

MODERNIZATION OF STATE-AIDED PUBLIC HOUSING:
PROGRAM GOALS AND POLICIES IN CONFLICT

by

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ABSTRACT

Modernization of State-Aided Public Housing:
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by

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The Commonwealth of Massachusetts is one of the few states in the country with state-aided public housing programs and has been among the most progressive states in developing new public housing policy. This reform in policy has come about primarily through long and diligent efforts of public housing tenants and tenant advocates. The state Modernization program has been a significant milestone in reforming state public housing policy.

The state program was modeled after the federal Modernization program which was started in 1967 under the Johnson Administration. This was during the period of the War on Poverty, a time when tenants' rights was a national movement and citizen participation was a national priority. The state program, like the federal program, not only authorized the housing authorities to undertake physical modernization, but also required non-physical modernization which meant upgrading management and administration policies. Housing authorities were required to actively involve tenants in planning for the physical modernization and in the necessary changes in management policies and practice. The state Modernization Rules and Regulations specified that "Proposals for physical modernization projects will only be considered by the Department when such proposals include the full involvement of tenants in decisions affecting them."

The Department of Community Affairs is responsible for the administration and regulation of state public housing programs. The Department was formerly run by a few "tight-fisted" accountants whose policies on public housing management encouraged the deferral of routine maintenance. Above all else, the housing authorities were required to maintain a balanced operating budget.

Over the years the rising costs of operating and maintaining housing projects and the need for extraordinary repairs and equipment replacement have outstripped the ability of local housing authorities to meet them with rental income. Many of the state-aided family public housing projects are now in rundown and substandard condition. All family projects were built 20 to 26 years ago; thus, the age plus the years of neglected maintenance and the lack of adequate funding to improve the projects, have all added to the existing condition of the projects.

Only since 1970, with the enactment of the state's Modernization program has there been any attempt to address the problems caused, primarily, by policies that failed to recognize the consequences of deferred maintenance.

The state program has now gone through four annual phases. During this period of time the Department has not monitored the effectiveness of the program. Over \$63 million has been requested by housing authorities, but the annual modernization funding level of \$5 million has been held constant without any knowledge of significant impact on program goals. The goal of non-physical modernization appears to have been forced to take a back seat due to the lack of funding and the dire need for major capital improvements.

The purpose of this study is to explore the impact of the state Modernization program goals and policies. It attempts to evaluate goals and policies of physical and non-physical modernization; however, major research emphasis is placed on the incentives and constraints of non-physical modernization. For this purpose three local housing authorities are selected as case studies to measure the effectiveness of program goals and policies.

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S.A.C.

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CHAPTER I

INTRODUCTION TO THE STUDY

Background

The Commonwealth of Massachusetts is one of the few states in the country with state-aided public housing programs and has been among the most progressive states in developing new public housing policy. This reform in policy has come about primarily through long and diligent efforts of public housing tenants and tenant advocates. The state Modernization program has been a significant milestone in reforming state public housing policy.

The state program was modeled after the federal Modernization program which was started in 1967 under the Johnson Administration. This was during the period of the War on Poverty, a time when tenants' rights was a national movement and citizen participation was a national priority. The state program, like the federal program, not only authorized the housing authorities to undertake physical modernization, but also required non-physical modernization which meant upgrading

management and administration policies. Housing authorities were required to actively involve tenants in planning for the physical modernization and in the necessary changes in management policies and practice. The state Modernization Rules and Regulations specified that "Proposals for physical modernization projects will only be considered by the Department of Community Affairs when such proposals include the full involvement of tenants in decisions affecting them."

The Department of Community Affairs is responsible for the administration and regulation of state public housing programs. The two major programs are Chapter 200, "Veterans" family housing and Chapter 667, elderly housing. There are approximately 15,000 units of family and over 25,000 units of elderly state public housing across the Commonwealth.

The Department was formerly run by a few "tight-fisted" accountants whose policies on public housing management encouraged the deferral of routine maintenance. Above all else, the housing authorities were required to maintain a balanced operating budget.

Over the years the rising costs of operating and maintaining housing projects and the need for extraordinary repairs and equipment replacement have outstripped the ability of local housing authorities to meet them with rental income. Many of the state-aided family public housing projects are

now in rundown and substandard condition. All Chapter 200 family projects were built 20 to 26 years ago (built initially for World War II Veterans and their families); thus, the age plus the years of neglected maintenance and the lack of adequate funding to improve the projects, have all added to the existing condition of the projects. The development of elderly housing began in 1954, but the majority of elderly developments have taken place within the last five years; therefore all the elderly developments are in relatively good condition.

Only since 1970, with the enactment of the state's Modernization program, has there been any attempt to address the problems caused, primarily, by policies that failed to recognize the consequences of deferred maintenance.

The state program has now gone through four annual phases. During this period of time the Department has not monitored the effectiveness of the program. Over \$63 million has been requested by housing authorities, but the annual modernization funding level of \$5 million has been held constant without any knowledge of significant impact on program goals. The goal of non-physical modernization appears to have been forced to take a back seat due to the lack of funding and the dire need for major capital improvements.

Assumptions

The state program goals and policies, under the established rules and regulations, were irrational and impractical given the limited funding level of \$5 million per year, the magnitude of the problem in terms of physical need, the existing policies of many local housing authorities for "no tenant involvement" in management and because of the lack of foresight for policy implementation or enforcement.

Recent evidence that housing authorities resist tenant involvement, that the Department of Community Affairs has not monitored the program effectively or has not enforced housing authorities to comply with the rules and regulations -- all raise program policy questions that need to be answered at the state, authority and project levels.

Purpose and Scope of the Study

The purpose of this study is to explore the impact of the state Modernization program goals and policies. It attempts to evaluate goals and policies of physical and non-physical modernization; however, major research emphasis is placed on the incentives and constraints of non-physical modernization. For this purpose three local housing authorities are selected as case studies to measure the effectiveness of program goals and policies.

Hopefully, the results of this study will provide useful recommendations for the Department of Community Affairs to undertake the necessary steps to begin to maximize the resources available, both tapped and untapped, to achieve the stated program goals.

Data for this study has come from the files at the Department of Community Affairs, the Massachusetts Union of Public Housing Tenants, the Massachusetts Law Reform Institute and through extensive interviews of participants that have been involved in the modernization process over the years. For research at the project level, three projects have been selected as case studies to measure the impact of the non-physical modernization program goals. The three project selections were based on their range of conditions of

involvement or non-involvement in the modernization process. Out of 86 housing authorities that have participated in the Modernization program two have been selected as well as one housing authority that has not participated in the program.

Definitions

For the purpose of clarifying terms or abbreviations used in this study the following information is provided:

1. Department of Community Affairs - Department or DCA.
2. Local Housing Authority - Authority or LHA.
3. Policy - The Modernization rules and regulations promulgated by DCA March 16, 1971 (See Appendix B).
4. Physical Goals - A comprehensive program of physical improvement of state-aided public housing projects whose needs are most critical.
5. Non-Physical Goals - Tenant participation in decisions related to the planning and implementation of the Modernization program; and a thorough updating of all management policies and practices.

Research Questions to Pursue at the State Level: What is the extent of enforcement of rules and regulations? Do procedures conform to policies? Any unwritten procedures? Which do LHA's find more difficult to accept? To what extent does LHA monitoring exist? What actions have been taken to insure compliance?

Research Questions to Pursue at the LHA Level: To what extent do LHA's follow DCA rules and regulations? Do procedures conform to policies? Which do LHA's find more difficult to accept? Where do LHA's feel monitoring exists? How does the LHA view the Modernization program? Has the LHA felt that tenant involvement has been a benefit or constraint to the program? Has the tenant involvement been an opportunity for better tenant-management relations? What do the LHA's feel the tenants' share of involvement should be? Why did LHA's hesitate or fail to apply for Modernization funds?

Research Questions to Pursue at the Project Level: How do the tenants view the Modernization program? How much tenant participation actually exists? What do tenants feel their share of involvement should be? How have tenants leveraged their "clout" in terms of non-physical modernization? Have the tenant organizations been effective in instituting change? Were pressures placed on the tenant organizations by LHA's to divert priorities for other project needs? Do tenants monitor the LHA to see that work funded under modernization is completed properly? Why did or didn't tenant organizations apply for modernization funds when LHA's failed to apply?

Outline of Study

The results of this study are organized in the following manner. Chapter II is an attempt to reconstruct, historically, the development of the Modernization program. It describes the relationships of key participants, outlines the federal Modernization program, traces the legislative process and the drafting of the rules and regulations for the state Modernization program and then provides an overview of other issues and events evolving during the four year program experience. In a narrative form Chapter III presents the program experience during Phases 1 through 4 at the state and local levels. This narrative traces the major events, issues and constraints in the development and implementation of the program at both state and local levels, and highlights the issues of non-physical modernization at the local level. Finally, Chapter IV draws conclusions from the program experience and provides program recommendations.

CHAPTER II

HISTORICAL DEVELOPMENT OF THE MODERNIZATION PROGRAM

The Web of Key Participants

Five Boston institutions and organizations were instrumental in the development of the state Modernization program which opened the way for tenant participation in state public housing. These were the Citizens Housing and Planning Associates (CHPA), the Boston Housing Authority (BHA), the Massachusetts Law Reform Institute, the Massachusetts Conference on Human Rights (MCHR) and the Massachusetts Union of Public Housing Tenants.

Bob McKay, CHPA, Executive Director, was an active lobby and coordinator for modernization legislation. Julius Bernstein, an original CHPA Board member was appointed to the BHA board in 1968 and was MCHR vice-chairman. John Connolly, while in college at Harvard was a student intern at CHPA, he was one of the first public housing tenants in Massachusetts to be appointed to a LHA Board. Jack Plunkett was assistant director to CHPA in 1967 and was later hired by BHA as

Director of Communications. Plunkett became the first Executive Director of Mass Union. Before becoming Executive Director for the Union, he and John Connolly provided staff assistance to the Union in its infancy. Alex Kovel was the legislative counsel for Mass Law Reform in late 1969 then became Director of Modernization at BHA in early 1970. During this period he was also legislative chairman for MCHR. In 1971 Kovel was appointed DCA Assistant Secretary. Soon after Kovel moved to DCA, he and John Connolly negotiated a loan of Brian Opert and Janina Dwyer of the BHA Modernization staff to run the state Modernization program. John Connolly and Alex Kovel were also instrumental in the appointment of Miles Mahoney as DCA Commissioner in May 1972 by Governor Sargent.

The Massachusetts Law Reform Institute has played a major role throughout the modernization process, in the development of the rules and regulations and the enforcement of tenant participation policies. Al Kramer was the first Director of Mass Law Reform and later became Governor Sargent's Assistant on Urban Affairs. Kramer's role was significant in the negotiation of the rules and regulations with DCA discussed later in this Chapter. Mike Faden of Mass Law Reform provided the legal skills in drafting the Modernization rules and regulations for the tenant Committee. Dan Pearlman and Jeanne Kettleon took over the housing section from Mike Faden and were key participants in the

implementation of the Modernization program. Before moving to Mass Law Reform, Jeanne Kettleson, while a Harvard Law student, worked as an intern at CHPA under Jack Plunkett. Dan Pearlman was well versed in the aspects of tenant participation and non-physical modernization from his experience with the federal Modernization program. In Philadelphia he was counsel for two tenant groups against the Philadelphia Housing Authority for its failure to comply with the requirements of tenant participation. Pearlman successfully negotiated a Memorandum of Understanding with the Philadelphia Housing Authority. Representing the PHA in the negotiations was Miles Mahoney who was Deputy Director.

The Massachusetts Conference on Human Rights was an umbrella organization representing 46 civil rights, poverty, labor and housing agencies and organizations. Ellen Feingold, a MCHR member, was one of the participants in the original legislation drafting and lobby for the modernization bill. Ed Blackman, a former CHPA Director, was chairman for the MCHR during the negotiations of the Modernization rules and regulations.

The Massachusetts Union of Public Housing Tenants, formerly the Massachusetts Alliance of Public Housing Tenants, was founded in 1970 by a small group of public housing tenants. Eddie O'Neil, a BHA tenant and one of the original organizers, was appointed temporary chairman. One of the major stated

purposes for organizing was to push for a strong tenant participation role in the Modernization program. Early in February 1970, DCA Commissioner Charkoudian agreed to recognize the Mass Alliance as the official bargaining agent for all public housing tenants in Massachusetts. Similar recognition of the Alliance was followed by Governor Sargent. In early 1971 there was a division in the leadership of Mass Alliance. An election was held and Lincoln Durand, a tenant leader from Somerville, was elected as chairman. The Eddie O'Neil faction, who were not supportive of tenant issues, broke away and continued calling themselves the Mass Alliance. To settle the issue, the Durand group eventually changed their name to the Massachusetts Union of Public Housing Tenants.

The Federal Modernization Program Sets the Stage

The impetus for the state Modernization program came from the federal program and the deplorable condition of the state-aided housing projects, some of which were so badly deteriorated that they could not meet the State Sanitary Code standards.

The federal program emerged out of the turbulent 1960's, a time when public housing was deeply embedded with multiple financial and social problems. The riots and the rent-strikes had succeeded in shaking up the public housing establishment.¹ Tenants' rights was becoming a national movement and citizen participation was a national priority. It was believed by many people in the housing field that one of the principal causes of dissatisfaction among public housing tenants was their inability to have a meaningful voice in the basic decisions that affected their daily lives.² Congress responded in 1967 and wrote into the Modernization program a provision for tenant participation.³ The federal Modernization program, passed in 1967 and instituted in 1968 called for tenant participation in planning the expenditure of federal funds for the renovation and modernization of deteriorating federally-subsidized housing projects. Detailed rules and regulations were issued for the implementation of the program

which required that tenants be involved in the modernization process.

The announcement of the federal Modernization program, December, 1967, came in a circular from the U.S. Department of Housing and Urban Development (HUD) which stated that modernization would be directed to "a program for upgrading those low-rent housing projects which, for reasons of physical condition, location, and outmoded management policies, adversely affected the quality of living of the tenants."⁴

The unique quality of the Modernization program was that it was meant not only for upgrading physical plants, but for certain changes in management as well. These two aspects of the program could not be separated. Local housing authorities obtaining Modernization funds were expected to develop long- and short-range programs in the following areas:

- a) Modernization and rehabilitation of buildings and grounds.
- b) Involvement of the tenants in the plans and programs for the modernization of the project, changes in management policies and practices, and expanded services and facilities.
- c) Expansion of community service programs and of community facilities where needed to meet the requirements of the program.
- d) Intensification of efforts to assist low-income families to realize their potential for economic advance.

- e) Increase employment of low-income tenants by local housing authorities.⁵

Many of the larger housing authorities in urban areas of the Commonwealth, administering both federal and state public housing, decided to include tenants from the state projects in city-wide tenant organizations in order to spread the advantages of non-physical changes. The state-aided projects, however, were disqualified from receiving the federal Modernization money flowing around them. Tenants in state-aided projects who were participating in the planning process for the federal program were becoming increasingly disturbed that their own projects were not being improved.⁶ Thus, there was growing pressure on the part of tenants and low income housing advocates for a state Modernization program.

Tenants and housing advocates saw the federal program as a useful model, not only because it provided funds for physical improvements, but also because it called for tenant participation in the program and the improvement of management policies. They felt that only with the involvement of tenants could public housing be more responsive to the needs of the people living in it.

The Legislative Process

The legislative process for the state Modernization program began in 1969. The Modernization bill⁷ was drafted by citizen participation advocates Justin Gray and Ellen Feingold; submitted by Representative Robert Quinn of Boston; and endorsed and lobbied for by the Citizens Housing and Planning Association (CHPA)⁸ and the Massachusetts Conference on Human Rights (MCHR). This legislation required that housing authorities assisted financially by this bill would "establish and maintain a program of resident participation in the planning of renovation, remodeling, reconstruction, landscaping and improvement; establish and amend management policies and practices; establish and amend rental and occupancy policies and procedures; and establish a community service program and the planning of community facilities."⁹ The bill failed in that year, but a similar bill was introduced by the Committee on Urban Affairs the following year.

In the fall of 1969 the legislature authorized the Joint Committee on Urban Affairs to investigate and study issues surrounding public housing. The report was submitted in January 1970 along with legislation focused on the problems discovered. The first paragraph of the report began: "Public housing in Massachusetts is in a crisis: The number of house-

holds eligible for public housing far exceeds the number of units available; Much of the existing and occupied public housing is in a deplorable state."¹⁰ In discussing the condition and management of the state public housing the report further stressed how many of the projects were over 20 years old and suffer from problems of maintenance and disrepair. Many of the buildings, although structurally sound, were increasingly falling into irreparable condition because local housing authorities lacked the funds to maintain and rehabilitate them. Administrative and management policies in many authorities were often arbitrary, unfair and chaotic, placing increasing burdens upon the tenants.¹¹ The Committee recognized that if funds were not provided immediately for maintenance and modernization, projects would fall into such a grave condition that condemnation of buildings would result. The Committee, therefore, proposed legislation to authorize bonds for modernization of up to \$15 million.¹²

The subcommittee also felt that an important aspect of this legislation was the requirement for tenant participation. "It is important that the tenants who live in projects and who often know and experience the most crucial problems of maintenance should be consulted in any plans for modernization."¹³ It was assumed that this requirement would help to soften the relationships between tenants and authority staff which were sometimes hostile and antagonistic.

Before any authority could receive financial assistance for modernization the legislation required provision for tenant participation identical to the 1969 bill. It provided that the Department of Community Affairs establish rules and regulations for the implementation of modernization projects requiring housing authorities to establish and maintain a program for resident participation in the planning of physical improvements to be financed under this program and it called for changes in management, rental and occupancy policies and the establishment of community services and facilities.

The Urban Affairs Committee submitted the public housing legislative package to the House Ways and Means Committee where the Modernization bill¹⁴ was redrafted to further clarify the required content of the rules and regulations to be established by the DCA and the extent of tenant participation was formalized into resident advisory boards. This bill required that the housing authority enter into a contract with a resident advisory board comprised of tenants from all projects under the ownership or management of the authority. In addition, it specified that the contract recognize a mechanism for the tenants association to plan and participate in the: physical improvements; establishment and amendment of rental and occupancy policies and procedures; planning of community facilities; and the implementation of the general principle of encouraging housing authorities to undertake a

a mutual commitment to cooperative action and trust with tenant organizations in order to provide a decent home in a suitable living environment for low income households.¹⁵ The Modernization bill now went before the House where the legislation for non-physical modernization began losing ground.

On the House floor the bill was altered to establish limits on tenant participation. It now required that a five member residential advisory board be established to represent all of the projects under the ownership and supervision of each housing authority. Each board member was to be elected by all the tenants of his project for a term of one year. The housing authority was then required to meet with the advisory board from time to time, but at least four times a year, for advice and consultation in the areas of planning, renovation and remodeling, repairs and improvements, rental and occupational policies and the planning of community facilities.¹⁶

This version of the Modernization bill was passed by the House and went on to the Senate Ways and Means Committee where provisions for tenant participation and non-physical modernization were deleted. There Senator Blackie Burke, chairman of the committee, would not release the bill. Housing authorities, although not a strong lobby, were very much opposed to the provisions for tenant participation and

non-physical modernization. Senator Burke was a powerful and conservative figure and he supported the views of the housing authorities. Others in the committee, according to one source, felt that the provisions for tenant participation and non-physical modernization should be handled administratively by the Department of Community Affairs through the promulgation of the rules and regulations; therefore, would not need legislation.

Simultaneously, during the legislative process, the Massachusetts Alliance of Public Housing Tenants, as discussed earlier in this chapter, was organized and had been recognized, first by the Department of Community Affairs and then later by Governor Sargent, as the official bargaining agent for public housing tenants in the state.

The Mass Alliance immediately protested the elimination of tenant participation in the Modernization bill. Thus, at the urging of several supporters of the provisions for tenant participation, DCA did, begrudgingly, agree that the rules and regulations for the Modernization program would require tenant participation.

In a letter to Edward O'Neil, Chairman of the Mass Alliance, August 11, 1970, Deputy Commissioner E. William Richardson stated the following:

"I understand Mass Alliance raised objections to modernization bill (S.1559)

now pending before the Senate, on the ground that the provisions for tenant participation previously included in the bill have been eliminated. Although we regret that the modernization bill as presently drafted does not include the requirement for tenant participation, its enactment will not prejudice the interest of tenants. After enactment of the bill, the Department of Community Affairs will promulgate regulations governing the use of modernization funds, and such regulations will require tenant participation in the expenditure of any such funds which become available.

We would welcome your cooperation in drafting these regulations, and would appreciate receiving your written views in the form of a first draft of these regulations."

Finally on August 18, 1970 Governor Sargent enacted Chapter 694 of the Acts of 1970 which provided for the modernization and renovation of existing public housing projects and authorized the Commonwealth to borrow money to provide state grants for such projects. No provisions were made for tenant participation or non-physical modernization. Very simply, the act authorized DCA to expend \$15 million, not to exceed \$5 million during any one fiscal year, provided that each project undertaken would be in accordance with the rules and regulations promulgated by the Department. (See Appendix A.)

When the bill was passed and DCA had gone on record agreeing to a provision for tenant participation -- the tenants and their advocate groups went away with a sense of victory, but they soon realized that all could be lost

through the ineptness of DCA in drafting the rules and regulations. Thus, at the urging of several people, Edward Blackman, chairman of MCHR, established the Ad Hoc Committee to take the initiative to draft the rules and regulations.

Drafting the Rules and Regulations

Early in August 1970, DCA/Commissioner Richardson had asked the Mass Alliance, perhaps without conviction, for a first draft of the regulations. By late August 1970, Edward Blackman had organized the Ad Hoc Committee on Modernization, composed of several tenants and interested persons. Mike Faden, lawyer from Massachusetts Law Reform, provided legal services for the actual drafting of the regulations.

