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Secretary Kemp and the Housing Policy Shell Game

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Cassandra Chrones Moore

Cassandra Chrones Moore is an adjunct policy analyst at the Competitive Enterprise Institute. She writes frequently on housing policy.

Executive Summary

At a time when the nation faces large deficits and budget shortages, Secretary of Housing and Urban Development Jack Kemp's lack of leadership is contributing to soaring increases in HUD spending. Kemp has failed to push aggressively to replace existing housing programs with vouchers, even though the cost of a 20-year voucher program is roughly 40 percent of that of subsidized new construction. He has also failed to articulate a clear challenge to the one-for-one replacement requirement, which is a boon for the construction industry, and the resale restrictions that effectively nullify any incentive for tenants to buy and assume responsibility for their own housing. The result is a 27 percent increase in HUD's budget and a national housing act that will cost taxpayers $27.5 billion in FY 1991 and $29.9 billion in FY 1992.

Introduction

Housing stands symbolically at the center of the American dream, but political rhetoric has tarnished the vision and obscured the real accomplishments of the past 40 years. Housing policy is erratic, irrational, and, of course, expensive. The real estate and banking lobbies have joined forces with professional advocates for the homeless to create a "housing crisis," which allegedly can be resolved only by spending billions of taxpayer dollars. As demonstrated by the development of the latest federal housing bill, passed late in 1990, sober analysis has given way to emotional appeal.

In actuality, the vast majority of Americans is comfortably housed. Even poor households enjoy amenities unknown to all but the wealthy a generation ago. Reality is dull, however, and the press, unless titillated by scandal, pays scant attention to housing legislation and even less to the political pressures that shape it. Once congressional hearings on allegations of favoritism and mismanagement at the Department of Housing and Urban Development under former secretary Samuel Pierce, Jr., had faded away, housing was again relegated to the inside pages of the newspaper. The public was left with the happy impression that Jack Kemp, the housing secretary appointed by President Bush, would clean house at HUD and kindle the flame of a new and rational housing policy. Unfortunately, an examination of Kemp's role over the past few months suggests that the flame is merely a flicker.

Leadership has been lacking in three critical areas. First, instead of pushing aggressively to replace current public housing programs with vouchers, Kemp has scaled back the voucher initiative. Second, despite his vaunted support for tenant ownership of public housing, he has failed to articulate a clear challenge to the one-for-one replacement rule and the resale restrictions that make a mockery of all attempts to encourage tenants to buy; instead, he has ac- cepted without question congressional calls for new construction. Third, his lack of vision in those and other areas has resulted in a soaring increase in HUD spending.

Vouchers, Passports to Independence Recommended originally by the President's Commission on Housing (1981-

82) and first funded in 1984, vouchers are federal certificates given to poor families who can use them for partial payment of rent. Landlords return the certificates to the government for cash. The voucher amount generally equals the difference between 30 percent of a family's net income and the fair market value of rental units in the community.

Vouchers effectively make available housing more affordable. Unlike Section 8 certificates, which are usually tied to particular, federally subsidized projects with a monthly stipend paid by the government to the landlord, the voucher subsidy goes directly to the low-income families themselves. Because they can be used anywhere in the open market, vouchers preserve freedom of choice for the recipients. Families with vouchers can move from decaying government housing projects and their crime- and drug-infested neighborhoods to areas that offer job opportunities and a better environment for their children, thereby integrating a wide range of neighborhoods. In addition, vouchers provide an incentive to shop for the most cost-effective housing. The recipients can pocket any saving on costs below the voucher subsidy, but an extra dollar in rent above the subsidy means an extra dollar in out-of-pocket costs for the recipients.[1]

Vouchers are also much less expensive for the government than are alternative federal housing programs. The cost of a 20-year voucher program is roughly 40 percent of that of subsidized new construction. With vouchers, the government could get out of the business of housing management and construction altogether.

