upon size of family.

The second panelist was Mr. Jack Taylor, Administrator of the Building and Housing Department, who had put "sweat equity" into his own home some years ago and concurred with Mr. Williams that the Flanner House concept was geared to a middle-income group, but suggested that federal grants may be possible to assist low-income families. Also, if Oakland implemented the plan it would be more difficult to construct houses in scattered sites than within a limited area. He stated that at first glance it would appear there could be problems in permits and licensing, but he was sure these could be worked out. He offered the co-operation of the Building and Housing Department if the Flanner House concept is initiated in Oakland.

Mr. Norman Lind, Director of the City Planning Department, agreed with Mr. Williams and Mr. Taylor that the Flanner House program is directed at the middle-income group, also basing his opinion to a great extent upon his own experience in "sweat equity." Vacant land is scarce in Oakland, but construction need not be on a tract basis -- a number of variations could be applied. He felt the program should be directed to the 72,930 low-income people in Oakland by an amendment to the plan to utilize scattered sites and to include rehabilitation as a less expensive method of housing. Other forms of subsidies could be explored to fit into an appropriate program, loans of 3% for 50 years, demonstration grants from HUD, and Sections under 221(h), 115, and 112. Another feature of the Flanner House proposal could be modified to provide employment on a full-time basis. Mr. Lind concluded that the self-help Flanner House program might be modified to include a total approach to solve Oakland's employment and housing problem.

In the absence of Mr. J. Lamar Childers, Mr. Al Thoman represented the Alameda County Building Trades Council as the fourth panelist. Mr. Thoman described his attempts at rehabilitating his own home, resulting in the same conclusion as the other panelists -- it requires a certain amount of "know-how" and is time-consuming. He reported that the United States Department of Agriculture made available loans of 3% for a self-help housing project for agricultural workers in seven California counties from Fresno to Visalia. Groups of five or six families (averaging about five children to a family) grouped together and helped each other construct homes of 1100 square feet of floor space.

A minimal amount of skilled labor was hired by these groups to supervise construction. About 250 houses out of a contemplated 800 have been completed. Monthly payments are approximately \$45. There is a legislative bill in the State Assembly at the present time which would further this plan on a state-wide scale. The Alameda County Building Trades Council takes a firm stand that industry has not been able to provide low-cost housing, and families should be able to secure with their own efforts, and at a cost within their incomes, decent, safe and sanitary housing, believing that this will tend to eliminate a certain amount of ruthlessness which is evident in the agricultural sector and should stabilize the families into becoming community-oriented taxpayers, at the same time gaining such amenities as schools and hospitals. As for the Flanner House proposal, the Alameda County Building Trades Council is withholding its recommendation, as the unions in the eastern part of the United States vary greatly from unions in California.

Mr. John M. Bailey, Vice President of the Citizens Federal Savings and Loan, was the fifth panelist. He described his efforts at "sweat equity" with his own home and praised the inspectors of the Building and Housing Department for their cooperation and advice. He stressed that supervision is necessary as well as training and availability of time. From the financial viewpoint, financing would be no problem once the property was completed in accordance to code standards.

Mr. James Watson, Vice President of the Wells Fargo Bank, pointed out that there could be blunders in executing the Flanner House project in California by using the method of the eastern part of the country. However, the bank takes the stand that capable individuals building their own homes are a good financial risk, but the amount of time necessary to complete the home -- working evenings and weekends only -- results in money being held in commitment for about 2½ years. He introduced Mr. E. S. Arntz, a San Rafael building contractor, as an interested party.

Mr. Arntz cautioned against such a broad program of 72,930 inexperienced people in Oakland undertaking home building and rehabilitation themselves. He felt that his twenty-five years in building construction convinced him that "it would be a disastrous area of endeavor."

In a general committee discussion it was pointed out that there was one concept which was being overlooked: that any self-help type of home rehabilitation or new construction gives an individual a sense of responsibility and pride of accomplishment that cannot be felt as deeply if the actual work was done by someone else, and that such initiative and sense of belonging would create a more stabilized community.

The Chairman announced that OCCUR had received a telegram

from Governor Ronald Reagan stating that the "sweat equity" program is a good sign and may become an important factor in low-income housing in California; that it was an idea worth considering and he would appreciate being advised of the plans and progress of OCCUR in such an endeavor.

The meeting adjourned at 9:45 a.m.