Several meetings were held by the Ad Hoc Committee in September to develop their draft of the rules and regulations. The development of these rules and regulations was an attempt to reform state public housing, using the Modernization program as the mechanism for reform. By October 5, 1970, the Committee had finalized their first draft and met with Deputy Commissioner Richardson to present it. Mike Faden presented the draft and discussed each item. The Modernization program goals, as presented in the draft, were "to produce a total upgrading, both physically and socially, of Massachusetts' state-aided public housing projects."¹⁷ The draft further called for full involvement in decisions relating to the Modernization program, full power to approve or disapprove in whole or part all LHA modernization applications and it broadened the concept of "improvement" to be construed to encompass beneficial changes in management practices and

management-tenant relations, including terms and conditions of occupancy.¹⁸ A provision in the draft called for LHA compliance with the aspects of a non-physical modernization program "regardless of whether it applies for or receives physical modernization funds."¹⁹ The proposed non-physical modernization program would include a thorough re-examination and updating of all management policies and practices. Such policies and practices would include, but not be limited to, the terms and conditions of tenant occupancy, the formal lease, and collective bargaining procedures, resident grievance procedures and tenant selection regulations.²⁰ In addition to the above provisions, the draft proposed that the state Modernization program incorporate the goals, activities and procedures of the federal Modernization program. It proposed that each LHA, managing and operating both federal and state public housing, extend any management policies and practices, lease or collective bargaining terms, or other terms and conditions of occupancy established and applied solely to residents in federally-aided projects, to all residents in state-aided projects, unless formally rejected by the residents of the state-aided projects.²¹

Richardson closed the meeting with a promise to pass around copies of the proposed rules and regulations to others interested in the Modernization program, give them a week to respond, and then get back to the Ad Hoc Committee.²²

The following day Richardson sent a copy of the Ad Hoc Committee's draft to the Boston Housing Authority for their comment. Over a week later, Julius Bernstein, chairman of the BHA responded to Richardson in a letter stating:

"On the whole, I find the [rules and regulations] excellent. They incorporate what we have found to be the most essential ingredient of a modernization program; tenant control in planning and channelling of funds. We urge you not to compromise this principle for any expediency, for on it rests the real value of a modernization program."²³

DCA suddenly found themselves backed against the wall. They were scared of the growing popularity of tenants' rights and tenant participation. They knew that the majority of the housing authorities opposed the provisions for tenant participation and non-physical modernization, and DCA reflected these same views. In an effort to balance negotiations, DCA picked, as one source put it, "the most regressive" housing authority Executive Directors for further negotiations of the rules and regulations. Up to this time DCA had never tried to regulate the public housing authorities; they had complete autonomy. The negotiations over the rules and regulations that followed was essentially a power struggle between the housing authorities and tenants, with DCA interested in protecting the interests of the authorities.

DCA began the negotiations by dragging their feet. Richardson had promised to get back to the Ad Hoc Committee

but there was much resistance to do so. By early November the Ad Hoc Committee decided that the best thing to do was to tactfully seek help from the Governor's office. The Committee met with Al Kramer, Assistant to the Governor on Urban Affairs, and, with prior approval from the Governor, he gave the Committee the assurance that he would support their draft proposal and start pushing DCA from the Governor's office.

Al Kramer became the political mediator, meeting with both DCA and the Ad Hoc Committee separately and chairing their joint meetings. At a joint meeting on November 9, it appeared as if substantial progress was being made. In a letter prepared for DCA Commissioner Charkoudian, the Ad Hoc Committee listed their understanding of eight points of agreement reached during that meeting.

1. That we and the Department of Community Affairs and the Governor's office are in agreement that the Modernization program be seen as a general reform of relationships between public housing tenants and authorities.
2. That all authorities that undertake modernization shall be required to include both physical and non-physical modernization programs as a part of their proposals and that substantial progress be made in non-physical modernization prior to approval of their modernization program.
3. That all authorities have a meeting with tenants explaining the Modernization program and its potential for the improvement of their developments.

4. That the Department intends to redefine the relationship between tenants and housing authorities through the rules and regulations in order to develop full tenant participation.

5. That there will be full tenant involvement in the planning and implementation of the program; that an elected tenant representative have sign-off power and monitor the program to assure program compliance.

6. That DCA will appoint an Advisory Committee, the majority of which shall consist of tenants of state-aided projects.

7. That modernization funds would go to projects with most critical needs; the Advisory Committee will evaluate all applications and provide priorities for the Department.

8. That modernization funds only be used for physical improvements (no past debts); the rules and regulations should explicitly prohibit any irregular uses of funds.²⁴

The eight points above were essentially the main points used for the development of the final set of rules and regulations. Approximately eight drafts²⁵ were exchanged and over 25 meetings²⁶ were held by DCA and the Ad Hoc Committee prior to the public hearing held on February 17, 1971, to discuss the proposed rules and regulations. The significant points lost by the Ad Hoc Committee during the negotiations were the provisions for leases, grievance procedures, tenant selection regulations and the stipulation that modernization funds only be used for physical improvements, not for any past debts. Charkoudian was under court order to pay for back gas bills for the Lynn Housing Authority

and could not put such a constraint on the use of the modernization funds. The housing authorities were unwilling to deal with the issue of leases, grievance procedures and tenant selection, but, Charkoudian did say that he would issue new regulations in those areas in the near future.

At the public hearing proponents and opponents of the provisions for tenant participation and non-physical modernization were heard. Representative David Liederman made the strongest statement for the proponents. He said, "that any modernization program now developed must not just have the participation of tenants, but should be under the control of tenants so as to have their full support... In 1971 tenant involvement means tenant control, not participation... I charge DCA with the responsibility for developing rules and regulations which reflect the strongest possible guidelines for effective tenant control.... I do not think the proposed rules and regulations do that."²⁷

Mrs. Sandra Winneberger, Ad Hoc Committee member and resident of Lynn housing project, presented in a narrative form, her perspective of the negotiation process:

"The Ad Hoc Committee started out initially with many innovative and creative ideas about how modernization should work. However, in the process of negotiating with the Department of Community Affairs we have been forced to compromise on most of them.

For example, the most important requirement that the Ad Hoc Committee tried to develop was a section dealing with non-physical modernization -- i.e. new leases, collective bargaining agreements, eviction and grievance procedures, tenant participation in management decisions, etc. Our original position was that every housing authority should be required to carry out this kind of social modernization program -- regardless of whether they received funds for non-physical improvement....

These reforms in management policy could and should have been required by DCA long ago, even before money for physical modernization became available....

Personally, as a member of the Ad Hoc Committee, I saw DCA officials pick apart and constantly try to destroy any real tenant involvement in decision making, especially in the social modernization sections of our proposed regulations. It was truly a lesson in political 'buck passing' and ball games to watch DCA and the Housing Authority Executive Directors trying to squash recommendations put forth by the Ad Hoc Committee. Some Executive Directors, on the one hand, told tenants they had already been promised such-and-such an amount for modernization by DCA, while DCA told the Ad Hoc Committee that no money had been promised. There was the pre-State election 'niceness' lavished on the Ad Hoc Committee with DCA list[en]ing, making concessions and being so polite.

However, as usual, two days after the election our draft was rejected as being to 'liberal,' i.e. giving tenants too much power. There was the Executive Directors Association sending 'urgent' notices to each other warning of the tenants proposal for social modernization. There was the meeting between the Ad Hoc Committee and representatives of the Executive Directors Association, where disagreement became so heated that I wondered if any of the executive directors had an ounce of humanity left in them. They put down new leases, collective bargaining and grievance procedures one after another. A

DCA official sat in on this meeting, and not once did he open his mouth in defense of the tenants' position.

Every one of the bureaucrats and State officials that I met during this process were completely lacking in any understanding or feeling for people. Their main concern was always money -- how much will this cost; how much will that cost. Not one of them had any inkling that money-minded bureaucrats have ruined this country. They have been taught to think of money only, never in terms of people and their needs. It's about time that treating people like human beings became more important than the almighty buck.

Any accomplishments made by tenants in these rules and regulations are only a drop in the bucket. There is lots to be done. The real victory] is when tenants in public housing make their own decisions about the policies that affect their lives, and don't end up having to compromise with bureaucrats."28

Executive Directors from three housing authorities spoke against the proposed rules and regulations. Mr. John Daly, Administrator, Malden Housing Authority and President of the Massachusetts Association of Housing Authorities said, "We know better than the tenants know what they want, when they want it and should be consulted...." Mr. Carl Hyman, Executive Director of Revere Housing Authority stated, "I believe that the tenant organization advisory committees only should be in an advisory capacity.... I believe that the Department of Community Affairs has qualified men on construction to know what is needed by each authority throughout the State, and that their final approval will be the only thing necessary." Finally, Mr. Robert Hauser from the Arlington Housing Authority

spoke of the need for tenant participation in the rules and regulations as "absolutely unnecessary."²⁹

Other housing authority representatives attended the hearing but did not speak out. One such person submitted the following letter to Commissioner Charkoudian about a week later.

"This Authority has requested and needs to participate in this program but under the proposed regulations we would probably not pursue the matter.

I refer mainly to the following stipulation of the proposed regulations: 'No preliminary proposal shall be accepted by the Department unless it is signed by authorized representatives of both the authority and the tenants.'

I do not believe that the Department of Community Affairs can legally subject any program or local housing authority to the concurrence of dictates of any outside organization, be they tenants or saints.

As an elected public official, sworn to uphold the laws of the Town and Commonwealth, I don't believe that I'm permitted to share the responsibilities of my office."³⁰

In March, DCA's Modernization regulations had been promulgated, mandating tenant participation in the planning and implementation of the program. These regulations provided that:

....tenants of each project affected by this Modernization Program shall be involved in decisions related to the planning and implementation of the program....Proposals for physical modernization projects will only be considered by the Department, when such proposals

include the full involvement of tenants in decisions affecting them.

Each modernization proposal shall be preceded by a statement outlining plans for tenant participation in management decisions; improvements in management policies and practices, the expansion of community services and employment of tenants where possible. All modernization funding after January 1, 1972 will be contingent upon the substantial accomplishment in the area of non-physical modernization.

An LHA could not avoid compliance with the regulations by simply not wishing to participate in the program, since the tenants were to be properly informed not later than thirty days after the adoption of the regulations.

....all authorities shall notify all the tenants aged eighteen (18) or above in all projects, by letters sent by regular mail, of the existence of the Modernization Program, its purpose and its importance to the tenants;....

The authority shall schedule a meeting with the tenants at a time and place when the majority of tenants will be able to attend, and shall notify the tenants of the date and time of the scheduled meeting and of its purpose.

If the LHA did not want to apply for modernization funds the tenant organization could apply directly for the funds themselves, this would bind the LHA to comply with the aspects of non-physical modernization. The regulations further stipulated that:

....if no tenant organization exists...a temporary chairman shall be elected to preside over this and any other meetings until a duly elected tenant organization

is formed...The tenant organization shall be responsible for representing tenants in the planning and execution of the Modernization Program. The tenant organization chairman has the duty to sign the preliminary proposal developed with the LHA. He shall sign such proposal only when it has been approved by a majority vote of all tenants present and voting at a meeting of which all tenants have been given proper notice.

No preliminary proposal shall be accepted by the Department unless it is signed by authorized representatives of both the authority and the tenants... If an authority refuses to submit an application for modernization funds, within sixty days, the tenant organization may submit its own application which the Department will consider.

The requested work items for physical modernization were to be negotiated by the housing authority and tenant organization and then listed in order of their agreed priority. The regulations stressed that interest in submitting applications as early as possible in no case would constitute grounds for disregarding the requirements for tenant participation.

The regulations concluded by requiring that a Modernization Advisory Committee be formed to assist the Department in the modernization process, consisting of members from the Massachusetts Alliance of Public Housing Tenants, Massachusetts Association of Housing Authority Executive Directors and other public members as chosen by the Commissioner. (See Appendix B.)

Isolating the Research Problem

The time frame for this study is 1970 - 1975, approximately five years. Since the Modernization program is integrated with several issues and events occurring during this time period, a general overview is provided.

During 1969 a number of organizations interested in the affairs of public housing tenants, particularly the National Tenants Organization (NTO), began to urge HUD to issue a "Tenant Bill of Rights." By 1970 HUD began to negotiate with NTO and the National Association of Housing and Redevelopment Officials (NAHRO) to develop a model lease and grievance procedure for low rent public housing.

On February 22, 1971 HUD issued circulars requiring LHA's to revise their leases and promulgated its Model Lease for recognizing certain minimum rights and obligations of parties and required the adoption of certain grievance procedures. This was met by much opposition from local housing authorities. Ten local housing authorities across the country later joined by fourteen others, brought a class suit in the District of Nebraska against HUD alleging that the circulars exceeded the limits of rule-making power authorized to HUD by Congress.

DCA also began in 1970 to develop new leases and

grievance procedures for tenants in state-aided public housing. The negotiations lasted for three years before they were promulgated. Regulations for Tenant Participation in LHA administration were not proposed until early 1972. By August 24, 1972 regulations on Leases, Grievance Procedures and Tenant Participation were circulated to housing authorities and tenant organizations for comment. The majority of the housing authorities vigorously denied DCA's authority to regulate LHA's.

By summer 1972, DCA had undergone a major staff turnover. This was during the Mahoney administration (discussed further in Chapter III) that young talented "reformers" were brought together. They all shared the same goals and objectives in the area of housing and policy reform. Suddenly the housing authority officials opposing the regulations became the "enemy." Further negotiations on the regulations were impossible since Mahoney "didn't talk to his enemies."

The Omaha case was resolved in favor of HUD's regulations on Lease and Grievance Procedures. The U.S. Court of Appeals upheld HUD's authority to regulate federal public housing.³¹

Soon after the Omaha decision, DCA Commissioner Miles Mahoney signed the state Lease, Grievance Procedure and Tenant Participation regulations. The regulations were

officially promulgated February 22, 1973. Shortly after HUD's regulatory power was upheld, DCA's was tested.

The Medford Housing Authority denied the authority of DCA to promulgate the regulations and refused to comply with them. MHA contended that DCA has no legislative authority to make rules for the internal operation of local housing projects and that the DCA regulations, instead of prescribing "standards" and "principles," restrict the operations of the LHA and take away any individual discretion in its essential operating and management functions.

Many of the LHA's were counting on the suit by the Medford Housing Authority against DCA to invalidate the new regulations. The Medford case was decided on July 10, 1973 by the Supreme Judicial Court (SJC), upholding DCA's power to issue regulations as well as upholding the actual regulations issued by the department for Leases, Grievance Procedures, Tenant Participation, Rent Determination and Income and Occupancy. Further, the SJC issued an order requiring the Medford Housing Authority to comply with these regulations.³²

FOOTNOTES TO CHAPTER II

1. Marcuse, Peter, "The Rise of Tenant Organizations," in Housing Urban America, edited by Jon Pynoos, Robert Schafer, Chester Hartman, p.51. Chicago: Aldine publishing Co., 1973.
2. George Schermer Associates and Kenneth C. Jones, "Public Housing is the Tenants," prepared for NAHRO, pp.41-42, 1967.
3. Marcuse, Op. Cit.
4. Low Rent Housing, "the Modernization Program Handbook," June 1969.
5. Ibid.
6. During the early organization of the Boston city wide Task Force on Physical Upgrading the question was asked of Boston Housing Authority Administrator - when would the state projects have their turn? The reply was - "soon," but at least now they can have the experience and knowledge of what must take place. Minutes of BHA Modernization Program, March 9, 1968 as recorded by Victoria Wynn.
7. H.2638 of the 1969 Legislative Documents, An Act to Amend the Housing Authorities Law to Provide funds for the Renovation of existing housing projects, submitted by Representative Robert Quinn of Boston.
8. Citizens Housing and Planning Association (CHPA) began its activity in 1967, and was extremely influential in state housing policy. There is a web of people who were associated with CHPA during this period of the legislative process. All housing reformers and low income housing advocates came together at CHPA.
9. H.2638, Op. Cit.
10. Joint Committee on Urban Affairs, Report "Relative to Public Housing," H.5000 of the 1970 Legislative Documents, February 2, 1970, p.9.
11. Ibid., p.20.

12. The proponents of the bill recognized that this amount was not nearly sufficient to begin to address the problems, however, to get such a bill through would be a victory in itself. They were also aware of the complicated process in getting the money spent within a year.
13. Joint Committee, Op. Cit., p.2..
14. H.5853 of the 1970 Legislative Documents, Section 8,p.6.
15. Ibid.
16. H.5870 of the 1970 Legislative Documents.
17. Ad Hoc Committee, draft, "Proposed Department of Community Affairs Regulations for State Public Housing Modernization Program," p.1.
18. Ibid.
19. Ibid., Section IV, B.
20. Ibid.
21. Ibid. Section II
22. Minutes of Ad Hoc Committee meeting with Deputy Commissioner Richardson, October 5, 1970, recorded by the Ad Hoc Committee.
23. Letter from Julius Bernstein to Deputy Commissioner Richardson, October 17, 1970.
24. Draft Letter from the Ad Hoc Committee to Commissioner Charkoudian, For Discussion Only.
25. Proposed drafts: Ad Hoc Committee (October 5, 1970; October 29, 1970; November 29, 1970; January 11, 1971); DCA (October 23, 1970; November 29, 1970; January 11, 1971; January 15, 1971)
26. DCA transcript of Public Hearings, on the Proposed Rules and Regulations for the Modernization of State-Aided Public Housing Projects, on February 17, 1971, recorded by Mc Kenna Reporting Associates, p.6.
27. Ibid., pp.15-16.
28. Ibid., pp.21-25.

29. Ibid., pp. 31,36 & 38.
30. Letter from Maurice W. Isbell, Chairman, Bedford Housing Authority to Commissioner Charkoudian, February, 25, 1971.
31. Housing Authority of Omaha v. United States Housing Authority. 468 F. 2d 1, 10 (8th Cir.).
32. Commissioner of the Department of Community Affairs vs. Medford Housing Authority and a companion case (Daniel Bates & others vs. Medford Housing Authority), Mass. Supreme Judicial Court, July 10, 1973.

CHAPTER III

PROGRAM EXPERIENCE: PHASES 1-4

This Chapter attempts to reconstruct the Modernization program experience over the past four phases. It traces the major events, issues and constraints in the development and implementation of the program at both state and local levels, highlighting the aspect of non-physical modernization.

The State Level: DCA

During the past four Phases the Department has been faced with the dilemma of physical and non-physical program goals. Rather than pursuing both goals simultaneously, they have shifted these goals to the point that physical modernization has been shortsighted and inconsistent with physical goals and non-physical modernization has become virtually non-existent.

Program Implementation - Phase 1

On March 16, 1971 DCA Deputy Commissioner Richardson mailed out the Modernization rules and regulations to all housing authorities. On the cover memorandum Richardson

stated:

"These regulations were the product of many, many meetings with Tenants, Housing Authority Members and Executive Directors. It is our belief that the process, though lengthy, was in fact a beneficial one.

The Department is anxious, however, that no further delay occur and that applications be submitted as soon as possible."

In the interest of initiating the program at once, it was agreed that Phase 1 funding priority would go to proposals for physical modernization, but all funding after January 1, 1972 would be contingent upon substantial accomplishment in the area of non-physical modernization. It was stressed in the regulations that "interest in submitting applications as early as possible, however, shall in no case constitute grounds for disregarding the requirements for tenant participation." DCA failed to heed this point in development of their program procedures.

Public housing tenants and tenant advocates had spent over a year of active lobbying to get the Modernization legislation enacted, then seven months negotiating and drafting the rules and regulations for the program to be administered by the Department of Community Affairs. DCA, however, had no inkling of the intent or spirit of the program they were to administer.

Program goal conflicts, thus, began with the implementation of Phase I. Although the established policy clearly

mandated tenant participation, differing views were being expressed by DCA. ^{Edward Power,} / Acting Director of the Modernization program did not share the concern for tenant involvement; his primary concern was to get the funds out to the LHA's to address their critical needs. He candidly admits that housing authorities with no tenant organization (TO) received their modernization allocation of funds with no delays, while, authorities with tenant organizations faced continual delays negotiating priorities.

On March 22, Richardson began soliciting recommendations for the Modernization Advisory Committee. The Massachusetts Conference on Human Rights, The Ad Hoc Committee, and the Massachusetts Alliance of Public Housing Tenants (Linc Durand's group) joined together in recommending five tenants and three public individuals to serve on the Modernization Advisory Committee. Eddie O'Neil's splinter group of the Mass Alliance submitted names of four tenants to serve on the Committee.

By May 17, a thirteen member Modernization Advisory Committee was established. It was composed of five LHA directors, five public housing tenants and three public members. Richardson selected two tenants recommended by MCHR/Ad Hoc Committee/MAPHT, two tenants recommended by O'Neil and one tenant from Lynn. The three public members selected were Ed Blackman, Dan Pearlman and Peter McCormack

(a former Executive Director from Brookline). There was immediate protest to the Advisory Committee's composition. In a letter to Richardson, Blackman stated:

"I have followed with some dismay your appointments to the Advisory Committee on Modernization. Despite strong recommendations from both MCHR and Mass Alliance of Public Housing Tenants, it is clear that some appointees have no sense of the history of the rules and regulations and have evidenced no particular concern with the program, and that the make up of the Committee puts tenants and tenant organizations at a distinct numerical disadvantage. For this Committee to be acceptable to the tenant organizations represented in MAHPT and to MCHR, I would suggest that you seriously consider appointing three additional members from the original recommendations of our organizations."¹

Richardson held firm and wouldn't add to the membership of the committee. Linc Durand claims that Mass Alliance tried for six weeks to have three additional members placed on the committee. As a last effort they asked Al Kramer of the Governor's office to intervene. The Governor was committed to public housing reform, it was clear that the DCA leadership did not reflect this commitment. The Governor's office began looking for a Commissioner that would reflect the Governor's policies.

The first Modernization Advisory Committee meeting was held July 14. DCA was completely ignoring the requirement for a non-physical proposal in their approval of modernization applications. Blackman and Pearlman were the only two Committee members who, early in the process, raised objections to

the Department's approval of modernization applications without attaching any condition regarding a non-physical modernization proposal. Lacking a majority vote, they could not halt the process. At the Committees' third meeting, Pearlman requested DCA to ask its attorney to report back to the Committee as to whether the procedure used in approving applications was in accordance with the rules and regulations.

At an October Committee meeting Pearlman proposed that DCA develop "review criteria" for non-physical portions of the modernization applications. He further recommended that this criteria be used not only for new applications but for applications already approved by the Department. The Advisory Committee agreed to this proposal and made the recommendation to the Department.

On the following monthly meeting, Richardson responding to the Committees' request, to attend the meeting and discuss the criteria used for awarding contracts, presented the following criteria:

1. Completeness of applications - all forms should be complete.
2. Financial Status - status of operating reserve.
3. Chronology - a first come, first serve basis.
4. Criteria for non-physical part of application is still being developed by the Department.