Vouchers naturally have few friends in the housing construction lobby, however, since they do not subsidize new construction. Landlords also prefer the alternative housing programs whereby the government effectively guarantees rent and a regular profit. Unlike subsidized projects, vouchers offer no photographic opportunities and have been all but ignored by the press. Vouchers benefit only the poor, who seldom vote, so Congress has been reluctant to replace construction programs with vouchers, despite the voucher program's success, which has been acknowledged by HUD itself.[2] With rare exceptions, Congress has approved roughly half the number of vouchers requested by the Reagan and Bush administrations as an alternative to new construction of federally subsidized housing. Consequently, it has taken seven years to put approximately 250,000 vouchers into circulation. A full-scale voucher program would have authorized nearly three times that number--and saved money overall through additional cutbacks in federal subsidies to the construction industry.

Despite the fiscal and ideological advantages of vouchers, HUD, under Kemp, has retreated. Instead of moving aggressively to substitute less costly vouchers for existing government housing programs, HUD simply cut the number of requested vouchers by more than half between FY 1990 and FY 1991, without replacing any other housing programs. When Congress cut back on the voucher request even more in last year's housing bill, HUD failed to protest. The final housing bill adopted in 1990 is unlikely to produce funding for more than an additional 35,000 vouchers per year for each of the next two years, barely above the 27,000 funded in FY 1990 and 20,000 short of HUD's modest request.

Kemp also failed to emphasize vouchers in his HOPE (Home Ownership for People Everywhere) reform initiative, launched with great fanfare by the Bush administration in March 1990. HOPE did offer several promising proposals for funneling aid directly to low-income families and avoiding expensive construction programs. There were, for example, grants for resident management of public housing, enterprise zones to encourage local businesses through tax breaks, and housing opportunity zones to remove regulatory barriers to low-cost housing. But Kemp's reluctance to push vigorously for a fundamental overhaul of housing programs based on the less costly, less intrusive, and more beneficial voucher concept calls into question his commitment to aid the poor directly and to reform his department's bureaucracy.

Curiously, a provision to expand the use of vouchers as an alternative to other programs was slipped into the final housing bill through a back door. The initial Senate housing bill, put forward by Alan Cranston (D-Calif.) and Alfonse D'Amato (R-N.Y.), incorporated Kemp's HOPE proposals. The Senate bill also resurrected the HOP (Housing Opportunity Program), a plan first devised in 1988 by the National Hous- ing Task Force.[3] The HOP proposal provided new federal funds to be matched by state and local dollars to pay for the development and rehabilitation of additional low-income housing units.

The Senate HOP proposal, which echoed the theme of housing scarcity, at first tilted heavily in favor of new construction and precluded the use of HOP funds for vouchers. During a lengthy round of negotiations, however, Connie Mack (R-Fla.) pushed successfully for an amendment that allowed rental assistance to be an eligible activity under the HOP. As the HOP metamorphosed into the Home Investment Corporation (known as HOME) of the final housing bill, matching requirements were established that encouraged vouchers. For each state and local dollar, the federal government would allot one dollar for new construction, two dollars for substantial rehabilitation, and three dollars for moderate rehabilitation and tenant-based rental assistance, which includes vouchers. Thus, not only can states choose to use HOP funds for vouchers, the matching formula provides a strong incentive for them to do so.

Restrictions placed on use of the funds, however, greatly curtail the effectiveness of the proposed allocation. Dollars could be used for tenant-based rental assistance only if the assistance were part of a jurisdiction's annual strategic plan for increasing the supply of affordable housing and only if the assistance were provided to people on the Section 8 waiting list. The vouchers, although renewable, would be limited initially to 24 months, instead of the usual 60. In other words, red tape, created by bureaucratic distrust of the free-market aspects of the voucher program, could be used to discredit the program itself.