* * *

A TENTATIVE PROPOSAL FOR URBAN RENEWAL
A PILOT PROJECT

By: E. S. Arntz

Introduction

The proposal outlined in the following draft is responsive to the plight of under-privileged people in our urban areas and the consequent deterioration to our nation. I recognize that the dimensions of the problem are enormous and that many facets of need compete for our attention and resources. Within the context of this recognition, however, I find myself increasingly interested in the interrelationship of three principle factors: 1) the need for housing in blighted areas, 2) the mass unemployment that exists in these areas, and 3) the absolute necessity of educating these people in work skills commensurate with their aptitudes. This proposal, though by necessity directed at a select target group within the general area of need, seeks accomplishment in these three problem areas.

I propose,

I. To form a private non-profit corporation, licensed as a construction company and organized specifically for work in the construction or reconstruction of residential units in needy areas. I would volunteer a portion of my own time to this enterprise without remuneration but would endeavor to attract a cadre of full-time employees, experienced in the business and responsive to the goals of the company as a management team.

II. This corporation would seek funds or subsidy from public sources, subject of course to the necessary scrutiny and controls consistent with good practice, prior to disbursement. The fact of its non-profit status and an open book policy with regard to expenses should hopefully obviate the necessity to smother its effectiveness or efficiency of operation by controls and red tape. Funding should relate to the accomplishment of stated goals with competitive efficiency rather than bureaucratic entanglement.

III. The first task of our enterprise would be to obtain land and undertake the design of good housing units suitable to our purpose. This design should be accompanied by a complete Bill of Materials so that all material, including all items that are normally purchased by subcontract on an installed basis, could

actually be purchased and warehoused, if necessary, for a complete structure down to the last nail. Utmost design consideration should be given to low operation and maintenance costs in the completed structure and to simplicity of construction and erection detail. This need not result in unattractive design since our objective is an accomplishment that will instill creative pride in those who participate. The best possible designers should be retained to accomplish this, and alternates should be incorporated into the design, if possible, which could be added at the option of the owner with his own labor to enhance the attractiveness of the home. Since each unit will be built as an individual building project, housing location could be obtained in various locations in a given area to replace condemned or razed buildings. The stigma of the vast mass produced impersonal ghetto-like project might be eliminated by this approach.

IV. The second phase of our scheme would require the careful screening and selection, through existing social agencies, of the ultimate owner and resident of the housing unit. He should qualify as to need and he must also exhibit a sincere desire to own the home and participate in the actual job of its construction. A little old lady would not do, but a little old lady with two strong, healthy sons in their late teens might very well comply, to demonstrate the point.

V. Basic to the plan would be our intention to furnish supervisory personnel only for all parts of the work that could be performed by the buyer on a do-it-yourself basis. Our own construction employees would do only those skilled items that could not be performed by the buyer himself. The total labor budget for the project would be distributed to the buyer on a cash payment arrangement upon the completion and inspection of the various phases of project construction after our own payroll costs had first been deducted. Thus, the more work the buyer would complete, the larger cash payment he would receive for his efforts. An attempt would be made to exempt these payments so that they do not act as an incursion into welfare receipts of the individual or otherwise kill the very incentive of enterprise we are trying to instill. Obvious controls and time limitations should be imposed to maintain the good standing of the buyer with an ultimate severance of the purchase agreement in those instances where the buyer would not perform. Payments to the buyer for his labor should be weighted in favor of the later construction phases so that a successor in ownership could be attracted to purchase a partially constructed building. This could be accomplished by a percentage withhold until final completion and occupancy had occurred.

I am not unaware of the problems that are inherent in a procedure of this type but the possible benefits are commensurate with the efforts expended. It would require patient dedication to our goals on the part of our own carefully selected field personnel to accomplish even partial success, but I feel confident that gains would be made in a heretofore untouched area of our basic unemployment problem. Our approach would have to be compatible with existing Union Contracts but since all labor would be Union with the exception of the work performed by the owner, there could hardly be cause for objection to our procedure from that source.

VI. Ultimate government sponsored financing should be arranged so that the final ownership package leaves the successful purchaser with an attractive home on terms that he can afford.

VII. At the completion of the project every effort should be made to place those buyers who have exhibited aptitude during the course of construction in Union Apprenticeship classes. In some cases, they could even be hired by our firm for a continuation of the program.

VIII. My qualifications as a successful contractor and developer are available for the review of interested parties and should establish my competence for an undertaking of this type and magnitude.

Compare the tonic to the ego that would accrue to the down-trodden person or family who had successfully completed a venture of this kind with the deadening paralysis that one usually encounters in a public housing tract! We anticipate awesome difficulties but success here would be sweet indeed.

Interested parties can contact me by mail in care of:

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