Pearlman discussed the problem of approving applications on a first come first serve basis since housing authorities may not do a thorough job which might lead to further delays. He suggested that after January 1, 1972 the Department give LHA's a specific date by which they should submit their applications. Again, Pearlman suggested that the Department develop criteria for non-physical modernization within 30 days and that the Department approve applications in keeping with the rules and regulations.

By January 1972 other members of the Advisory Committee were upset with the Departments' procedure for administering the program. At a January 12 meeting, Edward Power, Acting Director of the Modernization program presented a "final list" of 23 housing authorities receiving first year funding. (See Table 1). Committee member, John Daly, Executive Director of the Malden Housing Authority expressed his surprise - "these awards do not seem possible because the Committee has not been informed of why money has been granted."² At the Committees' second meeting in July 1971, they had agreed that in considering modernization applications they would invite in the Executive Director and tenant representative to discuss the merits of the proposal; however, this procedure had not been used. Pearlman expressed the same concerns and again asked whether the procedure used in approving applications was in accordance with the rules and regulations. The Commit-

tee wanted Deputy Commissioner Richardson to attend their next meeting to discuss their concerns.

On January 26, Richardson attended as well as the newly appointed Assistant Secretary, Alex Kovel. Several of the Committee members presented criticism of the Program administration. Blackman and Pearlman commented on the Program being inadequately staffed. Richardson admitted that there was no existing staff. He explained that Ed Power was the only full-time modernization staff person, but was assisted by other staff.

When confronted with the fact that applications do not have a statement of non-physical modernization as required by the rules and regulations, Power interjected, "We are talking about a small program with \$15 million. We receive tremendous pressure from the legislature - we call it as we see it on a day to day basis."³

Daly then asked about the role of the Advisory Committee. Richardson responded that their role was to determine policy, review it, and offer constructive criticism. "I consider this Advisory Committee in the true sense of the term." Pearlman responded - "we have tried to serve in an advisory capacity - have raised questions, suggested alternatives or asked for clarification from the Department's legal counsel. The Department never responds to the Committees' ideas, requests or opinions."⁴

Richardson concluded the discussion by stating that the intent of the Committee should be, in an advisory manner, to insure the fullest use of funds by the Department and he took full responsibility for DCA responding to the Committees' requests.

This meeting with Richardson did prove beneficial. Suddenly, DCA began inviting in Executive Directors and tenant representatives to meet with the Advisory Committee. Of the "approved" list of 23 LHA's to receive modernization funds only 8 were invited in. This process did not affect the decisions that had already been made, but it did allow Pearlman to do some surface probing on the issues of non-physical modernization. As suspected, all tenant representatives were satisfied with the actions of the housing authority and had no tenant-management problems. In one case it was discovered that the tenant representative had been appointed chairman of the tenants organization by the housing authority and not by the tenants. When Pearlman tried to question the integrity of the tenant representatives and the tenant organizations they represented, other committee members objected, stating that the Committee has no right to question the motives of applications. Herb King, DCA's chief accountant, who worked as back-up staff to Power, stated that tenants have reported that everything has been complied with and that from the Department's standpoint, neither the housing authority nor the tenants have any grievances.

Only in one instance during this Phase 1 period did tenants file a grievance against the housing authority. In this case it was discovered that the tenants were not aware of the non-physical statement of intent when it was submitted with the modernization application. The LHA Executive Director felt that it was to be submitted as a plan of the Authority and did not need tenant participation. It was brought out that at a LHA meeting in June 1971, the Executive Director stressed the physical modernization rules and regulations but skipped over non-physical aspects of the Program. The chairman of the tenants organization was aware of the non-physical statement of intent but had not informed the tenants.

The following issues surfaced:

1. The tenants feel that they did not really participate in the Modernization Planning, but rather ratified the decisions of the Executive Director. The tenants feel that decisions on physical modernization were unwise and wanted to revise the plan to take specific physical problems into account.
2. The tenants were not kept informed of the progress in the program until February 1972. They have not participated in the preparation of any reports to DCA.
3. The tenants wanted to share in the awarding and supervision of the modernization contracts.
4. The tenants felt that they needed to be allowed

to be more deeply involved in the program.

5. The tenants wanted to be present for all meetings of the Authority.

A three person Grievance Sub-Committee was elected from the Modernization Advisory Committee. The Grievance Sub-Committee found that open and clear communication between tenants and Authority had not been maintained throughout the Modernization process. The Sub-Committee also found that DCA had contributed to the problem by both lack of clarity in guiding the LHA in the process and by meeting separately with the Executive Director and Chairman of the Authority in making informal commitment without the tenants' knowledge.

The Grievance Sub-Committee recommended the following actions:

1. That the LHA and the tenants' organization meet jointly with the Grievance Sub-Committee, to develop a specific program for non-physical modernization.
2. That the LHA and TO reconsider and agree upon physical modernization priorities.
3. That the LHA notify the TO of all LHA meetings and regular meetings be held by both LHA and TO.
4. That the LHA and TO submit joint modernization progress reports monthly to DCA.
5. That any commitments that the DCA has made to the LHA be shared officially with the TO; and further negotiations be conducted jointly.

Ed Power was DCA's only staff person to take a position on the Sub-Committee's recommendations. Power felt that it was the Authority's responsibility to recognize tenant groups and that it was also the Authority's responsibility to work out problems with tenants. No other position was presented by the Department. This was primarily due to the internal transition of leadership.

DCA Commissioner Leon Charkoudian, who had not been involved in the Modernization process, had resigned. A new cabinet position, Secretary of Communities and Development, had been created by Governor Sargent, and Thomas Atkins had been appointed to this position. Richardson was temporarily acting as Commissioner, but was unsure of his future at DCA.

Pearlman finally took the lead in drafting "Criteria for Reviewing LHA Plan for Non-Physical Modernization." See Appendix C. It was very extensive criteria requiring that LHA's have either existing practices or a reasonable plan for implementing practices in the areas of the lease, tenant grievances, rent collection, admissions, emergency maintenance, tenant employment, community service and tenant participation meeting specific standards.

The procedure outlined for reviewing housing authority's plan for non-physical modernization would require obtaining information on each of the areas above.

If the housing authority's existing practices met the criteria in all areas above they could then be considered for modernization funding. It was recognized, however, that the existing practices of most housing authorities would not meet the criteria. Thus, their disposition would vary according to the housing authorities proposed changes to achieve criteria standards. It would be determined whether the proposed changes were either acceptable, conditionally acceptable or unacceptable to qualify for modernization funding.

Unfortunately, this proposal received little consideration during the "final days" of the Richardson/Power "leadership." It did lay the ground work for the development of the Lease, Grievance Procedure and Tenant Participation regulations.

Summary of Findings

Phase I was a slow and blundering attempt at program administration. Richardson negotiated, then promulgated, the rules and regulations with some apparent conviction. Then he placed a person in charge of the program who had no sensitivity to the purpose and scope of the program. In DCA's floundering efforts they created a financial mechanism which was unrealistic. The legislation authorized DCA to provide financial assistance in the form of "grants." Instead DCA provided financial assistance in the form of "reimbursements" to LHA's following the completion of all work by the contractor.

The dilemma created here was that the LHA's in the most critical need for physical improvements were also in critical financial condition and could not afford the front end money required to benefit from the Modernization program. By May 1972, although the entire \$5 million had been allocated, less than ten per cent of the funds had actually been spent (reimbursed).

Allocation of funds, which was claimed to be on the basis of critical need, was actually arbitrary. No deadline was set for application submission, nor was there any substantive criteria for awarding funds. In an effort to respond to Pearlman's request for criteria used for awarding funds, Power claimed as one criterion - "Utilization of unemployment figures of the area to assist in determining priorities."⁶

In summary, Phase 1 Program administration was based on a "we call it as we see it on a day to day basis." Needless to say, impact of non-physical modernization was marginal.

Table 1
 MODERNIZATION FUNDING ALLOCATION
 and
 ORDER OF APPLICATION
 PHASE 1

<u>LHA's</u>	<u>Application Date</u>	<u>Amount Requested</u>	<u>Amount Approved</u>	<u>Dollars/Unit</u>
Lynn	11/ 1/70	\$1,690,027	\$1,029,357	1927
Holyoke	12/ 3/70	350,794	52,000	237
Norwood	3/30/71	60,000	30,505	417
Malden	4/15/71	292,800	130,000	590
Andover	5/ 6/71	152,600	5,200	92
Lawrence	5/12/71	993,255	200,000	443
Westfield	5/18/71	116,676	12,200	196
Everett	5/24/71	556,092	55,308	141
Somerville	5/26/71	216,800	134,800	295
Springfield	6/ 3/71	3,403,956	589,700	1110
Lowell	6/ 4/71	1,716,100	776,200	2658
Arlington	6/23/71	211,140	30,000	120
Chelsea	6/24/71	297,550	274,900	935
Boston	6/29/71	5,008,896	1,256,972	341
Amesbury	6/30/71	27,500	27,500	1018
Milford	7/21/71	115,460	50,123	726
Hadly	7/29/71	34,000	25,000	850
Worcester	9/ 3/71	180,500	46,650	622
W. Springfield	9/20/71	171,468	65,505	728
Leominster	9/27/71	114,150	39,000	534
Ipswich	9/30/71	59,125	30,000	1250
Brookline	9/30/71	1,022,600	100,960	287
Franklin	1/14/72	9,955	10,000	357
NAHRO Tenant Training			23,000	
TOTAL			\$ 4,999,968	

Phases 2 and 3

By summer 1972, DCA had undergone a major staff turnover. Early in May, Miles Mahoney was appointed Commissioner by Governor Sargent. Mahoney came from the Philadelphia Housing Authority where he was Deputy Director. He had a long history of background in public housing, and was committed to public housing policy reform and tenant participation. Three years earlier he had negotiated a Memorandum of Understanding with Dan Pearlman between the PHA and two tenant organizations. Upon entering DCA he immediately recalled all decision making authority.

DCA Assistant Secretary, Alex Kovel and BHA Commissioner John Connolly, who had recruited Mahoney, also negotiated a loan of Brian Opert from BHA to administer the state Modernization program. Opert had been BHA Modernization Program Coordinator for three years, where he had successfully administered the federal Modernization program. Federal modernization funds at BHA were exhausted. Opert agreed to the transfer but didn't want to go into the "hornets-nest" alone so he brought Janina Dwyer, as administrative assistant with him. Connolly's motives were selfish. BHA had over \$1.2 million committed from Phase 1 but because of the "reimbursement" obstacle they couldn't get to it. Connolly also felt that it would be to the advantage of BHA since Opert

was familiar with problems in Boston (operating 26% of the states Chapter 200 family housing).

On May 18, Alex Kovel and John Connolly met with the Deputy Comptroller to correct the funding mechanism. It was agreed that the Comptroller would release funds directly to LHA's upon receipt of the contract amount from DCA.

Within the month of May the Modernization program had been overhauled. Modernization contracts were revised, funds were ready to be spent, Power was relieved of all modernization activities, Opert had retrieved all modernization files and records, and a modernization staff was designated.

Opert, Dwyer and Connie Williams made up the Modernization staff. Opert and Dwyer concentrated on the administration of the physical portion of modernization and Williams was assigned the responsibilities of non-physical modernization, where she focused her attention on developing regulations for new leases, grievance procedures, and tenant participation.

All the internal shifts began to create conflicts within the Department. DCA's old line of conservative "troops," all civil servants, did not support the change. In one particular case, conflict developed between Opert and the Bureau of Construction. According to one source, the construction engineers felt they knew better than the tenants what improvements should be made. They weren't going to go out to projects and have the

tenants tell them what to do. Thus, modernization no longer had the cooperation of the construction staff. Up until the Mahoney regime, DCA had represented the interests of the housing authorities. Now, as Mahoney began hiring young liberal housing professionals, the Department reversed its position and a philosophy advocating the rights of tenants emerged.

DCA re-established communications with Mass Union. Linc Durand had been trying to develop a formal mechanism with DCA to prevent future problems, such as the appointment of Modernization Advisory Committee members. The Union wanted a formal agreement which would specify the duties of DCA and the rights of the Union to consultations on public housing policy. The agreement that Durand and Pearlman developed was a Memorandum of Understanding which would commit DCA to hold regular meetings with the Union's Policy Board and to send the Union all the general correspondence going to LHA's plus all special reports and studies. The Union wanted to appoint all tenant members of the Modernization Advisory Committee. For almost a year they had tried to negotiate this agreement with Richardson and Charkoudian, to no avail. On June 1, 1972, Mahoney signed the Memorandum of Understanding for DCA and Linc Durand signed as chairman of Mass Union.

By September 1, 1972 application procedures were established and mailed out to all LHA's and TO's. It was decided that Phases 2 and 3 be committed as a two year Modernization

program effort. LHA and tenant applications would include priority of items with cost estimates for funding over the next two fiscal years. This would enable the Department to award and provide funds for Phase 2, and simultaneously commit the Phase 3 funds far in advance of the period during which funds could actually be provided. It was felt that this procedure would allow both LHA's and tenants to know exactly how much money would be available for their developments for the duration of the appropriated \$15 million funding program. It was stressed that all LHA's and TO's should apply for modernization funds to make all improvements desired by LHA and TO, regardless of financial or structural conditions of the projects. Thus, those financially sound LHA's having sufficient reserves were not disqualified from applying for modernization funds.

Included in the application was a questionnaire which would serve as a status report for non-physical modernization. The questionnaire required a joint or separate response signed by both the authority and the tenant organization. The questionnaire sought information in the areas of: tenant organization and recognition of duly elected tenant representatives; discussion, preparation and implementation of lease and grievance procedures, tenant selection and tenant transfer policies and procedures; tenant employment; and, community and social services for tenants.

Additional information on non-physical modernization was requested. This included an outline of the goals of LHA's and tenants for the coming years. Specific information on tenant-management relations concerning the proposed regulations on tenant participation, grievance procedures and new lease was required, as well as, a clear "statement of intent." This statement of intent would list all steps and provide a time table for accomplishing the proposed goals.

An application period was established allowing 45 days for the completion and submission of all information, with appropriate LHA and tenant signatures.

Allocation of Funds

A total of 32 housing authorities requested modernization funding under Phases 2 and 3. The requested amount exceeded \$47.5 million.

An "approximately equal" per unit allocation formula was claimed for awarding funds. A base figure of \$710 was determined to be the "approximately equal" per unit amount for Phases 2 and 3. This amount was then adjusted according to the allocation received from Phase 1, excess operating reserves and an actual amount requested. The following justification for this formula was given:

1. Almost all applications received were for Chapter 200 family projects. All Chapter 200 projects are of approximately equal age; thus face equal requirements for rehabilitation and modernization.

2. Most LHA's have received about the same income and subsidy over the years and have about the same amount of funds available for repair.

3. All LHA's with operating reserves in excess of 100% received appropriate deductions from the \$710 per unit award.

(Opert claims that he was very careful not to treat Boston any differently than other LHA's for awarding funds.)

The actual Phase 2 and 3 awards varied from \$105 per unit to \$1154 per unit. If Phase 1 awards are included there still exists a range from \$311 to \$2764 per unit award over the three phase period. See Table 2.

Approval of items had to forgo the physical inspection as required in the regulations because of the lack of cooperation within the Department mentioned earlier. Instead, approval of items was based primarily on the established priority developed by tenants and LHA. According to Opert, "We did not approve such items as garbage disposals as when compared to boilers or security locks; they are simply not a high priority at this point. However, we did approve where

Table 2
 MODERNIZATION FUNDING ALLOCATION
 PHASES 2 and 3

<u>Housing Authorities</u>	<u>Phase 2</u>	<u>Phase 3</u>	<u>Total</u>	<u>\$/Unit</u>
Andover	\$ 65,241	\$ 39,144	\$104,385	1246
Arlington	155,198	93,119	248,317	1075
Ashland	16,813	10,087	26,900	672
Attleboro	39,375	23,625	63,000	677
Boston	2,125,002	1,441,887	3,566,889	969
Brookline	211,703	127,021	338,724	965
Cambridge	314,234	188,540	502,774	706
Chelsea	87,031	52,219	139,250	475
Chicopee	71,049	42,629	113,678	705
Fall River	189,481	113,689	303,170	710
Haverhill	46,150	27,690	73,840	710
Holyoke	146,867	88,120	234,987	1073
Ipswich	14,335	8,601	22,936	312
Leominster	35,405	21,243	56,648	776
Lowell	23,531	14,119	37,650	106
Lynn	74,125	44,475	118,600	105
Methuen	55,269	33,161	88,430	539
New Bedford	78,483	47,089	125,572	574
Norwood	16,987	10,192	27,179	360
Plymouth	19,873	11,923	31,796	311
Quincy	132,500	79,500	212,000	780
Somerville	438,263	262,957	701,220	1131
Springfield	66,500	39,900	106,400	200
Taunton	60,327	36,196	96,523	710
Westfield	53,669	32,202	85,871	1032
W. Springfield	48,438	29,062	77,500	472
Wellesley	30,126	18,076	48,202	669
Whitman	13,875	8,325	22,200	555
Wilmington	17,750	10,650	28,400	710
Worcester	254,813	152,887	407,700	686
TOTAL	\$5,023,032	\$3,180,699	\$8,203,731	

possible, and after discussion with particular DCA staff familiar with the projects, granted funds for those items particularly 'grouped' as appropriate. We mean by 'grouped' for instance, that if item #1 was siding at a cost of \$250,000, and items 2 through 4 were for various elements of boiler repair amounting to \$200,000 with only \$225,000 to award, we approved the boilers at \$200,000 and selected, in order, other items amounting to \$25,000, skipping the number 1 requested at this point." 7

Summary of Findings

During Phases 2 and 3 non-physical modernization became the Department's top priority. It reached its peak in terms of establishing tenants' rights through the promulgation of the regulations on Leases, Grievance Procedures and Tenant Participation.

The regulations for Tenant Participation were meant to strengthen and help to implement the Rules and Regulations for the Modernization program. The regulations on Tenant Participation were presented as "DCA's minimum requirements" and were required to be followed by every LHA. These minimum requirements granted tenants' rights in the areas of: recognition; regular meetings with the authority; information access; employment priorities; office space, office equipment and supplies; operating funds of \$3 per unit; and, the right to

negotiate a mutually acceptable tenant participation agreement.
(See Appendix D.)

Although tremendous advances were made at state level policy making; progress at enforcing compliance with non-physical modernization policy was minimal. Non-physical information requested for approving applications was virtually ignored. The letters of intent outlining non-physical modernization goals were vague and lacked LHA commitment to the spirit of non-physical modernization. The questionnaire clearly indicated no progress in the areas of tenant-management relations. All this information on non-physical modernization was required to assure compliance with the application procedures, but the content of the information was ignored and not used as a basis for allocation of funds. As long as the LHA had submitted this information and had the appropriate signature of a tenant representative they were awarded modernization funds.

There were two implicit notions: that you shouldn't penalize authorities that have taken good care of their projects; nor can you expect non-physical progress without incentives. It was therefore assumed that by allowing all LHA's to participate and by spreading the money around it would provide an incentive for tenant involvement. LHA's with Chapter 667 Elderly housing were allowed to participate, receiving equal benefit of the allocation formula, without regard to the

project's physical condition.

Both goals of physical and non-physical modernization were "relaxed" in the interest of stimulating program involvement. It was also assumed that the tenants would be involved in negotiating modernization priorities, and since the tenants had sign-off power, that this would open the door for tenant involvement.

Within a few days after signing the Lease, Grievance, and Tenant Participation regulations, Mahoney resigned as Commissioner because of a dispute with Governor Sargent over the approval of the Park Plaza Development in Boston.

Lewis Crampton was appointed as Mahoney's replacement. Crampton, who was not as committed to tenants' rights as Mahoney, was left to implement the strong tenants' rights policies that Mahoney had approved.

On May 5, 1973 Crampton evidently "cornered" by tenants, made the following commitment on a handwritten note found in the Mass Union files, "I commit the Department of Community Affairs to enforce the recently promulgated regulations."

Phase 4

Much controversy arose during the Crampton administration because of policies established by Mahoney, and, in an effort to implement those established policies, Crampton's role became that of a mediator.

The Modernization program ceased being a "leverage-program" stimulating tenant participation. The non-physical component of the Modernization Program was virtually reduced to tenant sign-off on the application. No other stipulations were required for program participation. Opert and Dwyer assumed that as difficulties in the area of tenant participation arose at the project level, DCA would be notified by the tenants.

Allocation Formula

It was recognized by DCA, LHA's and tenants that allocation on a per unit basis, although being equitable, was only spreading the money around but was not addressing the needs of housing authorities in more serious financial and physical condition. The Modernization Advisory Committee, thus, developed an allocation formula which was designed "to meet the goals of most effective use of modernization funds

and most equitable distribution of the limited amount of funds."8 The formula was designed to incorporate specific LHA data. The following factors were used in the allocation formula:

1. Amount paid by the LHA for debt service on a short-term financing scheme (total per unit monthly cost of personnel, referred to as p.u.m., 1964-1973).
2. Annual surplus (deficit) realized by the LHA (average yearly surplus or deficit p.u.m. 1964-1973).
3. Average number of bedrooms per apartment in the project operated by the LHA.

Each of the three factors were then scaled in a way that the LHA with the highest value for a particular factor received 100 points as a scaled value for that factor. The three scaled values were then averaged, leaving each LHA with a single scaled value. That number was then multiplied by the number of units within the LHA to arrive at each LHA's relative need. All LHA's relative needs were then totaled providing - "the sum of all relative needs" factor. The sum of relative needs factor is then divided into each LHA's relative need and multiplied by the \$3.8 million allocated for Phase 4. The following example is provided:

Factors

- | | |
|---------------------------|-----|
| 1. Debt service scaled: | 80 |
| 2. Annual surplus scaled: | 70 |
| 3. BR per unit scaled: | 60 |
| 4. Average scaled value: | 70 |
| 5. LHA number of units: | 250 |

Factors (Continued)

6. Scaled value x number of units = LHA relative need
7. LHA's relative need: 17,500
8. Sum of relative needs: 280,000
9. Phase 4 allocation: \$3.8 million
10. LHA's relative need sum of all relative needs
x Phase 4 allocation = LHA Modernization award

$$70 \times 250 = 17,500$$

$$\frac{17,500}{280,000} \times \$3.8 \text{ Million} = \$237,500$$

Application Process

On April 19, 1974 applications for Phase 4 were mailed out to all LHA's. The application process was divided into two steps. First the LHA's would submit the data required for the formula. DCA then calculated a tentative allocation. Each LHA was then required to submit a modernization proposal not to exceed 110 per cent of their tentative allocation. The Department reserved \$1.2 million for emergencies that could arise and to compensate for discrepancies in the formula where LHA's could document a need for more funds.