One-for-One Replacement: The Endless Subsidy

The second major disappointment in Jack Kemp's leadership--as last year's housing bill developed--was HUD's failure to articulate a broadly based challenge to the restrictions on sales of public housing to tenants. Those restrictions reduce potential tenant ownership to a cruel joke. The Housing and Community Development Act of 1987 had moved one step forward by establishing the right of tenant groups to manage and eventually to own their units. It had moved one step back, however, by casting in concrete a one-for-one replacement rule requiring that all public housing units transferred to resident ownership be replaced through purchase and rehabilitation of existing housing or through new construction.[4]

The one-for-one provision, ostensibly motivated by fears that the public housing stock of low-rental units would decrease, is demonstrably unnecessary. Tenant management groups have actually increased the number of units available by rehabilitating once-uninhabitable units quickly to increase their projects' rental income. Some groups have also invested in the construction of new low-cost housing in their neighborhoods. (Such achievements are rarely reported in the press.) Outside the projects, the rental vacancy rate is at a record high.

The one-for-one requirement is, in effect, a subsidy for developers and organized labor, hence the tenacity with which it is supported by the building lobby. The administration and HUD have been all but silent on that provision, and Congress has generally upheld it.

Modifications contained in the 1990 housing bill have been encouraging but minor. Under "HOPE for Public and Indian Housing Ownership" (Title IV, Section A), five-year, tenant-based certificates and vouchers may be used to replace public housing units sold to tenants. However, such assistance is authorized only if the secretary finds that it is not feasible to develop new public housing units or to rehabilitate vacant units. Even then the supply of private rental housing in the community must be deemed adequate to cover demands for certificates and vouchers for the next five years.[5] Such restrictions perpetuate the myth of housing scarcity and are all but guaranteed to encourage new contruction.[6]

Taking advantage of the revision, sympathetic officials at HUD did manage to open the door one small crack further by successfully urging the establishment of a demonstration project in St. Louis, where five-year, tenant-based rental certificates could be used to replace units "lost" through purchase without regard to the restrictions.[7] Unfortunately, the demonstration project was evidently motivated by a lack of funds for new construction rather than by a shift in philosophy. Moreover, the demonstration is scheduled to terminate at the end of FY 1992--too soon to allow a meaningful appraisal.

Those halting revisions aside, the provisions of the 1990 housing bill conform generally to the 1987 legislation. One-for-one replacement is required, and new construction to effect it is encouraged.

Resale Restrictions and Phantom Rights

The labyrinthine requirements for home ownership contained in the legislation virtually ensure the continuation of public housing with all its flaws and expensive bureaucracy. Whatever the political rhetoric of empowerment, under current law the sale of a public housing unit to a tenant remains a sale in name only. The property rights supposedly obtained by the tenant-buyer are severely restricted. He and subsequent "owners," who are bound by the same restrictions, can do little with their purported rights except live in the unit. Given that a public housing tenant remains eligible for low-income housing assistance, why should he buy at all?[8]

Should he buy and then attempt to resell, he faces a daunting gauntlet of regulations. If the prospective buyer is a low-income purchaser--the most probable scenario--the resident management corporation, resident council, or cooperative has the first right of refusal. If the low-income buyer backs out of the purchase contract, then the public housing authority or "implementation grant recipient," possibly a facilitating nonprofit group, has the right to buy at the proposed sale price. A "non-low-income" buyer is even farther down the totem pole; he can buy only if the corporation, council, cooperative, housing authority, and implementation grant recipient all refuse to do so.

Moreover, the 1990 housing bill establishes elaborate "Restrictions on Resale by Homeowners" aimed at making certain that the hapless public housing tenant who decides to buy can never make an "undue profit."[9] If he resells within the first five years, he can recoup only his down payment plus a percentage of the equity increase that reflects his initial investment, the value of any improvements he has made, and an inflation allowance. If the market rises, he reaps little benefit; if it drops, he must still repay the subsidized loans.