Sixty-three housing authorities chose to participate during this phase. In addition to the sixty-three, five applications were submitted by the tenant organizations

where the authorities failed to take the initiative.

Summary of Findings

By Phase 4 the issue of regulations on leases and grievance procedures had become quite specific and separate from modernization. Much effort was placed by the Department on enforcing compliance with these regulations. Enforcing compliance with the regulations on tenant participation, which was directly related to the Modernization program, occurred only on a case by case basis. The only provision of non-physical modernization upheld was the requirement for a tenant sign off. The authenticity and integrity of the signature was never questioned. Although no mechanism was established for tenant monitoring, DCA relied heavily on tenants to complain if problems arose at the project level.

Problems arose with the allocation formula because of a lack of communication. The Modernization Advisory Committee had designed the formula with the intent of favoring housing authorities in troubled financial condition having low reserves. They failed, however, to inform Opert and Dwyer that Elderly Chapter 667 projects should be excluded from the allocation. As a result elderly housing developments, which are in good physical condition^{and}/have low reserves because of their recent construction, received over \$1 million. In many cases the awards received by large troubled authorities were

insufficient to cover their first priority items. When awards are measured in terms of per unit allocation they range from \$89 to \$507 per unit.

Table 3
ALLOCATION OF MODERNIZATION PHASE 4

<u>LHA's</u>	<u>Allocation</u>	<u>LHA's</u>	<u>Allocation</u>
Agawam	\$ 28,770	Mattapoissett	\$ 20,000
Andover	24,213	Maynard	6,000
Arlington	67,084	Medford	86,097
Attleboro	21,426	Methuen	5,900
Billerica	16,035	Middleboro	32,525
Bedford	6,000	Natick	62,388
Boston	1,019,637	New Bedford	56,787
Bourn	46,000	Northampton	62,454
Brockton	60,300	Norwood	11,453
Brookline	65,063	No. Reading	53,200
Cambridge	198,311	Peabody	9,190
Canton	4,214	Pittsfield	150,000
Chelsea	82,182	Plymouth	27,960
Chicopee	31,697	Quincy	115,522
Clinton	22,600	Reading	22,531
Dedham	10,095	Somerville	148,624
Fall River	149,014	Springfield	200,045
Falmouth	7,572	Swampscot	31,522
Fitchberg	56,002	Taunton	38,226
Franklin	19,789	Uxbridge	2,882
Gloucester	60,022	Waltham	63,185
Greenfield	31,667	Watertown	94,316
Hamilton	40,000	Webster	7,796
Haverhill	55,782	Wellesley	18,561
Holyoke	36,506	Westfield	45,672
Hopkinton	7,468	W. Springfield	20,874
Ipswich	16,681	Weymouth	37,258
Lawrence	90,581	Whitman	11,452
Leominster	12,507	Winthrop	37,057
Lowell	82,691	Woburn	25,000
Ludlow	12,689	Worcester	122,844
Lynn	35,276	Wrentham	12,539
Malden	71,764	Yarmouth	9,341
Mansfield	7,514		
Marlboro	41,226		

Program Experience: The Local Level

Three housing authorities have been selected as case studies based on their range of conditions existing at the local level. The actual names of the housing authorities and participants, at the local level, however, have been changed since the purpose of the cases studied is to evaluate program impact at the local level rather than to identify local problems. The three cases will be identified as the Brea, Compton and Fullerton Housing Authorities.

Brea Housing Authority

The selection of Brea as a case study was based on the developments which have occurred during the modernization process. The tenant organization in Brea was one of the first in the state to take the lead in submitting their own application to DCA for modernization funds. They have continued to be highly active and have attempted to use the Modernization program as a leverage to demand their rights as provided under the non-physical component of the Modernization program.

Compton Housing Authority

Compton was one of the 18 housing authorities that have not participated in the Modernization program over the past

four phases. Of the 18 LHA's, Compton operates the largest number of Chapter 200 family units. Thus, Compton was selected to discover why neither housing authority nor tenants chose to apply for funds available.

Fullerton Housing Authority

The Fullerton Authority was a late comer in the Modernization program. They, in fact, received the last available funds from Phase 4 awards. The FHA never did inform the tenants of the program's existence and when they did hear about it they were upset with the Authority for having cheated them out of the past three years of funding. It was assumed that this case study at Fullerton would also provide background for its failure to participate in Phases 1-3 as well as show a different impact on program goals, since their participation arose after DCA's regulations on tenant participation had been promulgated for over a year.

BREA HOUSING AUTHORITY

Background

The Brea Housing Authority has approximately 900 units of federal and state family public housing. Of this, the state-aided development consists of 400 units. Both federal and state housing are adjacent developments having similar physical characteristics. The majority of the structures are two story, four-plex detached buildings.

Unlike many housing authorities in Massachusetts the Brea Housing Authority is run by its five member Board. The Executive Director is merely an arm of the Board.

Before participating in the state Modernization program, Paul Leary, the Executive Director of the Authority, considered himself to be a progressive director. As early as 1965 Paul Leary was promoting the establishment of a tenants' organization which would provide civic services for the community. Mr. Leary also provided the funds for the tenants' organization to incorporate.

The group was organized in 1968 as the Brea Residents' Committee (BRC). The BRC was established to represent all tenants of family housing operated by the Brea Housing Authority. The BHA provided their former administration building to the BRC to use as a Community Services Center.

Mr. Leary, recognizing the need for community services, invited the Community Action Program (CAP) to relocate in the Service Center, to provide recreational and educational programs for the aged, as well as programs for adult and teenage population in the community.

Federal Modernization

The organization of BRC was timely for participating in the federal Modernization program. There was some reservation by the Authority to participate because of the requirement for tenant involvement in the decision making process, but there was an emergency need to replace the heating system for the federal development. The heating system replacement was estimated to cost a half million dollars and no other funding was available to do the job.

The tenants claim that Mr. Leary insisted that the heating system had to be the first priority or else they wouldn't have any heat the following winter. They accepted this as a legitimate need and agreed to establish the remaining priorities. To do this the tenants undertook a survey of all federal tenants to insure an accurate representation of priorities. The priorities were ranked according to the tenant survey and submitted by the housing authority to HUD.

The Brea Housing Authority received approximately

\$600,000 of federal funds for modernization. Mr. Leary claims that HUD mandated \$500,000 for replacement of the heating system which disqualified this sum of money from negotiations with the tenants. This was a decision that he highly favored since it eliminated the requirement for tenant negotiations and was in agreement with the authority's needs. The tenants claim that the BHA moved quickly to replace the heating system, but has dragged its feet on the remaining \$100,000 for the tenants' priorities of which bathroom repair was top priority.

By 1970 the Brea Residents' Committee was incorporated as a non-profit organization. Its main purpose is to work "toward the development of the overall community spirit of the [Brea] Housing Authority ... by opening to these individuals and families the opportunity to represent and have represented their community in every and all stages of its planning and development." The BRCI consisted of fourteen elected members, based on a ratio of one seat per fifty housing units of each type of housing within the community. There are ten subcommittees, of which one subcommittee is responsible for federal modernization, and one for state modernization.

The BRC was ignorant of tenants' rights and green at negotiating with the Authority, but by the time they got involved with the state program they had learned a great deal.

Thus, the federal program did prepare the way for the state program. The tenants in state-aided housing could see the potential benefits of a Modernization program.

State Modernization

The DCA Modernization regulations were promulgated in March, 1971. The regulations required that all local housing authorities notify all of their tenants, ages 18 and older, of the existence of the program, its purpose and its importance to the tenants. This was all to be done within 30 days following the adoption of the rules and regulations in March, 1971.

Although Paul Leary was participating in the Modernization program at the state level on the Modernization Advisory Committee during Phase 1, he failed to inform his tenants of the program's existence. His rationale was based on the program objectives for implementation. Phase 1 allocation was theoretically to be based on critical need and since the Brea state-aided family housing was in relatively good condition, (compared to the larger urban projects) it was unilaterally decided by Mr. Leary to forgo participation in Phase 1. The tenants were, therefore, not informed of its existence and of its importance to the tenants in terms of the non-physical aspect of the program.

Information on the programs existence and importance was brought to the tenants by the attorney assigned to the CAP office.

On March 15, 1972, at a public BHA Board meeting, the tenants informed the Board of the existence and purpose of the state Modernization program, and of the steps they were taking to establish their priorities for modernization.

BRCI established a state Modernization Committee and Mrs. Jane Dean and Mrs. Elaine Cooper were designated as co-chairman for the Committee. The Committee initiated a survey of tenants with the aid of a MIT student, Richard Williams, who was working as a student intern at Mass Law Reform. Emphasis was immediately placed on both physical and non-physical components of the Modernization program.

At a Modernization Committee meeting, April 17, Mr. Leary spoke in favor of the Modernization Committee; he said, "it was good to see the tenants concerned." He asked the tenants to consider using funds to modernize the Service Center and to consider expanding the BHA maintenance facilities.

At the April 17 meeting, Jane Dean and Elaine Cooper were elected as co-chairman; Mrs. Dean would focus her responsibilities on the area of physical modernization, while Mrs. Cooper focused her attention on the non-physical portion of the Modernization program.

Non-Physical Modernization

With the aid of the CAP attorney, Elaine Cooper began formalizing the non-physical portion of the Modernization program into a Memorandum of Understanding to be agreed upon by both BHA and tenants. Using the language similar to the 1970 House bill for modernization, the Memorandum called for "both the Authority and the Committee mutually undertake a commitment to cooperative action to provide a decent home in a suitable living environment for persons of low income and to share one another's knowledge and experience to that end;" ... it then went on to list thirteen areas for agreement. In summary the thirteen areas included:

1. Recognition: That BHA recognize the BRCI as an official representative of all public housing tenants in the City of Brea. That BHA will meet monthly with BRCI and provide copies of all pertinent BHA correspondence.
2. Use of Facilities: That BHA provide leased space for BRCI.
3. Employment: That BHA give preference to qualified public housing tenants in all hiring, including tenant training and employment by contractors and subcontractors.
4. Maintenance: That BHA develop written guidelines defining tenant and BHA maintenance responsibilities.
5. Admission and Transfers: That BHA create a Tenant Selection and Transfer Committee.
6. Expansion of Community Services: That BHA develop a park and recreational area.

7. **Pet Regulations:** That BHA amend lease and permit ownership of one pet by each family.
8. **Parking Areas:** That BHA mark areas for parking and guarantee each unit one parking space.
9. **Evictions:** The BHA use 14 day notices to quit only in cases of non-payment of rent; 30 day notices for other evictions. That BHA amend its lease to reflect this provision.
10. **Verification of Income:** That BHA use W-2 forms to verify income; that BHA will not contact tenant's employer unless tenant fails to cooperate in submission of verifying income data. Income shall be based solely on the income of the primary wage earner for a forty hour week.
11. **BHA Board Expansion** from five to seven members. The two additional members by public housing tenants in the City of Brea.
12. As vacancies occur on BHA Board, the BRCI be appraised and requested to recommend persons to fill vacancies.
13. That BHA will implement all of the above and implement duly promulgated and mandatory regulations of DCA and HUD within 30 days or appropriate, reasonable time.
(See Memorandum of Understanding Draft Appendix E.)

Negotiations - Physical Modernization

The tenants met on April 11, April 17, May 1 and May 25, 1972 to review tenant surveys of need for physical and non-physical modernization. Mr. Leary was present at the April 17 and May 25 meetings and Mr. George Palladino, BHA Board chairman, was also present on May 25. At that time he and Mr. Leary were given copies of the tenant's first draft of the Memorandum of Understanding, which represented the non-physical

part of the program. At that time Mr. Leary informed the tenants that the BHA wanted to create a new management complex by expanding the old maintenance garage and by rehabilitating the Service Center for the BHA's administration. The BRCI had used the building as a Community Service Center for over four years, and now the BHA wanted to rehabilitate it for their administration. Mr. Leary emphasised that the expansion and rehabilitation of these two buildings were the BHA's highest priorities for modernization.

An underlying issue regarding the expansion of the maintenance facilities was BHA's desire to develop a maintenance training center. BHA's maintenance staff was working very closely with DCA's Modernization Director, Ed Power, during Phase 1. Power was trying to develop a state maintenance training program and DCA had no appropriate place to house such a facility; ^{therefore,} / it was he that suggested to Mr. Leary to apply for modernization funds for this purpose.

The tenants were bitterly opposed to "their modernization money" going for such uses that would only benefit the housing authority. The tenants were well aware of the DCA regulations and realized that the BHA could not get any modernization funds without Jane Dean's signature.

The tenants proceeded to develop their own modernization proposal. The MIT student, Richard Williams, acted as

technical advisor, coordinating the task of cost estimating for proposed modernization. Williams invited contractors in to view the work required, received estimates, then averaged the cost based on ^{the} number of units affected. At the March 15, 1972 meeting the BHA Board agreed to have Williams perform the task; however, in June, when the tenant's proposal was completed, the BHA refused to consider it, claiming that Williams "wasn't competent" to perform the task.⁸ The tenants then approached DCA to approve their method used to estimate their proposed modernization cost.

Much discussion of the physical and non-physical proposals took place over the summer so that by mid-October the only outstanding issue was the non-physical part of the proposal which centered around the Memorandum of Understanding. To reach a compromise on the physical proposal the tenants conceded to add the renovation of the two buildings at the bottom of their priority list. The Authority agreed to the compromise on priorities, but refused to approve the non-physical proposal. Mrs. Dean then withdrew her signature from the physical modernization application, on the grounds that the tenants had voted to approve the entire physical and non-physical modernization package. The Authority wanted her to approve the physical portion since both parties were in agreement with the priorities and then allow further negotiations on the non-physical portion of the program, but

she refused.

In October the Authority held a meeting, to which Mrs. Dean was not invited, to discuss the Modernization program. Mrs. Carol Webster, BRCI chairman of the federal Modernization Committee, did attend and she was asked by Mr. Palladino to sign off for the tenants. Mrs. Webster explained that only Mrs. Dean could sign off on the Modernization application.

Negotiations - Non-Physical Modernization

At meetings on October 27 and November 1 between the Modernization Committee, Mr. Leary and other members of his administrative staff, agreement was reached on a revised draft Memorandum to be presented to the BHA Board at a special meeting on the evening of November 1.

At the Board meeting on November 1, a number of other changes were agreed to by the tenants but four issues remained unresolved: the question of tenant training and employment by contractors and subcontractors of Section 3; Section 5 on admissions and transfers; Section 10 regarding rent setting; and Section 13 which would require the BHA to implement duly promulgated, mandatory regulations of DCA and HUD within 30 days. (See Appendix E.)

On November 13, the BHA Board and the Modernization Committee met in the hopes of reaching agreement on the four outstanding items. The tenants presented their position, then the Board and Mr. Leary caucused privately to consider their position on the four items. After caucusing, their unanimous position was as follows:⁹

1. ~~Tenant~~ Employment - the BHA could not agree to the section because approval would probably result in serious interference with current bidding and contract negotiations and would possibly result in increases in total bids resulting adversely to the BHA and the tenants. Board members also indicated that such a provision discriminated against unemployed non-public housing tenants and that even requesting contractors to post job vacancies in the project was unacceptable.

2. Admissions and Transfers - the Board proposed the following substitute provision: "The [BHA] will accept recommendations for criteria and policies for tenant admission and transfer from tenant groups or through its representatives or duly appointed committees for acceptance or rejection."

3. Rent Setting - The Board agreed to the language proposed by the tenants, but added at the end of the phrase: "and the impact of tenants with more than one wage earner, and also tenants who have more than one income and those who are over income."

4. HUD and DCA Regulations - the Board refused to agree to implement mandatory regulations of DCA and HUD. Some of the reasons given were "such regulations have nothing to do with what we are trying to negotiate here; we will not agree to implement something when we do not know what it requires; local housing authorities are autonomous and cannot be dictated to by HUD and DCA; we don't agree with the regulations and will challenge them; regulations are not law;" and "this amounts to a system of blackmail against the local authority." The Board also took the position that the period for compliance with the provisions of the Memorandum should be increased from 30 to 60 days.

5. Verification of Income - although the provision on verification of income had been agreed to at the November 1 meeting and had not been mentioned as an issue at this meeting, the BHA Board now insisted that tenants submit not only their W-2 forms, but the first page of their Income Tax Return, IRS Form 1040, to verify income. The reasons given were that this was the only way to effectively verify income, that the study of income and rents could not be carried out without such verification, and that the Brea tenants could be the first in the state to agree to this procedure.

The tenants then caucused to determine their response to the Board's demands. Their response was as follows:

1. Tenant Employment - the tenants did not agree with the Board's reasons for refusing to include a compromise provision, but would live with no provision at the present time in the hope that some acceptable provision could be worked out in the future. (This requirement for employment priority by contractors and subcontractors was in the DCA draft regulations for Tenant Participation circulated in August, 1972, so it was assumed that DCA regulations would cover this issue.)

2. Admissions and Transfers - the Board's version was unacceptable because it made no mention of procedures for enforcement and because it destroyed the whole purpose of the section which was to work out policies, criteria and procedures through a Committee with equal tenant and Authority representation and an impartial tie breaker.

3. Rent - Setting - the tenants accepted the Board's addition.

4. DCA and HUD Regulations - the tenants offered a three part compromise: a) The Board agree to implement only the three specific regulations on lease, grievance procedure and tenant participation presently circulated for comment by DCA, if and when these regulations are formally adopted. It was felt that this would meet the Board's concern about committing the Authority to regulations whose content was not presently known; b) The Authority would not be required to implement the regulations if any court order was pending

restraining the effect or implementation of the regulations;
c) The tenants accepted a 60 rather than 30 day implementation period.

5. Verification of Income - the tenants were opposed to the use of the IRS Form 1040 as an unnecessary invasion of privacy. More than that, the tenants protested the Board's lack of good faith in raising this issue at this late date without any prior notice, warning or discussion.

The Board refused to make any accommodations on the three items that were unacceptable to the tenants citing the same objections as they had raised before. At the same time the tenants believed that they had conceded all but the bare minimum. The Board continued to insist that regulations were not law and therefore did not bind the Authority.

Under the circumstances, the tenant Modernization Committee informed the Board that they would not sign off on any of the components of the modernization proposal and would submit their own proposal.

Tenants Submit Application to DCA

Thus, on November 15, the tenants handcarried their entire application for both physical and non-physical Modernization in to DCA. In the cover letter to DCA Commissioner, Miles Mahoney, dated November 14, 1972, and signed by Jane Dean and Elaine Cooper, co-chairmen of the Modernization

Committee, it stated:

"Clearly, the tenants want the [Brea] proposal to be funded, but the tenants also expect that the program be carried out within the intent and spirit of DCA's March 16, 1971 regulations and September 1, 1972 transmittal which require a non-physical component that includes tenant participation and improvement in management policies and practices. The [Brea] Housing Authority ignored both the intent and the spirit of the Modernization program in its negotiations with the Modernization Committee on November 13.

Therefore, the Modernization Committee respectfully submits its proposal to the Department for consideration. It is our view that [Brea's] opportunity for funding will in no way be jeopardized because we could not in good faith agree with the [BHA] and still feel we were protecting tenants' interests. We would ask that you confirm this understanding to us as soon as possible.

Finally, we request that DCA make every effort to mediate the disagreements outstanding between the tenants and the [BHA] so that the full intent and spirit of the program is fulfilled and so that our proposal can proceed on schedule to implementation."

Brian Opert accepted it for Commissioner Mahoney, saying that he would reserve the funds for Brea pending completion of their negotiations.

Agreement Reached

Negotiations on non-physical modernization resumed in December. The Modernization proposal itself was signed on January 2, 1973, containing an agreement to conduct further negotiations on the Memorandum of Understanding. By March 2,

1973, the Memorandum of Understanding was signed.

Two issues remained unresolved, but both parties did agree to further study and discussion. The two issues were verification of income and the implementation of DCA regulations. On verification of income both parties agreed to study the financial impact of excluding all or part of the income of secondary wage earners, the impact of tenants with more than one wage earner, or who have more than one income, or who are over-income, and methods of improving the BHA's procedure for verifying income.

On implementation of DCA regulations both parties agreed to meet at the next regular scheduled BHA Board meeting after the DCA promulgates regulations regarding lease, grievance procedure, or tenant participation, to discuss implementation of the regulations.

Conclusion

The tenants realized that the Memorandum was a weaker document than they had hoped for, but at the time felt it was a victory. Now three years later, however, there is much frustration by the tenants. After all the hard work and "sweat" that went into the drafting and negotiations, the housing authority has not implemented one of the agreements. The housing authority argues that the Memorandum of Understanding is just a memorandum and not a contract. The

Regulations on Tenant Participation require the same basic minimum provisions for tenant participation as provided in the Brea Memorandum of Understanding. The regulations further require that LHA's "negotiate a mutually acceptable 'Tenant Participation Agreement' or 'Memorandum of Understanding.'" (See Appendix D.) The fact that a Memorandum of Understanding is required in the regulations makes the Brea Memorandum doubly enforceable.

On physical modernization, the housing authority received approximately \$200,000 of Modernization funds to cover the two top priorities which were bathroom repair and basement entrances to apartments. The expansion and rehabilitation of the BHA's maintenance building which was last on the priority list was the first project to be completed. Funding for the renovation of the maintenance building did not come from modernization funds, but was funded out of the BHA's operating reserve account. The tenants feel very bitter towards DCA for approving this expenditure when there existed such an apparent need to modernize the residential units.

A problem of lead poisoning arose which eventually led to the death of a child in the Brea project. The tenants brought in health inspectors and tried to push BHA and DCA to correct the problem. BHA had no funding except for the unexpended modernization funds. Since the BHA had moved

slowly on the tenants' priorities, approximately 75 per cent of the funds remained unexpended. The tenants agreed to a change order allowing the modernization funds to go towards lead paint removal and for exterior siding to cover the exterior peeling (lead-based paint) finish.

The Brea Tenants feel cheated at both physical and non-physical modernization.

During the past three years the tenants have had a continuous battle with the BHA over the implementation of the DCA regulations on leases, grievance procedures and tenant participation. In July, 1974 the Brea tenants were prepared to take both BHA and DCA to court; BHA for its failure to implement the regulations and DCA for its failure to enforce their regulations. A court suit was filed by DCA and BRCI against BHA over the eviction procedures. On October 31, 1974 the Supreme Judicial Court ordered an agreement between DCA, BHA and BRCI to adopt a lease and promulgated regulations. The BHA have had the leases printed, and claim they are using them with new tenants, but haven't signed the new leases with the majority of the tenants.

Modernization at Brea Housing Authority has reached an impasse. The tenants say they will not participate in the Modernization program until the BHA fully honors their Memorandum of Understanding and implements the Supreme

Judicial Court order requiring LHA's to comply with DCA regulations on tenant participation.

Meanwhile, the BHA has submitted their modernization application, with no tenant sign off, hoping that DCA will make an exception to the Modernization Regulations.

COMPTON HOUSING AUTHORITY

Background

The Compton Housing Authority operates 681 units of public housing of which 286 are state-aided Chapter 200 family units. The CHA prides itself as being "a housing authority as well as a social authority;" it is also considered by many LHA directors, as well as by several DCA officials, to be one of the best managed housing authorities in the Commonwealth. Only the tenant advocates and a minority of the CHA tenants are willing to refute this image of the CHA. The Compton Housing Authority in theory is run by a board consisting of five members, four appointed by the City and one appointed by DCA. But while in theory the Housing Authority is run by its Board, in actuality it is run by its Executive Director.

Modernization

The CHA Executive Director, George Pike, balked at the federal Modernization program when funding became available in 1968 because of the requirement for tenant involvement in the program. Pike takes a very strong position opposed to tenant involvement in management decision-making. Thus, when the state Modernization program was enacted, Pike became an active vocal participant in the negotiations of the Modernization Rules and Regulations. Several times during the

negotiations, Pike suggested that tenant involvement only be required of LHA's with established tenant organizations. CHA had no tenant organization, nor could they foresee the formation of such.

When Pike realized that tenant involvement would definitely be a program requirement, he submitted a request for modernization funding six days prior to the promulgation of the rules and regulations. He requested \$372,000 for the replacement of roofs and boilers. Pike was unofficially informed that he "would not receive a nickel" of modernization funds because of the project's excellent physical condition. He then proceeded to create his "own Modernization Program."

In the CHA 1972 Annual Report submitted to DCA it stated: "Within our own budget and operating reserves we are doing our own Modernization Program with our own labor force in addition to other duties." It then went on to list the specific repairs and improvements which included replacing stoves, kitchen sinks, tile floors, etc. Pike is an excellent property manager; he realizes the cost effects of deferring routine maintenance, so he stays on top of all needs for repair. He claims to respond quickly to tenant complaints. Most of the tenants were quite happy with the management and care of their project. There were, however, a few maverick tenants who were not.

Tenant Organizing Efforts

In January 1973 a small group of about fourteen tenants met together to discuss the rent rebates provided by the Brooke Amendment. This organizing committee decided to have an open meeting of all interested tenants to inform them of their rights under the Brooke Amendment.

Members of the organizing committee notified all tenants in the Compton project by distributing flyers door-to-door. The first formal meeting was held on January 24. At that meeting the tenants discussed their various grievances and decided to form a steering committee to make plans for future actions by the group. The committee began calling itself the Compton Public Housing Tenants' Union.

Among those grievances most important to the tenants was the practice of the Authority in charging late fees even though a tenant was less than 30 days in arrears in payment of the rent. The group decided to appear before the Authority at their next meeting on February 20 to urge them to stop the practice of late fees which they considered as an illegal practice.

Soon after the steering committee was designated, committee members began receiving anonymous threats of eviction. Mrs. Melissa Everett, who acted as chairwoman for the initial organizing meeting, recalls being awakened at 6:45AM

on January 25, by an anonymous female caller who stated, "you better watch out Mrs. [Everett] because Mr. [Pike] will evict you as a nuisance case." Other members claimed to have received similar calls. Despite the fact that various members of the committee were being harrassed, they continued to inform all tenants of their rights and benefits by law. They felt that the only way to combat the situation was to have the tenants fully informed of their rights. The tenants also felt that the authority had operated illegally in many instances and was able to get away with it only because the tenants did not know their rights and had no organization behind them for support.

The Compton Tenants' Union invited Mass Union chairman, Linc Durand, to accompany them on February 20 to formally serve notice to authority members that they were dissatisfied with certain procedures, several of which they claimed were unlawful.

Durand presented the list of grievances to the authority members. The tenants primarily complained of the authority's policy of charging a \$3 late or service charge when rents were 14 days late. The tenants suggested that this was illegal and could not be assessed on tenants until rents were 30 days overdue. The chairman of the board suggested that the authority seek a ruling from DCA on the matter. Durand indicated that "there is an element of fear expressed by

by tenants, not only here in [Compton] but throughout the state. When they organize they hear from various sources that if they organize and complain to officials, they may be evicted." He further criticized the authority members for not properly informing the tenants about the state Modernization program which provides opportunities for tenants to organize and to participate in management policies and practices.

Only one of the five Authority Board members supported that the tenants, saying/he endorsed their right to organize. Executive Director Pike took an opposite position. He expressed the following comments: "the [Compton] Housing Authority does more for its tenants than any other housing authority in the state, and I defy anybody to say otherwise... We are a housing authority as well as a social authority... The only trouble you get is from people who are not appreciative... In my book... you only need a tenants association when there is^a bad maintenance department." Pike further commented that many of the housing/^{authorities} who have the tenant associations are now bankrupt - "Bankrupt authorities love company... but they are not going to make the [Compton] Housing Authority bankrupt. And I think you will find that the majority of the tenants do not want the association either."¹¹

The tenants left the meeting assuming that the authority would follow up on their complaints, but when a vote was taken

the Board voted 3 to 2 against seeking a ruling from DCA.

Two days after the February 20 meeting, DCA officially promulgated their regulations on leases, grievance procedures and tenant participation.

The regulations on tenant participation outlined goals and provided basic principles of tenant participation for all housing authorities to follow. One of the stated goals was to encourage tenants to have a greater share in the management and the decision-making processes involved in the administration of public housing. Among other minimum requirements they called for LHA's to encourage the formation of tenant organizations and to recognize the tenant organization as the official representatives of tenants when requested. (See Appendix D.)

In early March 1973, three of the Tenants' Union members met with DCA's Brian Opert, Director of Bureau of Management and Accounting Services to discuss late fees and other tenant complaints. Opert agreed to look into these matters.

Following the meeting with Opert the tenants decided to establish a formal tenants association. Members of the steering committee met with a Tenants' Union from another housing authority to discuss procedures for holding an election of officers.

On March 14, members of the committee delivered a letter and nominating paper door-to-door to all tenants of the family project. On this flyer the tenants tried to stimulate interest in participation by mentioning the potential benefits of the Modernization program. The flyer contained the following comment:

"How many tenants realize at this particular time that there is money available to us for home improvements. Chelsea has received over \$300,000.00 because they now have a strong tenant's union. It could happen to us here in Compton with the support of the tenants. Come one! Come All! to our next meeting."

Elections were held on March 21 and at that time the Tenants' Union considered themselves to be the official tenants' organization of the family project because they were the only tenants' group in existence.

Organization of a "Sweet Heart" Tenant Organization

Just prior to the election George Pike was encouraging his "sweet heart" tenants to organize in opposition to the Tenants' Union. These tenants circulated a petition and submitted it to the CHA Board on March 20. The petition contained more than 150 names. The top of each page of the petition read as follows:

"We do not want a tenants' organization and are very happy with the Compton Housing Authority as it stands."

The tenants circulating the petition announced that they would be forming a tenants group of their own. But they stressed that the only purpose of the second tenants association would be to show approval of the way affairs are currently being conducted at the Compton Housing Authority.

At the following CHA monthly meeting April 17, the new tenant group submitted a request and received approval by the CHA to be recognized as the official spokesman for all Veterans and Low Rental units. The new tenant organization would be known as the "Veterans and Low Rent Tenant Advisory Committee (VLRTAC). In addition the authority recognized a second tenant organization known as "The Senior Citizens Advisory Committee."

Union Requests for Recognition

When the tenants representing the Union discovered that another tenant group had been organized and recognized by the CHA, they also applied for formal recognition. The Authority agreed to consider this request at its next regular meeting in June.

On June 19, the Union officers met with Pike and Mr. Wayne Osgood, attorney for the Authority. The purpose of this meeting was to determine whether the Union should be recognized as one of the official tenant representatives.

Pike and Osgood asked the Union officials for names and addresses of all Union members. The Union officials refused to answer, fearing that the members would be harrassed, but did claim to represent about 150 tenants.

Prior to the June 19 meeting, Pike had asked Osgood if there was an obligation by the Authority to recognize the Tenants' Union. Osgood concluded that there was no obligation, "statutory or contractual," on the Authority to recognize the Tenants' Union.

The CHA voted on June 22 not to recognize the Tenants' Union. The basis given for the decision was that the VLRTAC demonstrated a larger membership, open roles of membership, better representation by all tenants, easier access to membership, easier participation in tenant's activities, better handling of grievances, more frequent meetings, better notification of meetings and more democratic procedures for the periodical selection of officers. Pike did not officially inform the Union officers of the Board's decision for five days.

CHA Opposing DCA Regulations

During this process of recognition, the Compton Housing Authority was actively opposing the DCA Regulations promulgated in February on Leases, Grievance Procedures and Tenant

Participation. The CHA attorney filed a Petition for declaratory relief in support of the Medford Housing Authority's suit against DCA's regulatory authority.

The Compton Housing Authority had taken the position that the Regulations were "only advisory and not mandatory." Opert responded to the CHA's position in a letter, June 29, 1973 with the following comment: "As far as the 'advisory' nature of these regulations are concerned, you are hereby placed on notice that the regulations relating to tenant participation and rent determination are now in effect, and the authority is expected and required to comply with all of the provisions contained in these regulations."

Issue of Modernization Program Raised

In a letter distributed to all tenants, the Union again tried to use the Modernization program to stimulate interest. It stated that the Union would help the tenants to win the benefits they were entitled to. Among other information, the following was provided:

"For instance, did you know:

-That the state started a Modernization Program in 1971 and about 20 other cities have shared the \$15 million the legislature allowed for the program. THE TENANTS IN THOSE CITIES SET THE PRIORITIES FOR THE SPENDING OF THAT MONEY.

[COMPTON] HOUSING DIDN'T APPLY FOR THESE FUNDS. INSTEAD, THEY USED SOME OF THE MONEY IN THEIR

RESERVE FUND, BUILT UP OUT OF OUR RENTS,
AND STARTED A PROGRAM THEY CALLED 'MODERN-
IZATION.'

-That the Modernization Regulations, issued by the state in 1971, ordered all authorities to call a meeting of the tenants to inform them about Modernization and to tell them the money in the program had to be spent on items the tenants agreed with.

[COMPTON] HOUSING NEVER CALLED A MEETING."

In a meeting with the Veterans and Low Rent Tenant Advisory Committee, Pike denied allegations made by the Union. Pike told the committee that modernization funds were requested by the authority and was refused since the CHA was financially stable. Pike claimed that modernization funds were only allocated to bankrupt authorities. He then presented his own Modernization Program and noted that the following projects have either been completed or are in the process of being completed.

- Converting from No. 5 and 6 oil to No. 2 oil.
- Replacing 286 electric stoves.
- Painting and gutter work, installating conductor pipes on 32 buildings.
- Installing 286 cabinet sinks.
- Installing counter tops and stainless steel sinks.
- Replacing gas stoves.
- Re-shingling 26 roofs.
- Installing 286 burners for tenants.
- Installing combination windows.
- Recreation area and park, including baseball diamond.
- Providing refuse barrels for tenants.

Appeal to DCA

The Regulations on Tenant Participation under Section D(2)(b) allow an appeal to DCA if a tenants organization is dissatisfied with the LHA's decision on recognition. DCA may determine that one of the appealing tenants' organization should be recognized as the official representative of tenants in the project, see Appendix D.

On July 9, 1973 the Compton Public Housing Tenants Union notified DCA, formally appealing a decision by the CHA refusing recognition of their organization. A summary of their grievances are listed below.

- That CHA exhibited bad faith throughout the entire recognition dispute.
- That CHA has attempted to discourage formation of the Union. Statements by the Executive Director appeared in the local newspaper which unjustly placed the Union in bad light and stigmatized Union members.
- That the Union's membership has been limited by fear of retaliation by CHA if tenants join the Union.
- That meeting space was denied the Union, but does permit the Advisory Committee to hold its open meetings on CHA property.
- That CHA established a "sweet heart" tenants' organization that it could live with -- the Advisory Committee.
- That the Advisory Committee was recognized by CHA prior to its first organizational meeting.
- That the Advisory Committee has been a proven to be a paper group, merely existing as a puppet of the Executive Director to create an illusion of compliance with DCA's regulations.¹¹

The Union requested that DCA reverse a June 19, 1973 ruling of the Compton Housing Authority in which the CHA denied the Union's request for recognition.

The appeal took nine months to decide. After careful review of all written evidence submitted to the Department as well as findings of DCA investigation, the Department found that neither the Union nor the Advisory Committee met stated criteria for recognition as stated in the Tenant Participation Regulations. It therefore, declined to recognize either organization as the official body representing tenants of Compton public housing and ordered the Compton Housing Authority, the Union and the Advisory Committee to operate an open election.

Pike criticized the DCA orders to disband the two tenant organizations as a "political tactic aimed at undermining the authority of housing officials."

Communist Takeover

In a meeting at DCA, Mrs. Coperilla, CHA staff member, asked Opert if the Compton Housing Authority would have to recognize a Communist tenant group if it won the election. Opert answered the question in the affirmative. When a reporter for the Compton Journal asked what the purpose of the question was, Mrs. Coperilla and Pike both stated they

had knowledge supporting their beliefs that the Massachusetts Tenants Union membership was being "infiltrated by Communists." Pike emphasized that "Communist infiltration is the key to the whole thing." The following day headlines of the May 15, 1974 Compton Journal read: "CHA Executive Director Charge Communists Eye Takeover."¹²

DCA Commissioner Lewis Crampton, in a letter to the Editor in response to the above mentioned article, clarified Opert's response to Mrs. Coperilla's question. He explained that neither DCA nor the Compton Housing Authority have a right to intervene in the selection of a tenant group. "We are concerned only that this choice suit them and not necessarily concur with the wishes of the management of the [Compton] Housing Authority." He further stated, "I am particularly chagrined that a tactic of absurd public allegations have distorted this relatively simple issue. If Mr. [Pike] or Mrs. [Coperilla] have even the minutest shred of evidence of infiltration of some foreign agent, attempting to take over the [Compton] Public Housing tenants, let them contact their nearest FBI agent immediately. If they are simply attempting to place one more smokescreen around this election, I really wish they would remain silent."

Tenant-Wide Election

The election was held on June 25, 1974, and it finally

put an end to the eighteen month-long controversy. The tenant Union officials received less than 16 per cent of the votes. The Advisory Committee did evidently represent the choice of the majority of the tenants, receiving 290 votes.

Conclusion

The Advisory Committee has become more of a civic group participating in health and social programs. They are clearly satisfied with their role and with the Compton Housing Authority and have no interest in management or DCA regulations.

Pike asserts he knows how to take good care of the tenants. Today when utility charges have nearly doubled, Pike continues to charge tenants the same utility rate as four years ago. He admits that he does not force tenants to report 100 per cent of their income; thus, tenants who are over income know that they are, and know that they are living there in Compton public housing, out of the "goodness" of the Executive Director.

FULLERTON HOUSING AUTHORITY

Background

The Fullerton Authority operates 176 units of state-aided Chapter 200 family housing and 100 units of federal public housing for low income families. The Executive Director, Earl Jones has been director for the Authority since it began 27 years ago. During that time the Board members have taken a passive role in the Authority's decision making. But recently there has been a "shake-up" at the Authority. A former tenant has recently been appointed to the Board and for the first time in the Authority's 27-year history, tenants have begun to assert their rights.

The Fullerton Housing Authority was contacted early in Phase 1 of the Modernization program. At that time DCA offered to perform an inspection to determine items of critical need that could qualify for funding. FHA did not wish to participate. According to Tom Todd, FHA Assistant Director, "the Authority had problems with DCA in the past." Whatever the problems, the tenants were never informed of the program's existence. Neither were the tenants aware of the Regulations promulgated by DCA in February, 1973.

Modernization Program Introduced

It was through the efforts of Fullerton's Alderwoman-at-Large, Mrs. Kathy Niles, that the Modernization program was discovered. In Spring, 1974, Mrs. Niles contacted DCA to complain of the physical conditions that existed within some units at the state-aided projects. She was informed of the existence of the Modernization program and the need for a tenants organization to establish priorities. It sounded relatively simple.

Mrs. Niles invited DCA officials out to explain the program to the tenants. Representing DCA was Marty Price (who was on loan from HUD replacing Opert who had resigned). Price brought with him representatives from Mass Union to assist in the tenant organizing effort.

Price then approached the housing authority and explained the program to them. After FHA indicated its willingness to participate, Price awarded the Authority approximately \$20,000 (which was Phase 4's only uncommitted funds). The award was contingent upon agreeable LHA/tenant priorities.

Tenant/LHA Conflict

The tenants complained about being kept uninformed of DCA regulations on tenants rights, their right to organize, and the duty of the housing authority to assist tenant

organizing efforts. They complained about the Authority's failure to notify them of the Modernization program, thus losing out on Phases 1, 2 and 3 funds, "while Lynn got \$1,318,000."

Claims were made that repairs were never performed. "We call and call and nothing gets done. They say they spent an average of \$30 per unit last year in repairs. I don't know where they did it," complained one tenant.

After the first few tenant-organizing meetings, the tenants further claim^{ed} that the "word" from the Authority went out to the majority of the tenants warning them not to get involved with the tenant organization. Around ten tenants have remained active throughout the process.

Tenant and Authority conflict began when the tenants began to assert their rights granted by DCA regulations. In the infancy of the tenant organization, they tried to attend a regular Authority meeting. The tenants stated^{that} their right to attend such meetings was provided in the DCA regulations. Jones commented that the state regulations "aren't worth the paper they are written on ... I'm not concerned with DCA regulations; we have our own regulations that we go by."¹² Tenant and Authority conflict came to a head over the issue of modernization priorities.

Auditors Find Irregularities

Ironically, many of the tenant complaints were well founded. In the spring 1975 DCA audited the Fullerton Housing Authority where they found irregularities in its operation. The following irregularities were cited:

1. Improper procedures for bill filing and entries in the cash receipts.
2. Violation of by-laws such as infrequent and irregular meetings of Board.
3. Work contracts that appear to violate state bidding laws.
4. Failure to prepare an annual report.
5. Failure to duly notify public of Authority meetings.
6. Allowing 54 months of rent to be lost because apartments were vacant.
7. "Appearing to encourage" delinquencies in rent by allowing such accumulations of rent to build up.
8. Allowing its operating reserve to accumulate to the sum in excess of \$50,000.
9. Failure to conduct its annual rent review of tenant's income.

As a result of the audit the Authority conducted its annual rent review, which it hadn't conducted for over four years.

Rent Review

Jones claimed that because of constant changes in state and federal regulations the rent review hadn't been done for almost four years. The rent review conducted by the Authority of the 176 Chapter 200 Veterans family units revealed that 57 per cent of the tenants were over income. It discovered that 11 of the 176 families were making over \$20,000/year. One family in fact, reported earnings of \$26,000 during the year examined. A total of 16 families earn between \$15,000 and \$20,000; 19 families make between \$12,000 and \$15,000; 22 families reported incomes between \$10,000 and \$12,000; and 29 families showed an income between \$8,000 and \$10,000. The remaining 43 per cent of the tenants earn below \$8,000 per year, according to the review.

One factor that distorts this information is that many of these incomes are the combined incomes of all family members over 18 years of age who earn more than \$500 and are not full-time students. It is rare that the family members over 18 will turn over even 25 per cent of their income for room and board much less their entire income.

As a result of this rent review more than half of the tenants in the veterans' units have been faced with a rent increase -- in some cases by as much as 75 per cent. To

further aggravate the situation the tenants claim that the Authority has told many of the tenants -- "this wouldn't have happend if it hadn't been for that tenant organization."

Modernization Priorities

The tenant organization began by establishing a Modernization Committee. Then, based on recommendations from Mass Union, the Fullerton tenants took a survey of all state-aided projects, both elderly and family, to determine modernization priorities. The top priorities for the tenants were stoves, storm doors and windows, and improved parking facilities. The housing authority wanted to use the \$20,000 for new roofs. In a compromise between FHA and tenants both agreed to use the modernization funding for storm doors and windows. Jones, however, then sent a letter to DCA requesting them to inspect the project and make a determination of priorities. DCA sent an inspector out who reported back that the roof repair was a higher priority than storm doors and windows.

The tenants immediately criticised the Authority -- accusing them of using DCA to get what the Authority wanted in the first place. The Authority claims that it was DCA that decided the money should go toward roofs.

Jones then ignored the Modernization application procedure (requiring the tenant sign off) and submitted an application with a comment stating that "some of our representatives from the Tenant Organization do not agree on our Priorities." Two weeks later the tenant Modernization Committee submitted their list of priorities and raised the issue about the \$97,000 in funds available in the operating reserve account.

Finally on September 16, 1975, DCA Management and the Modernization staff went out to Fullerton to meet with both tenants and Authority to resolve the issue of priorities. After a period of negotiations the tenants, Authority and DCA agreed to the following steps:

1. The \$20,000 in Phase 4 money would go toward the repair of roofs as determined by a DCA inspector who would determine which roofs and the extent of repairs for each.

2. The Authority agreed to spend all but 40 per cent of its operating reserve on other improvements. These improvements included:

- a. Storm doors and windows would be installed at the 176 units at an estimated cost of \$31,000.

- b. About 102 stoves would be purchased at a price of \$15,000 and installed along with 48 new stoves the Authority has in stock.

- c. An undetermined number of new refrigerators

would also be purchased and installed along with 36 already in stock.

d. The balance of the committed operating reserve would be used to begin repairs on the kitchens and bathrooms in most critical need of repair.

Conclusion

Although substantial progress in modernization has been slow, gains have been made in both areas of physical and non-physical modernization. Most of the items for physical modernization have been accomplished, but the tenants claim that they are being accomplished in an unorthodox manner. They complain that the storm doors and windows are being installed in a sporadic manner, stoves were ordered that were too large to fit in some of the units, and bids were put out for new bathroom ceramic tile without considering the consequences of putting new tile over 27 year old plumbing facilities.