To illustrate, assume that a tenant buys his unit for $50,000, with a $5,000 down payment and a $15,000 low-interest first mortgage on which he makes monthly payments. In addition, he must execute a promissory note equal to the difference between market value and purchase price (in this case, $30,000). That note is, in effect, a subsidized government loan on which he pays no interest but which he must repay on sale.

He resells the unit at the end of the fifth year for $55,000 but may not keep the total $5,000 "profit." At best, after repaying the loans, he may walk away with $500 as his share of the 10 percent return on his five-year investment. The construction industry, however, is likely to reap a more substantial benefit: the phantom sale has triggered one-for- one replacement, thereby allowing expansion of the public housing stock.

If a tenant-buyer stays in the unit, the balance on the note declines annually from years 5 through 20, according to an arbitrary formula still being debated at HUD. Accordingly, the potential profit increases. After 20 years he will have clear title. To call that procedure a sale, however, distorts the meaning of the term.

When the Housing and Community Development Act of 1987 established those resale restrictions, they were billed as necessary to discourage speculators and prevent windfall profits. The current House and Senate bills set forth the same limitations "to ensure that the housing will remain affordable to a reasonable range of low-income homebuyers." Such arguments are illusory. Granted, the tenant-buyer should be required to repay the subsidy, but the other regulations on resale subvert the intent of the law, which is to provide residents with the control and incentive to maintain and improve their housing and, by achieving home ownership, to move into the economic mainstream. Limiting the profit and establishing Byzantine restrictions on resale wipe out the incentive for maintenance and improvement, as well as the opportunity for economic advancement. Such restrictions would not be tolerated by middle-class homeowners; they should not be imposed on the poor.

The regulations that effectively require units to be sold only to low-income families are particularly onerous; in addition to restricting market opportunities for the low- income owner, they operate to perpetuate the ghetto. The right to sell to any willing buyer would encourage a mix of incomes in a neighborhood and a reasonable range of prices. Speculation could be discouraged by limiting sales to one to a customer. An equity-sharing provision that allowed the prospective purchaser to keep more of any ultimate profit would provide an additional incentive to buy. The current restrictions leave the ladder in place but knock out every second rung.[10]

The Triumph of Bricks and Mortar

More appalling even than provisions vitiating ownership is the emphasis on new construction elsewhere in the 1990 housing bill. HOME, the new entity established to oversee the HOP, includes $75 million in FY 1991 and $128 million in FY 1992 for community housing partnerships to build and rehabilitate owner-occupied and rental housing.

Comparable amounts are set aside to subsidize developers who build new mixed-income rental housing.

A separate model program sets aside advances for construction of new rental housing. Finally, the bill authorizes $500 million to build 6,800 units of new public housing.[11] The essential but fallacious assumption underlying those measures--a belief in the scarcity of housing--was obviously never questioned.

The Noncrisis in Housing

The insistence on subsidized new construction throughout the 1990 housing bill is patently absurd. All too often, public housing projects have degenerated into ghettos of vandalism and drug trafficking. Postal carriers and even police officers are afraid to enter some public housing projects. Tenants move out as soon as they can. Such projects should be cleaned up and sold off, not expanded.

There is no need for additional construction. In 1988 the rental vacancy rate nationwide stood at 7.7 percent, an increase of 2 percent since 1983. Nearly 3 million rental units are vacant.[12] With vouchers and without costly construction subsidies, thousands of needy families could be moved directly into rental housing. Including units offered for sale brings the national stock of vacant dwellings to almost 9 million, or about 15 units for each of the 600,000 people the Urban Institute estimates are homeless in the United States.[13] The vacant units are not substandard; they contain a median of 4.3 rooms, and close to half of them are single-family homes.[14] Except in isolated urban pockets in the East and West, the Federal Housing Administration's mortgage subsidies and other existing programs make the units generally affordable to families of modest means.