On non-physical modernization, progress began when Alderwoman Niles recommended the appointment of a former tenant to the FHA Board. Most of the efforts by the tenant organization have been met with hostility. The regulations on tenant participation require LHA's to provide office space, office furniture, office supplies, a telephone and \$3/unit/year to the TO's for operating expenses. So far the

Fullerton tenants have only received the \$3/unit/year. They have temporarily given up the issue of office facilities.

Currently the tenants are focusing their attention on the appointment of a tenant on the Authority Board. The Mayor has made a commitment to appoint a tenant and he did recently make a recommendation to appoint a "sweet heart" tenant, but at the opposition of the tenant organization, the city-council tabled the appointment. The tenants have been trying to meet with the Mayor to nominate their candidate.

FOOTNOTES TO CHAPTER III

1. Letter to DCA Deputy Commissioner E. William Richardson from Edward Blackman, Chairman, Massachusetts Conference on Human Rights, May 25, 1971.
2. Minutes of the Modernization Advisory Committee, November 17, 1971.
3. Minutes of the Modernization Advisory Committee, January 12, 1972.
4. Minutes of the Modernization Advisory Committee, January 26, 1972.
5. Ibid.
6. Agenda for the Modernization Advisory Committee, November 3, 1971.
7. Working Paper providing summary of allocation of Modernization Funds Phases 1, 2 and 3.
8. Regulations for Allocation of Modernization Funds, designed by the Modernization Advisory Committee for Phase 4 allocation.
9. Letter to DCA Commissioner Miles Mahoney from Attorney for [Bre] Modernization Committee, June 26, 1972.
10. Letter to DCA Commissioner Miles Mahoney from Co-chairman [Bre] Modernization Committee, November 14, 1972.
11. Appeal Before the Department of Community Affairs, [Compton] State Public Housing Tenants' Union, Appellants v. [Compton] Housing Authority and Veterans and Low Rent Advisory Committee, Respondants, August 10, 1973.
12. [Fullerton] Daily Times, August 4, 1975.

CHAPTER IV

CONCLUSION

This study began with the assumption that the program goals and policies established by the rules and regulations were irrational and impractical, given the limited funding level of \$5 million per year, the magnitude of the problem in terms of physical need, the existing policies of many local housing authorities for no tenant involvement in management, and for the Department's lack of foresight for policy implementation or enforcement. Although the findings of this study indicate that the assumption was correct, the issues are much more complex than assumed.

Funding Level of \$5 Million Per Year

The tenants, tenant advocates and other proponents of the modernization bill realized that \$15 million at an annual funding level of \$5 million was just a drop in the bucket in comparison to the physical need, but just getting a modernization bill enacted was a major feat in itself. Another issue

was the practicality of spending the money within one year, given the complicated process of bidding, contracting and construction. There was also evidence that once the bill was enacted there was a good possibility of getting more money from the legislature. Thus, the enactment of the legislation to address the problem was viewed as more important than the funding level.

Establishing Policy and Program Goals

DCA's authorship of the Modernization rules and regulations was implicit in assuming lack of foresight in goal setting and policy enforcing. The fact that they were not authored by DCA and that DCA's total contribution during negotiations was to water them down, gives some indication for their reluctance to enforce the rules and regulations during Phase 1.

The Ad Hoc Committee, who drafted the rules and regulations in their concern to insure non-physical modernization called for the attainment of two conflicting goals. If modernization funds were given only to LHA's whose project needs were most critical, then other LHA's would have no incentive to achieve non-physical goals.

The irony of this whole process is that the tenants and their advocates had no expectation for DCA to comply^{with}/or enforce the regulations. The promulgation of the rules and regulations

was viewed as a tentative victory, but, more importantly, the regulations were viewed as an organizing tool. The tenants and their advocates felt that only the tenants at the local level could enforce LHA compliance by knowing and exerting their rights.

DCA's Failure to Enforce Program Regulations

The Department's failure to enforce the rules and regulations has been clouded by a number of issues over the four program phases. First, LHA's opposed to tenant participation were allowed to circumvent the regulations by not wishing to participate. Phase 1 staff was then reluctant to implement rules that they felt imposed unnecessary restrictions on the housing authorities. During the design of the application procedure for Phases 2 and 3, the Department was geared up to enforce the Modernization regulations, but the regulations on tenants' rights circulated in the early fall 1972 caused such a backlash that the Department chose to use the program as an incentive. Many of the LHA's went to court on the issue of "home rule" or local autonomy. Finally, during Phase 4 the Department was so overwhelmed with the enforcement of the regulations on leases and grievance procedures that the issue of tenant participation received low priority.

Thus, the Modernization rules and regulations have never been complied with nor enforced in their entirety. Discussed below are the various rules that have not been enforced:

1. Non-Physical -- "Each modernization proposal shall be preceded by a statement outlining plans for tenant participation in management decisions; improvements in management policies and practices, the expansion of community services and employment of tenants where possible."

This rule was enforced during Phases 2 and 3, but the content of the statement was ignored. The majority of these letters of intent were only signed by the Executive Directors which was contradictory to the spirit of its intent. This information, along with a survey for non-physical modernization, (discussed earlier in Chapter III) was then shelved, for lack of more appropriate disposition.

2. Tenant Sign-Off -- "No preliminary proposal shall be accepted by the Department unless it is signed by authorized representatives of both the authority and the tenants, except ... If the authority refuses to submit an application for modernization funds within sixty days, the tenant organization may submit its own application which the Department will consider."

All three of the Executive Directors in our cases studied were guilty of submitting Modernization applications without appropriate signatures. The Department has returned some applications for proper compliance, but not in all cases.

3. Cost Estimate -- "The preliminary proposal shall also state, as accurately as possible, the estimate cost of each work item. This does not mean that the work items should be let out for bids prior to submission of the preliminary proposal; but there should be an estimate of cost of each item, and a short explanation of the method by which the estimated cost was established."

The short explanation required has been submitted rarely, and never enforced. Several LHA's have built up a reserve because of over-estimating; others underestimate, then can't do the job.

4. Inspections -- "If the proposal is accepted, the notification shall set a date and time for a visit to the project by the Department's technical personnel for the purpose of inspecting the work to be done and estimating the cost of such work."

Most of the projects were inspected under Phase 1; however, no inspections were performed for determining allocations during Phases 2-4.

5. Monthly Progress Reports -- "the Department ... shall provide that the authority and tenants submit to the Department's monthly progress reports, 'Monthly Progress Report for Modernization Project' (Form DCA G) -- relating to the progress of the Modernization Project undertaken."

No monthly progress report has been enforced.

Lack of Distinction

DCA's failure to define "Modernization" has been a primary cause for conflict and dissatisfaction by tenants and LHA's. The regulations are vague and include any physical change that corrects, replaces or upgrades the project.

With the exception of Phase 1 the Department has maintained this vague position, defining modernization on a project by project basis. Modernization priorities established by tenants and LHA's have generally been respected. These priorities have ranged from major hardware items such as roofs and boilers to software items such as planning consultants.

Housing authority officials take a more pragmatic position. They view the Modernization program as an opportunity to catch up on deferred maintenance, to replace outmoded systems and to cut operational costs. This area of concern is referred to as extraordinary maintenance.

Tenants, on the other hand, clearly view Modernization as "their program." The federal Modernization experience at the at the Boston Housing Authority established a model which has gained wide acceptance by tenants and tenant advocates and has since been construed to be the "real intent of Moderniza-

tion." BHA gave all responsibility for establishing priorities to the tenants. The tenants' concerns and priorities were on items that surround and affect their immediate environment. Thus, a distinction emerged between Modernization and extraordinary maintenance.

Mass Union, naturally interested in the rights of tenants, has perpetuated this distinction. In a tenant handbook on Modernization the Union provided the following advise:

"Housing Authority will want to use Modernization money to make up for maintenance they've been skipping -- tenants should demand money for needed facilities... Negotiating with the housing authority for things that tenants want is a real possibility, because the housing authority will have to pass up modernization funds if it refuses to cooperate with tenants."¹

Tenants feel that both extraordinary maintenance and modernization should happen, but view modernization as distinct from extraordinary maintenance. They view modernization as something that surrounds their immediate environment and extraordinary maintenance as something that should be properly planned and budgeted for. Given this distinction, the tenants feel that they have been cheated. They have continually been faced with ultimatums -- LHA's would say "we would like to install new kitchens but the boiler needs replacing; if we don't replace it you won't have any heat this winter" --

consequently, hardware extraordinary maintenance items have been selected.

LHA's Attitude on Tenant Participation

All three of the housing authorities studied had reservations about tenant participation in the modernization process. The Executive Director in our Compton study not only opposes, but disallows any tenant involvement in decision making. The other two authorities said they favored the concept of tenant participation but were opposed to the particularly "radical" tenants who were participating at their authority. They felt that tenant participation should be to "help" the authority -- citing the example of the tenant survey to establish physical priorities. Both agree that the tenants should not have ultimate veto power which is currently represented by virtue of their sign-off. The housing authorities in Brea and Fullerton claim that tenant participation has slowed down the modernization process and responsible for the hold up in getting work completed.

Tenant's Attitude on Participation

Tenants in all three projects were frustrated with the whole process of participation. The frustrated tenants at Compton, however, represented only a minority of the tenants. The experience at Compton raises two issues that require further research. The experience indicates that where good

property management occurs, there is no need for tenant participation; or that tenants fail to participate when they are over-income because of their vulnerability to eviction.

Tenants at Brea, Fullerton and the staff at Mass Union agree that legitimate tenant participation ends after the application sign-off. They claim that once the authority receives its modernization funds their "good faith" efforts at participating with tenants end.

The tenants at Brea are now three year veterans at participation efforts. They claim a long struggle at "trying to keep the housing authority honest" in modernization performance. The tenants claim that the authority shops at the most expensive hardware store for supplies and selects contractors who do shoddy work. The modernization work approved for Phase 2 is currently, three years later, being completed.

The Fullerton tenants are novices at participation. Their participation following sign-off has been limited to "calling up the authority to find out what's happening." They also criticize the quality of work performed and the practicality of installing new ceramic bathroom tile over plumbing facilities that will soon need replacement.

Tenants claim that it is their participation efforts that keep the authorities on their toes. They believe that

their involvement has been beneficial and would like to participate through the entire process.

Other Modernization Problems

- DCA's method of allocating funds. The "shotgun" method of allocation has provided no more than band-aid treatment of the problem.

- DCA's failure to monitor the program. Allegations are currently being investigated of program abuses.

- DCA's approval of change orders. Change orders approved without tenant knowledge circumvents the process of establishing priorities.

- DCA's failure to mail correspondence directly to TO. Modernization correspondence (applications, etc,) are mailed to TO's via LHA's.

- Inappropriate tenant sign-off. DCA staffer breaks the rules and encourages applicants (LHA's) to submit application for modernization regardless of appropriate tenant sign-off.

One of the most obvious shortcomings of this study is its failure to discuss program successes. The three cases selected are not representative of all authorities that

have participated in the program. Much can be learned from both authorities and tenants that have joined together in a concerted effort to achieve program successes. Despite these shortcomings, it is believed that this report does give an overall indication of how the program is working and provides data currently unavailable to policy-makers.

Before discussing recommended program alternatives it must be noted that HUD has now reformulated its Modernization program. Under the guise of "efficiency" they have eliminated the entire aspect of non-physical modernization and tenant participation. HUD has claimed that tenant participation has slowed down the modernization process. They now view modernization strictly in terms of physical improvement.

It is hoped that the Department not follow suit. Modernization cannot be seen only as a physical end product. It is essential that those who determine policy pay attention to the opinion of the ultimate consumer of public housing.

Programs cannot be designed to meet "their needs" by legislators, bureaucrats, professional reformers or social workers. Only when the consumer can affect decisions in their environment can that environment produce social well being.

"When people have no control over nor responsibility for key decisions in the housing process, on the other hand, dwelling environments may instead become a barrier to personal

fulfillment and a burden on the economy."²

It is recognized that tenant involvement will vary from project to project. Many tenants are clearly committed to improving their environment; others lack that commitment. A previous study on tenant participation in public housing has found that effective participation requires a broad front of interlocking elements:³

1. clear, specific, enabling legislation;
2. a clear, identifiable constituency, target, and goals;
3. collective material resources for distribution in regard to organized participation;
4. material resources for staff and operating expenses of citizen organization;
5. wide dissemination of information and technical assistance;
6. legal representation;
7. a network of alliances and political support, especially in the state government.

This does not mean that tenants should have a "green light" -- tenants should not be allowed to halt the process by their defiance to participate but should "raise flags" as problems arise. This would require DCA to respond and resolve problems immediately.

Recommended Program Alternatives

Alternative A

Assumes no policy change -- requires complete enforcement of the existing Modernization Rules and Regulations and definition of criteria for allocating funds.

- Requires:
- 1) Joint LHA/TO submission of Modernization proposal; statement of non-physical goals, etc.;
 - 2) Define "process" for tenant participation throughout modernization;
 - 3) Define Modernization v. Extraordinary Maintenance;
 - 4) Submission of short explanation of estimated cost;
 - 5) Joint LHA/TO Monthly progress reports;
 - 6) Physical inspection before, during and after.

Consequences: DCA would receive opposition from defiant LHA's not wishing to implement non-physical changes nor willing to allow tenant participation throughout the modernization process. DCA would have to enforce LHA compliance -- forcing compliance through the courts or withholding operating funds.

Alternative B

Assumes amendment of existing Modernization regulations, eliminating provision for non-physical modernization (since the same provision is required in the regulations on Tenant Participation) but retain and better define requirement for tenant participation in the modernization process.

Requires: Same as Alternative A, excludes statement of non-physical goals.

Consequences: Opposition from LHA's would not be as great since the alternative would eliminate the issue of management; however, tenants and their advocates would oppose since they view the regulations as an organizing tool and view the provision for non-physical modernization as "clout."

Alternative C

Assumes major policy change -- requires promulgation of new Modernization regulations; allocation of funds based on agreed items.

- Requires:
- 1) Total project inspection by DCA;
 - 2) Joint DCA/LHA/TO agreement of modernization work;
 - 3) Definition of tenant participation throughout modernization process;
 - 4) Joint LHA/TO Monthly progress reports;
 - 5) Physical inspection during and after.

Consequences: Perhaps some temporary backlash by tenants and their advocates for undoing the process that went into drafting the rules and regulations, but the regulations are outdated and have never been complied with or enforced. The promulgation of new regulations would be justifiable if -- the new regulations had specific provisions for tenant participation and had a commitment by the Department to enforce them. (Provision should establish a formal mechanism for participation, allowing employment and compensation for their involvement in the modernization process, requiring monitoring, reporting and tenant coordination.)

This alternative would eliminate the application process and negotiation by LHA's and TO's. LHA's and TO's would favor funding that would cover entire work items rather than arbitrary allocation system.

Alternative C (Continued)

DCA would insure impact of limited funds and could develop a modernization plan for each project.

Alternative D

This alternative/^{is similar} same as Alternative C, but eliminates a formal mechanism for tenant participation. Places the issue of tenant participation at the local level.

- Requires:
- 1) Total project inspection by DCA;
 - 2) Joint agreement of modernization work;
 - 3) Speed at Modernization Results;
 - 4) Monthly progress reports;
 - 5) Heavy monitoring staff.

Consequences: Strong opposition from tenants and their advocates for eliminating their "clout." LPA's and legislature would probably favor this. Would require larger staff to monitor the LHA's to "keep them on their toes and honest." Tenants would probably want the courts to intervene unless modernization results were exceptionally fast and pleasing.

Alternative E

Assumes no formal change in Modernization rules and regulations, no enforcement of tenant participation provision, but establishes major policy changes for program administration.

Consequences: Tenants and tenant advocates still have their "clout"-- DCA would leave itself open to court intervention for failure to comply with regulations.

General Recommendations

- State Level:
1. Establish a Modernization Policy Committee for establishing program strategies, policy changes and funding allocation.
 2. Require modernization matching funds from local communities.
 3. Take a firm stance against defiant LHA's who resist compliance with DCA's regulatory authority.
 4. Develop a current list of all TO's, tenant representatives and addresses.
 5. Take whatever steps necessary to keep the courts from intervening in program administration.
- Local Level:
1. Tenants must educate their community to problems within their Authority.
 2. Support legislation regarding the appointment of tenants to LHA Boards.

FOOTNOTES FOR CHAPTER IV

1. "Modernization A New Tool For Tenants," handbook published by the Massachusetts Union of Public Housing Tenants, Written and produced by Urban Planning Aid, Inc., P.7, 1972.
2. Robert Fichter, John F.C. Turner, and Peter Grenell, "The Meaning of Autonomy," in Freedom To Build, edited by Turner and Fichter, p. 241, The Macmillan Company, New York, New York, 1972.
3. Donald E. Dickson, Jr., Tenant Participation in Public Housing, unpublished Phd. Thesis, Department of Political Science, MIT, August, 1975, p. 385.

APPENDIX A

THE ACT - CHAPTER 694

CHAPTER 694. AN ACT PROVIDING FOR THE MODERNIZATION AND RENOVATION OF EXISTING PUBLIC HOUSING PROJECTS AND AUTHORIZING THE COMMONWEALTH TO BORROW MONEY TO PROVIDE STATE GRANTS FOR SUCH PROJECTS.

Be it enacted, etc., as follows:

SECTION 1. The department of community affairs is hereby authorized to expend a sum not exceeding fifteen million dollars for the purpose of contracts to be entered into by said department, acting for and on behalf of the commonwealth, with housing authorities established pursuant to section three of chapter one hundred and twenty-one B of the General Laws, or corresponding provisions of earlier laws, for state financial assistance in the form of grants to such authorities for projects undertaken pursuant to clause (j) of section twenty-six of said chapter, added by section two of this act, which grants shall be paid by the commonwealth upon approval and certification by said department to the state comptroller; provided, that the amount expended pursuant to this section during any one fiscal year shall not exceed five million dollars.

SECTION 2. Section 26 of chapter 121B of the General Laws, as appearing in section 1 of chapter 751 of the acts of 1969, is hereby amended by striking out, in lines 40 to 43, inclusive, the words "and (i) To lease, operate and, subject to section thirty-two establish or revise schedules of rents for any project or part thereof undertaken by it" and inserting in place thereof the following:—

(i) To lease, operate and, subject to section thirty-two, establish or revise schedules of rents for any project or part

thereof undertaken by it; and

(j) To undertake as a separate project the renovation, remodeling, reconstruction, repair, landscaping and improvement of any existing housing project or part thereof assisted by the commonwealth pursuant to section thirty-four or forty-one; provided, that the plans for each such separate project shall be approved by the department, and each such project shall be undertaken in accordance with rules and regulations promulgated by the department for such projects.

SECTION 3. The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments as authorized by section one of this act, and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable as such times and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall be not later than June the thirtieth, nineteen hundred and seventy-five. Such notes shall be general obligations of the commonwealth.

SECTION 4. To meet the expenditures necessary in carrying out the provisions of section one or to refinance notes issued as provided in section three, the state treasurer shall, upon

request of the governor, issue and sell at public or private sale bonds of the commonwealth, registered or with interest coupons attached, as he may deem best, to an amount to be specified by the governor from time to time, but not exceeding, on the aggregate, the sum of fifteen million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Public Housing Modernization and Renovation Loan, Act of 1970 and shall be on the serial payment plan for such maximum term, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, the maturities thereof to be so arranged that the amounts payable in the several years of the period of amortization other than the final year shall be as nearly equal as in the opinion of the state treasurer it is practicable to make them. Said bonds shall bear interest semiannually at such rate as the state treasurer, with the approval of the governor, shall fix. The initial maturities of such bonds shall be payable not later than one year from the date of issue thereof and the entire issue not later than June the thirtieth, nineteen hundred and ninety-five.

Approved August 18, 1970.

APPENDIX B

MODERNIZATION RULES AND REGULATIONS

DEPARTMENT OF COMMUNITY AFFAIRS

RULES AND REGULATIONS FOR MODERNIZATION PROJECTS

1. STATUTORY AUTHORIZATION

Section 26(J) of Chapter 121B of the General Laws, inserted by Chapter 694, Acts of 1970, authorizes local housing authorities to "undertake as a separate project the renovation, remodeling, reconstruction, repair, landscaping, and improvement" of existing state-assisted projects or parts thereof. For the purpose of these regulations, projects authorized under section 26(J) shall be called "Modernization Projects."

Chapter 694 authorized the Department of Community Affairs to contract with local housing authorities for state financial assistance in the form of grants to such authorities for the purpose of undertaking such Modernization Projects. The Department is authorized to expend a total of Fifteen million dollars for this purpose, but such expenditures may not exceed five million dollars in any one fiscal year. Also, section 26(J) provides that the plans for Modernization Projects shall be approved by the Department, and that each such project shall be undertaken in accordance with rules and regulations promulgated by the Department.

2. PURPOSES AND SCOPE OF THE MODERNIZATION PROGRAM

The Massachusetts Public Housing Modernization Program was enacted primarily for the purpose of ensuring the safety and health of tenants living in state-assisted public housing projects by providing a method whereby deterioration and

damage to the buildings and fixtures may be corrected, and outmoded equipment replaced. The Department recognizes that a public housing project is a social framework critically affecting its residents' lives, rather than only a collection of buildings and grounds. Therefore, tenants of each project affected by this Modernization Program shall be involved in decisions related to the planning and implementation of the program. In view of the limited funds available for the Modernization Program and the overriding need for physical rehabilitation, the Department will give funding priority at this time to proposals for the use of modernization funds for the purpose of physical modernization. Proposals for physical modernization projects will only be considered by the Department, when such proposals include the full involvement of tenants in decisions affecting them.

Each modernization proposal shall be preceded by a statement outlining plans for tenant participation in management decisions; improvements in management policies and practices, the expansion of community services and employment of tenants where possible. All modernization funding after January 1, 1972 will be contingent upon the substantial accomplishment in the area of non-physical modernization.

3. DEFINITIONS

As used in these regulations, the following terms shall have the following meanings:

- (a) Department: The Department of Community Affairs;

when the Department is charged with rendering a specific decision, the Commissioner or his designee;

(b) Authority: Any local housing authority or body undertaking the duties of a local housing authority pursuant to G.L. Ch. 121B.

(c) Housing Project: Any building or group of buildings, contiguously located, treated as a single administrative unit or part of such unit by a local housing authority responsible for administering such project.

(d) State-Assisted Public Housing Project: Any housing project receiving financial assistance from the Commonwealth pursuant to G.L. Ch. 121B.

(e) Physical Modernization Project: The correction of physical deterioration of the site, structures, fixtures or equipment; the replacement of outmoded fixtures or equipment or outmoded aspects of structures, upgrading of grounds, structures, fixtures or equipment by alteration or by the provision of additional structures, fixtures or equipment.

(f) Non-Physical Modernization Project: A thorough updating of all management policies and practices, undertaken in cooperation with representatives of the tenants of each affected housing project.

(g) Modernization Program: A comprehensive program of physical and non-physical improvement of state-assisted public housing projects.

(h) Tenant Organization: Any new or existing duly

elected tenant organization as established pursuant to G.L. Ch. 121B. The by-laws of the tenant organization must call for an annual meeting for the election of officers with notification to all tenants.

4. APPLICATION PROCEDURE

A. Tenant Participation

Prior to submission of any preliminary proposal by the authority to the Department, and not later than thirty (30) days after the adoption of these regulations, all authorities shall notify all of the tenants aged eighteen (18) or above in all projects, by letters sent by regular mail, of the existence of the Modernization Program, its purpose and its importance to the tenants; provided, however, that only one letter need be sent to the tenants in any one dwelling unit. The letter shall also inform the tenants of their rights to be involved in decisions concerning the Modernization Program. This letter shall conform to a form prescribed by the Department Community Action Programs serving any affected project, shall be sent a copy of this letter. The letter shall also be posted prominently in each building of all state-assisted housing projects.

The authority shall schedule a meeting with the tenants at a time and place when the majority of tenants will be able to attend, and shall notify the tenants of the date and time of the scheduled meeting and of its purpose. This notification must be included in the initial letter sent by the authority to all tenants.

When such meetings are held, if no tenant organization exists in accordance with 3(h) a temporary chairman shall be elected to preside over this and any other meetings until a duly elected tenant organization is formed. The tenants shall have the right to invite technical or other assistance as they desire to the meeting. The authority shall explain the Modernization Program and procedures, and shall answer any questions presented by the tenants relating to the modernization process.

The authority and the tenants shall establish a process whereby tenants will fully participate in the planning and execution of the Modernization Program. The tenant organization shall be responsible for representing tenants in the planning and execution of the Modernization Program. The tenant organization chairman has the duty to sign the preliminary proposal. He shall sign such proposal only when it has been approved by a majority vote of all tenants present and voting at a meeting of which all tenants have been given proper notice. Tenants at such meetings may vote if they are at least 18 years old. Tenant organizations may form Task Forces to develop particular programs including but not limited to physical upgrading, management, rental and occupancy, and community services.

No preliminary proposal shall be accepted by the Department unless it is signed by authorized representatives of both the authority and the tenants, except as provided in the following paragraph.

If an authority refuses to submit an application for

modernization funds, within sixty days, the tenant organization may submit its own application which the Department will consider. The Department will not approve such application, however, without prior approval in writing of the housing authority.

The tenant organization in a particular city or town may choose to combine into a city wide tenants' council, which may represent the tenants.

B. Preliminary Proposal

Any local housing authority desiring to participate in the Modernization Program shall submit to the Department a completed copy of the "Preliminary Proposal for Modernization Project" (Form DCA D) after full tenant participation as set out in part 4(A). Separate proposals shall be submitted for each housing project for which the authority wishes to request physical modernization funds.

Each preliminary proposal shall list all of the work items for which modernization funds are requested, in order of their priority, determined by the authority and tenant organization.

The preliminary proposal shall also state, as accurately as possible, the estimated cost of each work item. This does not mean that the work items should be let out for bids prior to submission of the preliminary proposal; but there should be an estimate of the cost of each item, and a short explanation of the method by which the estimated cost was established. The

total estimated cost of all work items should be computed and included in the proposal.

The Department recognizes that authorities will have an interest in submitting applications as early as possible, before modernization funds for the fiscal year are exhausted. This interest, however, shall in no case constitute grounds for disregarding the requirements for tenant participation set out in section 4(A) of these regulations.

C. Department Acceptance or Rejection of the Preliminary Proposal

If the proposal is rejected the notification will state the reason(s) therefore.

Due to the limited amount of modernization funds available, the Department plans to allocate these funds to those projects whose needs are most critical. The Department will attempt to maintain a substantial degree of flexibility in order to deal with varied local situations and with the needs of individual projects as determined by the tenants who live in those projects and the housing authority administrators. Therefore, the Department will undertake a case by case evaluation of each application for modernization funds, giving due weight to the funding priorities submitted jointly by the local authorities and tenants.

If the proposal is accepted, the notification shall set a date and time for a visit to the project by the Department's technical personnel for the purpose of inspecting the work to

be done and estimating the cost of such work.

However, prior to issuing the notification of acceptance or rejection provided for above, the Department shall notify the authority and tenant signatory of amendments to the proposal which the Department deems necessary in order to fulfill the purposes of the modernization program.

D. Amendments

It is expected that the tenants and the authority will thoroughly discuss and consider the proposal prior to submitting it to the Department. However, at any time prior to receipt of final acceptance by the Department of the proposal, or subsequent to receipt of final rejection, the authority and tenants may, if they so agree submit amendments to the proposal for consideration by the Department. All amendments shall be submitted on the form designated as "Amendment to Modernization Program" (Form DCA C) and shall be signed by representatives of both the authority and tenants.

5. ALLOCATION OF FUNDS TO AUTHORITY AND CONTRACT FOR MODERNIZATION PROJECT

A. When the plans for the modernization project have been completed, they shall be submitted to the Department for approval. These plans shall include a copy of the authority's "Modernization Budget" (Forms DCA D and F). No plans shall be accepted by the Department unless they are signed by the authority and representative of the tenant's organization.

B. If the plans are disapproved, the notification shall

state the reason(s) therefore, and shall indicate the manner in which the plans should be amended. Such notification may also state a time limit within which such amendments must be made and submitted. Such amendments shall be submitted on the form designated as "Amendment to Modernization Program," and the requirements of section 4 of these regulations shall apply.

C. If plans are approved, the Department shall send to the authority in addition to notification of approval, a "Contract for Modernization Project."

Such contract shall specifically refer to the plans and budget approved by the Department and shall provide that the authority and tenants submit to the Department's monthly progress reports. "Monthly Progress Report for Modernization Project" (Form DCA G) -- relating to the progress of the Modernization Project undertaken. Such contracts shall provide, further, that if the Department deems it necessary because of violations of these regulations, or in order to correct misuse or misapplication of modernization funds granted to the authority, the Department may suspend or terminate the contract and grant after a specified portion of the modernization project has been completed and after notice in writing to the authority and tenants' signatory that such action will be taken. No contract shall be accepted by the Department unless they are signed by the authority and representatives of the tenants organization.

6. COMPLAINTS

The Department shall investigate any complaint submitted in writing by the authority, a tenant's organization, or any project affected by the modernization program, alleging that the authority or the tenants acted illegally or improperly in regard to any aspect of the modernization participation requirements, misuse of modernization funds, and failure to spend funds as allocated on the final budget. Complaints may be written informally, as long as the material facts are clearly alleged. The Department will report its findings in writing to the complainant.

If such complaints are received prior to execution of the "Contract for Modernization Project," the Department may suspend its consideration of the proposal or may revoke its acceptance of the proposal if it finds that the facts alleged by the complaint are substantially true. If the Department deems such suspension or revocation to be necessary, it shall so notify the authority, tenant organization, and complainant in writing, and shall specify what further action is to be taken.

If such complaints are received after execution of the "Contract for Modernization Project," the Department may act pursuant to the provisions for suspension or termination of the contract stated in section 5(C) of these regulations. This complaint procedure shall not replace or supersede any available legal remedies.

7. To assist the Department in the modernization process, a Modernization Advisory Committee will be formed. It shall consist of members from the Massachusetts Alliance of Public Housing Tenants, Massachusetts Association of Housing Authority Executive Directors and other public members as chosen by the Commissioner.

The remainder of these regulations contain the sample forms referred to above and directions for filling them out.

INSTRUCTIONS TO ACCOMPANY

"AMENDMENT TO MODERNIZATION PROGRAM"

Items (1) through (4) are self-explanatory

Item 5: Check either item (a) or (b)

Check item (a) only if:

- (i) No notification of acceptance or rejection has been received from the Department; or
- (ii) Pursuant to section 4(C) of the Department's Modernization Regulations, notification of suggested amendments has been received; or
- (iii) Pursuant to section 6 of the Department's Modernization Regulations consideration of the proposal has been suspended by the Department.

Item (6): Any additions to work items or parts thereof, or any upward adjustments in the estimated cost of work items included in the preliminary proposal should be entered here; all other information required to be included in the preliminary proposal should also be entered, if a new work item is added. If the amendment involves adjustment of estimated cost only, the method by which the new cost was estimated should be stated.

Item (7): Any work items or parts thereof to be deleted from the preliminary proposal, or any downward adjustment of estimated cost, should be entered here. The estimated cost of deleted work items or parts thereof should also be entered.

Item (8): Enter total estimated cost of additions.

Item (9): Enter total estimated cost of deletions.

Item (10): Signature of local housing authority representative.

Item (11): Signature and home address of tenant representative.

APPENDIX C

DRAFT - CRITERIA FOR REVIEWING LHA PLAN
FOR NON-PHYSICAL MODERNIZATION

DRAFT - CRITERIA FOR REVIEWING LHA PLAN FOR NON-PHYSICAL
MODERNIZATION Prepared by the Massachusetts Law Reform Institute

1. INTRODUCTION - In order to assure compliance with the non-physical requirements in sections 2 and 4A of the Department's "Rules and Regulations for Modernization Projects" (Regulations), the Department has established the following criteria for use by the staff in reviewing the non-physical part of an LHA's proposed modernization program.

2. CRITERIA FOR REVIEW - In order to meet the non-physical requirements for modernization, an LHA must have either existing practices or a reasonable plan for implementing practices in the areas of the lease, tenant grievances, rent collections, admissions, emergency maintenance, tenant employment, community services and tenant participation that meet the following standards:

a. Lease - The lease should be fair and equitable and meet the minimum standards in the Department's memorandum and model lease issued August, 1970.

b. Tenant Grievances - An LHA should establish a fair and impartial procedure for resolving tenant grievances with management. Such procedure should meet the minimum requirements in part 3 of HUD Circular RHM 7465.9.

c. Rent Collection - No unconscionable practices such as assessing fees, fines or charges as rent or fining a tenant for late payment when rent is less than 30 days overdue should be employed. The LHA's practices should keep rent delinquencies

at a minimum by such things as allowing tenants to pay rent twice a month, granting rent extensions where a tenant show good cause and conferring with tenants soon after they fall behind in rent.

d. Admissions - An LHA's admission procedures and its criteria for eligibility and preference should be consistent with state law and should assure that each eligible applicant fairly obtains the first available unit suited to his needs. An LHA's statement of its procedures for application, and its eligibility and preference criteria should be readily available and conspicuously posted in all LHA offices.

e. Emergency Maintenance - LHA should have procedures for assuring that emergency maintenance needs will be attended to on a 24 hour, seven-day-a-week basis. The specific procedures might vary depending on the size, type and location of the project. For example, a maintenance man available by telephone would be suitable for a small, newly constructed project. An older project, with several hundred units and frequent instances of disrepair might require that a maintenance man be on duty round the clock at the project.

f. Tenant Employment - An LHA should maximize opportunities for tenant employment. An LHA's plan for maximizing tenant employment should include the following:

(1) All authority staff vacancies, including the position of executive director should be advertised and notice of the vacancy should be sent to local tenant associations and

conspicuously posted in all projects.

(2) To the extent permitted by law, qualified tenants should be given preference in filling all authority positions.

(3) Where funds permit, authorities should offer a training program, without charge to participants, to prepare tenants for authority staff positions.

(4) An LHA's personnel policies including its hiring policies, job descriptions, salaries and interviewing policies, should contain no unreasonable barriers to tenant employment.

g. Community Services - LHA should explore every means of assuring that adequate health, recreational and other community services are available to tenants. The LHA's plan for non-physical modernization should specify what community services are already available in the project and the adjacent community and what efforts the LHA will make to provide additional services, if necessary.

h. Tenant Participation - An LHA should encourage and facilitate tenant participation in all decisions of procedures that affect them. The most comprehensive statement by the Department of what tenant participation means is contained in the Lynn Memorandum of Understanding and should be referred to. The following standards from the Lynn Memo should be used in reviewing an LHA's plan for tenant participation:

(1) An LHA should hold itself open upon request to

negotiate agreements recognizing tenants organizations as the official representative of tenants.

(2) Appropriate LHA officials should meet regularly with tenants at a mutually convenient time and place to review management policies and practices, and tenant observations and proposals and to reach agreement thereon. A tentative agenda should be posted in each project a reasonable time before each regular meeting.

(3) An LHA should notify tenants in writing of all proposed changes in or additions to management policies and procedures, and should afford tenants a reasonable time and opportunity for comment. If tenants disagree with any proposed change, LHA officials should meet with the tenant to find a mutually agreeable solution.

(4) The LHA should provide to tenants copies of such periodic Authority reports and documents including, but not limited to, the Authority's Annual Report, the Annual Contributions Contract, Financial Statements and summary sheets of operating budgets, leasing and vacancy reports, schedules (advance and regular) for community activity, management policies and procedures and such special reports and studies regarding the Modernization Program, as may be prepared from time to time, except that the Authority shall not be required to release any part of any report that contains statements concerning individual tenants or Authority employees and their private matters.

(5) All LHA Board meetings should be open and held in a location to comfortably accommodate all tenants who wish to attend. Agendas for all board meetings should be mailed in advance to tenants and posted in all projects in advance of each meeting.

(6) An LHA should provide, without charge, facilities in each project for use as offices by tenant organizations and for other community and recreational activities planned by the tenants.

(7) Procedures should be established to permit tenants to participate in the hiring of all central office staff.

PROCEDURES FOR REVIEW - In reviewing an authority's plan for non-physical modernization, the LHA's existing practices should first be compared with the standards set out in 2, above. This will require obtaining at least the following items from the LHA: The lease presently in use; a statement of how the LHA presently handles tenant grievances and emergency maintenance; an account of each step taken to collect rent; the LHA's statement of its admissions policies (including procedures, criteria for eligibility, and preference categories); and its personnel policies (including hiring and interviewing policies, job descriptions, and salaries); the information on community services specified in 2.(f) above; and a description of the present level of tenant participation.

If the LHA's existing practices are consistent with the

standards in this memo, the LHA and the tenants should be notified by letter that the non-physical part of the modernization proposal is acceptable. However, in most cases, existing LHA practices will not meet the standards in each of the seven areas reviewed. Therefore, the staff should proceed to review the LHA's plan for non-physical modernization in order to determine the following:

(i) Whether the proposed changes will bring present practices into compliance with the standards in 2 above;

(ii) Whether reasonable steps are planned to put the changes into effect; and

(iii) Whether the changes will be implemented in a reasonable time.

Having reviewed the plan, the staff must decide that the plan is either acceptable, conditionally acceptable or unacceptable.

(1) Acceptable Plans - If the staff person determines that the proposed changes would bring existing practices into compliance with the standards in 2. above and that the LHA's time table and plan for implementation are reasonable, the LHA and the tenants should be notified by letter that the plan for non-physical modernization is acceptable.

(2) Conditionally Acceptable - If an LHA's plan substantially meets the standards in part 2. above, the LHA and tenants should be notified by letter that the plan is

acceptable on condition that the plan is amended within 30 days to comply with the Department's standards. The letter should include a detailed explanation of the deficiencies of the plan, and should indicate that a representative of the Department is available to meet with the LHA and tenants to assist in working out amendments to the plan.

(3) Unacceptable Plans - If an LHA's plan is substantially deficient, the LHA and the tenants should be notified by letter that the plan is unacceptable and that the LHA's proposal will not be processed and no funds will be disbursed unless the deficiencies are remedied.

If the LHA has already received modernization funds, the letter should notify the LHA and the tenants that the deficiencies must be corrected before any second stage funding will be disbursed. In either case a Department representative should meet with the LHA and tenants to work out a plan for compliance. An LHA shall not lose any priority it may have had on account of the date of its application while negotiations are proceeding to bring the non-physical plan into compliance.

4. WAIVER OF STANDARDS - In some cases it would be counterproductive to hold an LHA to details of standards in 2. above. In other cases, special circumstances may make certain of the standards inappropriate. The staff should be flexible in applying the standards in order to achieve results that do in fact increase effective tenant participation, opportunities and services, promote cooperation between tenants and manage-

ment and improve management practices along the lines of the standards.

In the following two instances flexibility in application and even waiver of particular standards may be warranted:

a. LHA's Having a Federal Non-Physical Modernization Program

If the LHA and tenants have a non-physical modernization program in operation that is acceptable to HUD, and the tenants and LHA desire to extend the program to tenants in state assisted housing, detailed compliance with the standards in this memo may be waived. For example, paragraph 2. a above requires a fair and equitable lease that meets the minimum requirements of the Department's model lease. If a fair and equitable lease have been agreed upon for the HUD program, compliance with the Department's model lease may be waived and the federal lease implemented for all tenants in the city or town.

b. LHA's Managing A Small Number of Units

In cities and towns where the LHA operates a very small Veterans and/or elderly program, the small size of the staff and the likelihood that tenants and management in a small scale operation may have frequent, informal opportunities to confer and resolve problems may render some of the standards inappropriate. In those cases the staff should flexibly apply or seek a waiver of certain standards in order to better meet the needs of the local situation.

APPENDIX D

REGULATIONS FOR TENANT PARTICIPATION
IN THE ADMINISTRATION OF PUBLIC HOUSING IN
MASSACHUSETTS

REGULATIONS FOR TENANT PARTICIPATION IN THE ADMINISTRATION
OF PUBLIC HOUSING IN MASSACHUSETTS

A. PURPOSE: These regulations define the standards and basic principles for tenant participation that the Department of Community Affairs (DCA) requires in the administration of public housing. These regulations seek to provide guidelines for implementing the last paragraph of Section 32 of Chapter 121B of the General Laws that provide as follows:

"A housing authority or its designee shall meet at reasonable times with tenant organizations to confer about complaints and grievances; provided, that if there is more than one tenant organization in any housing project, said authority or its designee shall not be obliged to meet with more than the two organizations in each project which represent, as the housing authority may determine, the largest number of tenants in that project. The housing authority shall inform the tenant organization of its decisions on any matters presented."

These Regulations also seek to strengthen and help to implement the Rules and Regulations for the Public Housing Modernization and Renovation Loan Act of 1970, Ch. 694, Section 2, second paragraph that states as follows:

"Each modernization proposal shall be preceded by a statement outlining plans for tenants' participation in management decisions, improvements in management policies and practices, the expansion of community services, and employment of tenants where possible."

In addition, these Regulations support and provide specific requirements to assist local housing authorities (LHA) and local tenants' organizations to carry out the intent of the Memorandum of Understanding, entered into the first day of June 1972 between the Massachusetts Union of Public Housing Tenants and DCA.

B. STATEMENT OF POLICY: It is recognized by DCA that tenants of public housing have a special and continuous concern in the administration of public housing programs by reason of being residents. Therefore, it is the intention of DCA that tenants, through the agency of their representative organized groups, shall be encouraged to participate to the fullest extent possible in the local and state administration of public housing to further the goals of the total public housing program of the Commonwealth which are as follows:

1.) To provide, through construction or acquisition and management, or through leasing, a safe and sanitary shelter for all individuals and families of low income at rent levels within their means;

2.) To seek to provide, and encourage other agencies to provide, social and neighborhood services that meet the needs both of individual tenants and of the total community;

3.) To aid tenants to increase their work skills and incomes;

4.) To encourage tenants to have a greater share in the management and decision-making processes involved in the administration of public housing;

5.) To open paths, wherever possible, toward individual and cooperative home ownership;

6.) To contribute toward the development of desirable neighborhoods and to improve the environment in which individuals and families live.

C. EFFECTIVE DATE: The effective date of these regulations is February 22, 1973.

D. REQUIREMENTS: Although the specifics of tenant participation should be defined and agreed upon between the LHA and the public housing community at the local level, the following basic principles of tenant participation are DCA's minimum requirements and must be followed by every LHA.

1.) Recognition - Public housing tenants in each city and town in the Commonwealth shall be encouraged and assisted by the LHA and the DCA to form independent tenant organizations to represent the public housing tenant community. The LHA shall, at the request of the local tenants' organization, recognize a city or town-wide tenants' organization¹ as the official representative of tenants in all public housing managed or leased by the LHA with power to negotiate on all matters of general tenant interest and concern, including but not limited to such matters as the lease; grievance procedures; personnel policies; standards of tenant conduct and provisions for the enforcement of such standards; regulations and policies relating generally to adequate maintenance, security, and community facilities; procedures for adjustments in rents; and any tenant proposals for changes in existing LHA

1. A city or town-wide tenants' organization shall mean a tenants' organization whose membership is open to all tenants, or tenant representatives, in the public housing community.

policies, practices and regulations. If the tenants so choose, the city or town-wide tenants' organization may include tenants or tenant representatives from rental assistance or leased housing.

Where the tenants choose to form project-wide tenants' organizations² in addition to or instead of a city or town-wide tenants' organization, the LHA shall recognize the project-wide tenants' organization as the official representative of tenants in a particular project with power to negotiate on all matters that primarily affect only tenants of that project including but not limited to maintenance needs, complaints about LHA employees, and community facilities at the project level.

For the purpose of these regulations "tenant representatives" shall mean residents of public housing projects, rental assistance housing or leased housing.

2.) Request for Recognition by More than One Tenants' Organization:

a.) Resolution at the Local Level-When more than one tenants' organization claims to represent the same tenants at either the project or city or town-wide level, the LHA shall meet with the competing tenants' organizations and make good faith efforts to encourage and assist the organizations to resolve the issue of representation informally and in such a way that tenants in the project or in the community are most

fairly and effectively represented.

If informal resolution cannot be reached, the LHA shall recognize the tenants' organization that most fairly and effectively represents tenants in the project or at the city or town-wide level. In making its decisions on recognition, the LHA must take into account at least the following factors:

(i) the relative size and representation of the competing tenants' organizations;

(ii) the ease with which members can participate in tenants' organization activities;

Example: is there a membership fee? what are procedures for joining?

(iii) affirmative actions of the organizations to encourage participation;

Example: where are meetings held? how is notice of meetings sent? who may attend meetings?

(iv) responsiveness of the organization to members;

Example: how are members' complaints or grievances handled? is there a procedure for recall or periodic election of representatives?

(v) and whether there are fair, democratic procedures for the periodic selection of officers.

2. A project-wide tenants' organization shall mean a tenants' organization whose membership is open to all public housing tenants in a particular project.

The LHA shall notify the competing tenants' organizations in writing of its decisions on recognition. The notice shall contain a full statement of reasons and facts for the LHA's decision, including the LHA's finding on each of the factors listed above and on any other factors considered.

b.) Appeal to DCA - If a tenants' organization(s) dissatisfied with the LHA's decision on recognition, the organization may appeal to DCA. The Department may sustain the decision of the LHA or reverse the decision and may determine that one of the appealing tenants' organizations should be recognized as the official representative of tenants in the project or the community. In making its determination, DCA shall:

(i) notify the affected tenants' organization(s) that they may, within 10 working days submit any documents, written arguments or data to DCA in support of the organization's case for recognition;

(ii) afford all affected tenants' organization a full opportunity to review and to rebut any written material submitted to DCA by or on behalf of any affected tenants' organization;

(iii) take into account at least the five factors in sub-part of (2) (a) above in making its decision on recognition; and

(iv) notify the LHA and the affected tenants' organization(s) in writing of DCA's decision. The notice

should contain a complete statement of the reasons for DCA's decision including DCA's finding on each of the five criteria in subpart of (2) (a) above and any other factors considered.

DCA may, in its discretion, use one or more of the following procedures in arriving at its decision on recognition:

(i) use DCA's good offices to encourage and facilitate informal resolution with LHA staff and with members of the affected tenants' organization(s);

(ii) investigate the matter at the local level, including interviews with LHA staff and with members of the affected tenants' organization(s);

(iii) hold a hearing at which time each affected tenants' organization shall have a full and fair opportunity to present its case for recognition; and

(iv) order an election by the tenants to designate which organization will be recognized as the tenants' official representative. Guidelines for the election will be established by DCA.

c.) LHA Meetings and Consultation with Other Than Recognized Tenants' Organizations - Nothing in this section or in these regulations shall be construed to prevent an LHA from meeting and conferring with any tenants' organization regarding complaints and grievances of that organization, in accordance with M.G.L. Ch. 121B, Section 32.

3.) Regular Meetings - The LHA shall, if a duly recognized city or town-wide tenants' organization requests, establish

a schedule of regular meetings (at least once a month) between the tenants' organization and the chief executive officer (or other LHA official with authority to commit the agency) to discuss issues of general LHA and tenant concern and to carry out the requirements of these regulations. The chief management official in each project shall likewise, if a duly recognized project tenants' organization requests, establish a schedule of regular meetings (at least once a month) to discuss issues of concern and to carry out the provisions of these regulations.

Procedures shall be established for calling special meetings at the municipal and local project level and, where appropriate, for including other management officials or employees in the regular or special meetings at both levels.

4.) Information - In order that the participants in the above discussions are fully informed and that these discussions are based on a common understanding of facts and problems, LHA's shall, upon request, provide project and city-wide tenants' organizations with copies of public records and documents that relate to the administration of public housing programs, including but not limited to, agendas and minutes of Board meetings; periodic reports such as the LHA's Annual Report and leasing and vacancy reports; contracts for financial assistance; financial statements and summary sheets of operating budgets; correspondence between the LHA and DCA; specifications for bids; schedules (advance and regular) for community activities; and

such special reports and studies regarding management policies as may be prepared from time to time.

If the number of copies of items requested by a tenants' organization is so voluminous as to unduly interfere with sound administrative and office procedures, representatives of the requesting tenants' organization shall have access to the requested documents for examination on the premises.

Tenants shall not be entitled to access to any part of any document or report that contains statements of a personal nature, such as credit reports, about any official or employee of the LHA or about any tenant.

5.) Funds and Facilities for Tenants' Organizations:

a.) Payments in Kind-The LHA shall lease at no charge to both duly recognized project and city or town-wide tenants' organizations reasonable office space for their participation activities, and shall provide a reasonable supply of office furniture, consumable office supplies, and the installation and basic service costs for a telephone, provided the project and/or city or town-wide tenants' organization pays for its long distance calls. Where common rooms exist in housing projects, these shall be made available for local tenants' organization meetings; where such facilities do not exist, the LHA shall work with the local tenants' organization to arrange for such meeting places, with the cost to be shared by the local tenants' organization and the LHA.

b.) Direct Payments - The LHA shall also make avail-

able to duly recognized local tenants' organization funds at a rate up to \$3.00 per unit per year for each state-aided dwelling unit managed by the LHA or not less than \$500 per year. Such funds shall be used for general items of expense in the conduct of the business and activities of the local tenants' organization, provided:

(i) that an annual budget describing the local tenants' organization's proposed expenditures shall be prepared by the local tenants' organization and submitted to the LHA. If the LHA objects to a proposed expenditure, it shall notify the local tenants' organization in writing of its objections and an appropriate official of the LHA shall meet with the local tenants' organization and make good faith efforts to reach agreement on a budget. If no agreement is reached, the budget as submitted by the local tenants' organization, shall be forwarded to DCA along with the LHA's written objections for resolutions in accordance with Section 12 below;

(ii) that the local tenants' organization expenditures may not contravene local law; and

(iii) that the local tenants' organization shall submit an annual report of its expenditures on DCA's standard form Annual Report of _____ Tenant Organization. (see attached form). The LHA may, upon reasonable request, review the local tenants' organization records of its expenditures. DCA or its representatives may, upon reasonable request, review the local tenants' organization's report and records of its expenditures.

The local tenants' organization financial records shall be kept in accordance with standards and procedures established by DCA.

(c) Contracts for Services-Services to assist tenants in meeting personal or family problems may be contracted for at the city or town or project-wide level by the local tenants' organization and/or the LHA with public or private community agencies, or may be contracted for by the LHA with the local tenants' organization. Such contracts may provide for services such as counselling for employment, family and child guidance, job training, placement services, recreation programs, legal services, housekeeping services, etc.. Where tenants are qualified to share in giving such services, they should be given opportunities to do so. It is expected that funds for such services must, in general, be obtained outside the usual LHA source of income.

(d) DCA Approval, Payments in Kinds -Contracts for services and LHA cash contributions to local tenants' organizations shall be governed by a written agreement between the LHA and the local tenants' organization and shall be subject to review and approval by the DCA.

6.) LHA Policies and Practices:

a.) Posting-The LHA shall post in a conspicuous place in the central office and in each project all policies, procedures and regulations of the LHA and of DCA that relate to tenants' rights, status, duties, or welfare.

b.) Changes-The LHA shall submit, in writing, all

proposed changes in LHA policies or practices that may affect tenants of the city or town-wide tenants' organization in the case of a generally applicable proposed change, or the local project tenants' organization in the case of a proposed change applicable just to that project. The local tenants' organization shall have a reasonable time for review and comment. If the local tenants' organization objects in writing to the proposed change, the LHA shall respond to the objections in writing with specific reasons supporting the proposed changes and shall meet with the local tenants' organization to discuss the disagreement and make good faith efforts to reach agreement thereon. If differences remain between the LHA and local tenants' organization with respect to the changes after the meeting, the matter shall be referred to DCA for consultation and resolution.

7.) LHA Personnel:

a.) Hiring- The LHA shall notify the duly recognized city or town-wide tenants' organization whenever any central office position becomes available, including the position of executive director, and shall notify the appropriate duly recognized project tenants' organization whenever any position becomes available at the project. The LHA shall forward biographical sketches and resumes of all candidates for any position directly affecting tenants to the appropriate local tenants' organization and shall provide the local tenants' organizations with the opportunity to interview all such

candidates proposed by the LHA, and if deemed appropriate, to recommend other candidates. However, tenants shall not have the right to review resumes and to interview candidates where this right would be inconsistent with the LHA's existing contracts.

b.) Tenant Complaints-Complaints or grievances that involve employees of the LHA shall be handled by the grievance procedures developed by the LHA and the local tenants' organization.

8.) Employment Priorities: LHA's shall give preference to qualified tenants in hiring, including but not limited to the employment of administrative, managerial and clerical personnel; security guards; maintenance personnel, and resident and housekeeping aids.

LHA's shall post in a conspicuous place at the main administrative office and in each project office, all job vacancies together with a statement of job qualifications, remuneration, the closing date for application and instruction on where and how application can be made.

LHA's shall, as a condition of bids on all new construction, and modernization work and in specifications therefor, require that all general and subcontractors seek to train and employ project residents in accordance with and to the greatest extent consistent with applicable law and rules and regulations adopted thereunder.

LHA's shall also assist local tenants' organizations to

obtain all available assistance and finances from local and federal programs that provide job training, scholarships, etc., in order to train existing or newly hired tenant employees.

9.) Budget Review-LHA's shall meet with duly recognized local tenants' organizations prior to the preparation of the annual operating budget to solicit tenant recommendations and proposals regarding the budget. The LHA will then draft a tentative annual budget for consideration of the local tenants' organization. The LHA shall also make available to duly recognized local tenants' organization qualified personnel to explain and clarify the tentative budget. If any differences exist between the local tenants' organization and the LHA regarding any item in the tentative budget, the LHA shall meet with the local tenants' organization to make good faith effort to resolve those differences. If no agreement is reached, the local tenants' organization may submit their objections to the DCA at the time the budget is submitted for approval. A like procedure shall be followed by the LHA in the preparation of any special budget.

10.) Board Meetings: The representatives of each duly recognized local project tenants' organization and of the city or town-wide organization shall be provided, at the same time as Board members, with notice of all regular and special Board meetings of the LHA and with a copy of the agenda, for every regular or special Board meeting. Tenants shall be provided a reasonable opportunity at Board meetings to present any

report, request any information, or voice any communication of the local tenants' organizations to the LHA.

11.) Appointment of Local Housing Authority Commissioners: It is the policy of the DCA that the appointment of tenants or individuals endorsed by tenants as the members of the LHAs will both enhance the expertise of the public housing authority and facilitate communication between the LHA and the tenant community it serves, and therefore ought to be encouraged. LHAs will join with local tenants' organizations to obtain commitments from local governmental bodies that have the power to appoint housing authority commissioners to appoint tenants or individuals endorsed by tenants to notify LHAs and local tenants' organizations whenever a candidate is sought for a Board vacancy, to submit to the duly recognized local tenants' organization biographical sketches or resumes of each proposed nominee, and to provide duly recognized local tenants' organizations with the opportunity to interview proposed nominees.

12.) Review of Disputes Concerning DCA's Regulations: Differences between the LHAs and the duly recognized local tenants' organization arising out of any matter referred to in these or any other regulations of the DCA which cannot be resolved by discussion at the local level may be referred to DCA by either the LHA or the local tenants' organization. Upon request a reasonable time in advance, an appropriate official of the DCA shall meet personally with either or both parties to

review the issues in dispute. Based on this review, the DCA shall make a decision as to whether the requirements of the DCA stated in these regulations have been met and shall notify both the LHA and the local tenants' organization of this decision within a reasonable time. On matters in dispute that do not conflict with requirements of DCA as set forth in these regulations, the DCA shall seek to bring about agreement between the LHA and the local tenants' organization by the process of mediation.

13.) Tenant Participation Document-The LHA shall, at the request of a duly recognized local tenants' organization, negotiate a mutually acceptable "Tenant Participation Agreement" or "Memorandum of Understanding" which shall specify the provisions for tenant participation that are appropriate to the local situation, provided that the written agreement or memorandum shall include at least all of the rights and responsibilities of the local tenants' organization and the LHA that are established by this regulation.

E. WAIVER OF CERTAIN MINIMUM REQUIREMENTS: Upon application by an LHA or by a public housing tenants' organization, DCA may waive one or more of the minimum requirements for tenant participation contained in these regulations. DCA will grant a waiver only upon a showing of one of the following:

- 1.) The requirement is inappropriate or inapplicable because of peculiar local conditions.
- 2.) The requirement will impose a substantial hardship on

the LHA or on the tenants.

3.) The LHA and the local tenants' organization mutually agree that a requirement is undesirable in light of a particular local circumstance.

In no case will DCA waive a minimum requirement where the provision is mandated by statute or is a matter of constitutional right.

F. PROCEDURE FOR OBTAINING A WAIVER: If the LHA or the local tenants' organization desires a waiver of one or more of the requirements of these regulations, the party desiring the waiver shall so notify the other party and shall mutually and fully consult with the other party with the goal of reaching agreement on the request for a waiver.

1.) If the LHA and the local tenants' organization agree on the request for waiver of one or more of the minimum requirements, they shall jointly submit their request, with a full statement of reasons, in writing to DCA in care of the Commissioner. DCA shall, within 10 working days, notify the LHA and the local tenants' organization of its granting or denial of the request and of the reasons for granting or denying the request.

2.) If the LHA and the local tenants' organization do not agree on the request for a waiver, the party desiring the waiver shall submit its request, with a full statement of reasons, in writing to DCA in care of the Commissioner, and shall send a copy of the request and any documents or informa-

tion submitted with the request to the party opposing the waiver. The party opposing the waiver shall have 10 working days to submit a written opposition to the request for waiver.

DCA may grant or deny the waiver on the basis of the written submissions or may confer with both parties prior to making its decision. DCA shall within 20 working days of receipt of the request for a waiver notify the LHA and the local tenants' organization of its granting or denial of the request and of the reasons for granting or denying the request.

APPENDIX E

DRAFT - MEMORANDUM OF UNDERSTANDING

BREA HOUSING AUTHORITY

AND

BREA RESIDENTS' COMMITTEE, INC.

-DRAFT-

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MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING, entered into as of this day of , 1972 by and between the Brea Residents' Committee Inc, of Brea, Massachusetts hereinafter referred to as the "Committee" and the Brea Housing Authority, hereinafter referred to as the "Authority."

WITNESSETH THAT

WHEREAS, the Authority is authorized by Chapter 121B of the Massachusetts General Laws to accept grants or other financial assistance for, or in said of, any housing project within its area of operation and to comply with all conditions and regulations of such grants or financial assistance;

WHEREAS, the Authority will make application to the Department of Community Affairs for a grant of funds under the Modernization Program to modernize the state-aided Brea Family Project, 200-1, and hereinafter referred to as "The Project;"

WHEREAS, the Rules and Regulations of the Department of Community Affairs require as a prerequisite to State Modernization funding full tenant participation, expansion of community services, improvement in management policies and practices, employment opportunities for tenants, and tenant participation in management decisions of the Authority;

WHEREAS, both the Authority and the Committee mutually undertake a commitment to cooperative action to provide a decent home in a suitable living environment for persons of low income and to share one another's knowledge and experience to that end;

Now, therefore, in consideration of the mutual covenants and obligations contained herein, the Authority and the Committee do agree as follows.

1. RECOGNITION:

That the Authority recognizes the Brea Residents' Committee as an official representative of all public housing tenants, including leased housing tenants, in the City of Brea, except as provided by State or Federal Law. That the Authority agrees to meet with the Committee or subcommittees of the Committee to review tenant observations and proposals and to reach agreement thereon. These meetings will be held each month prior to the monthly Authority Board of Directors Meetings. That the Authority, to the purpose that the above mentioned discussions will be fully informed and based upon a common understanding of facts and problems, will provide to the Committee and all its subcommittees copies of agendas and minutes of Board meetings, such periodic reports and documents as the Authority's Annual Report, the Annual Contributions Contract, financial

statements and summary sheets of operating budgets, leasing and vacancy reports, schedules (advance and regular) for community activities, and such special reports and studies regarding management policies and procedures, as may be prepared from time to time. Except that the Committee shall not be entitled to access to any part of any report that contains statements concerning individual tenants or Authority employees and their private matters.

2. USE OF FACILITIES:

That the Authority agrees to provide space to the Committee and its activities. To this end, the facilities at 134 Brockton Street shall be leased to the Brea Residents' Committee, Inc. and subject to a lease negotiated and accepted in good faith between the Committee, the Authority, and the Department of Community Affairs.

3. EMPLOYMENT:

That the Authority will give preference to qualified public housing residents in all hiring, including but not limited to the employment of security guards, maintenance personnel, residents aides, housekeeping aides, and clerical personnel.

That the Authority will continue to post at the Committees' office all job vacancies together with a statement of job qualifications, remuneration, the closing date for application and instructions on where and how application can

be made.

That the Authority, as a condition of bids on all modernization work and in specifications therefor, will require that all general and sub-contractors seek to train and employ project residents in accordance with and to the extent required by applicable law and rules and regulations adopted thereunder.

4. MAINTENANCE:

That the Authority agrees to develop written guidelines defining tenant and Authority responsibilities in maintenance after due negotiation with the Committee and agreement thereon.

That the Authority agrees to meetings once a month between its maintenance staff and the Committee or any sub-committee of tenants relative to maintenance problems and remedies.

That the Authority agrees to henceforth use lead free paint in all interior and exterior painting within the Project.

That the Authority agrees to allow installation of telephones on unit walls within the Project.

That the Authority agrees to date and time stamp all tenant maintenance requests.

That the Authority agrees to send out a code violation and maintenance form to all leased housing tenants at least annually and make arrangements to ensure that Code violations and maintenance are promptly corrected or remedied within a maximum of three months.

That the Authority agrees to secure all loose drain pipes within the Project.

That the Authority agrees to permit the use of wall paper on unit walls within the Project.

That the Authority agrees to install coin-operated dryers in the cellar of each four units for the use of tenants.

That the Authority agrees to install appropriate lighting in parking areas within the Project as soon as funds permit.

That the Brea Residents' Committee agrees to establishment of a fine schedule for those tenants who refuse to clean their sidewalks, parking areas and yards, such schedule and regulations to be mutually agreed upon by the Authority and the Committee.

5. ADMISSION AND TRANSFERS:

That the Authority agrees to the creation and recognition of a Tenant selection and Transfer Committee composed of two representatives respectively of the Authority and the Committee and one non-partisan representative, mutually agreed upon by the Authority and the Committee. This Committee's purpose is to establish and enforce criteria and priorities for selecting committees to and transferees within public housing consonant with applicable legal restrictions. As such, the Authority agrees that tenants upon good cause shall be entitled to transfers from one dwelling unit to another within the project or to another project, and shall be given preference

in filling vacant units when legally permissible.

That the Authority agrees that citizenship of spouse or any children will satisfy any citizenship requirement for admission.

6. EXPANSION OF COMMUNITY SERVICES:

That the Authority agrees to develop a park and recreational area in conjunction with and in cooperation with the Committee, provided the land can be obtained at a reasonable cost.

That the Authority agrees to seek all means to secure available land within the Brea Project area for the purpose of providing adequate recreational and park facilities and open space for the community.

That the Authority agrees to cooperate with the Committee and any sub-committee in developing and implementing programs and policies, both recreational and tutorial, for tenants residing in the Project area.

That the Authority agrees to cooperate with tenant efforts to obtain updating of the equipment and maintenance of the Jefferson Street Park.

That the Committee agrees to develop and implement a Beautification sub-committee which will work closely and in cooperation with the Authority for the purpose of cleaning the area monthly, campaigning for tenant litter control, elimination of unsightly debris on sidewalks, streets, and yards, development and maintenance of attractive flora and

fauna in the Project area.

That the Committee agrees to develop and implement a Permanent Work Corps to be made up of Brea residents, ages 14-16, for the purpose of continuing beautification efforts and preserving the second floor facilities of 134 Brockton Street.

That the Authority agrees to investigate the feasibility of using the 134 Brockton Street cellar as an expanded youth facility.

That the Authority and Committee agree to seek funding for the establishment of a day nursery for use by public housing families in and around the Brea Project area, said nursery to be staffed by public housing tenants.

7. PET REGULATION:

That the Authority agrees to amend its lease with Brea tenants to permit the ownership of one pet by each family with the condition that all local animal regulations and ordinances be complied with by the tenant and his or her family.

8. PARKING AREAS:

The Authority agrees to enlist the services of qualified consultants to re-examine and mark all areas now used for parking to assure better utilization of existing parking space in the Brea Project.

The Authority agrees to guarantee to each unit one parking space.

The Authority agrees to hardtop all areas which are now

used for parking within the Project area, as soon as funding is obtained.

9. EVICTIONS:

The Authority agrees to use fourteen day notices to quit only in cases of non-payment of rent; where the cause for eviction is other than non-payment of rent, such as damage fees or over-income status, the Authority agrees to amend its lease to reflect this provision.

The Authority agrees to continue its policy of non-eviction of over-income tenants when decent, safe and sanitary housing is not available on the private market within the income range of the tenant family.

10. VERIFICATION OF INCOME:

That the Authority agrees to verify income of tenants through the tenant's submission of W-2 forms or requests made directly to tenants for copies of all checks, except as otherwise provided by the Department of Community Affairs and/or the Department of Housing and Urban Development. The Authority agrees not to contact, by letter or phone, the tenant's employer or other persons for verification unless the tenant fails to cooperate in submission of verifying income data within a 15 day period after the request is made as described below. Where the Authority has probable cause to believe that a tenant has falsely reported income or failed to disclose increased income as required, the Authority agrees to send a warning notice to the tenant, that unless the tenant submits verifying data of

income within 15 days, the tenant's employer will be contacted for confirmation, as well as any other relevant sources of information. The Authority further agrees to delete from its form entitled "Application for Continued Occupancy by Tenant" the phrase, "I have no objection to inquiries for the purpose of verification."

That the Authority agrees to accept, in lieu of personal presentation of social security and/or pension checks for verifying income notarized xeroxed or photostated copies of said checks. The Authority agrees that letters to tenants for purposes of verifying income will state that notarized copies of checks mailed to the Authority are acceptable.

For purposes of determining eligibility for admission and continued occupancy, income shall be based solely on the income of the primary wage earner for a forty hour week.

11. The Authority Board of Directors agrees to expansion of the present Board of Directors from five to seven members. The two additional Board members will be public housing tenants in the City of Brea. If the appointees cease to be public housing tenants in the City of Brea, they will immediately relinquish their positions on the Board.

12. The Authority agrees that as vacancies occur on the Authority's Board of Directors, the Committee will be apprised and requested to recommend persons to be appointed to fill the vacancies.

13. That the Authority will implement all of the covenants

and obligations of this agreement within 30 days unless otherwise indicated, and any duly promulgated mandatory regulations of the Department of Community Affairs or the Department of Housing and Urban Development within 30 days unless otherwise indicated in this Memorandum.

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