Cries of alarm to the contrary, we have come so far as a nation in eliminating substandard housing that even below-poverty-level households live in relative comfort. Over 98 percent of all such households in 1987 had a stove, oven, sink, refrigerator, and flush toilet. Almost 50 percent had air conditioning. Although advocates speak constantly of overcrowding, 92.5 percent of such households had no more than one person per room.[15]

Those achievements are largely the result of the free market. Competition and entrepreneurship have raised the housing levels, not only of the middle class but of the poor and disadvantaged. They have done so much more efficiently and therefore much more cheaply than has the government. The total federal housing bill, including a 27 percent increase in HUD's budget, was scheduled to cost taxpayers $27.5 billion in FY 1991 and $29.9 billion in FY 1992. In 1988, the last year in which there was a formal authorization bill (H.R. 4), the authorization was $17.9 billion. Thus, in a year of deficit and budget shortages, the final housing bill authorized an increase of roughly $10 billion per year. Befuddled taxpayers are certainly entitled to ask why their money should be so lavishly expropriated.

Pressure Groups and the Media

Given the substantial stock of decent and moderately priced housing, why is Congress spending additional billions? The answer is simple. The real estate lobby is powerful and the industry has fallen on hard times. The National Association of Home Builders, the National Association of Realtors, and their dependent allies among organized labor and the banking industry contribute generously to election campaigns and want their good offices to be remembered, especially now that housing starts have plummeted to their lowest point since 1982. The resale market is virtually dead. A huge stock of unrented apartments and office buildings left over from the boom times of the 1980s has softened the commercial market. Nonresidential construction is declining, and vacancy and interest rates are rising. Taxpayers are expected to come to the rescue of the affected industries.

As a pressure group the real estate lobby is strong on public relations, cloaking its expansionary goals in concern for the public weal. A conference on homelessness sponsored by the National Association of Home Builders in November 1989 used the homeless as a prop. Entitled "Laying a Foundation for Action" and supported generously by HUD, among others, the conference focused on human interest stories but made no attempt to analyze the underlying issues. The title was bitterly ironic.

In similar fashion the media fan the flames of a supposed housing crisis. They gave broad coverage to the "Housing Now!" march on Washington, D.C., in October 1990, while ignoring the steady increases in housing quality and the ample supplies at hand. Homelessness has provided grist for the mill. Even though housing is only a small part of the problem, the media have focused on the demands of advocates for the homeless for additional housing. By mislabeling the issue, the media have managed to obscure the more basic and more disturbing problems--mental illness, drug and alcohol abuse, the disintegration of families, and the decline of education--that lie behind the appearance of beggars in the streets. Fundamental housing issues, such as the constrict- ing effects of regulation, are all but ignored.[16]

The Secretary's Seal

Where in the debates is Jack Kemp, the secretary of Housing and Urban Development? Kemp touted his HOPE program in evangelical terms, calling it "the most dramatic, far- reaching, incentive-oriented approach to fighting poverty in the last 25 years."[17] As noted, however, he has failed to push vigorously for vouchers, and his HOPE program includes required replacement units, leaves resale restrictions intact, and effectively subsidizes new construction. He claims to oppose the regulatory barriers that drive up the cost of housing, and indeed HOPE proposed the creation of 50 housing opportunity zones to encourage economic growth by targeting federal incentives to communities that best remove regulatory barriers to affordable housing. But an amendment, put forward by Rudy Boschwitz (R-Minn.), that would have incorporated that carrot-and-stick proposal into the Senate bill was defeated. Neither Kemp nor the administration uttered a word of protest.

It takes political courage to speak out consistently for vouchers, an end to one-for-one replacement, and a free market in public housing--policies that would benefit the poor rather than the construction industry. Additional targets for reform abound: exclusionary zoning, outdated building codes, rent regulations, and the municipal no-growth policies that penalize the disadvantaged. However, Kemp shows few signs of using HUD as a bully pulpit. It may be that he fails to grasp fully the importance of those issues; it may be that his political goals counsel moderation and conciliation. To alienate real estate, construction, and labor interests would be damaging, and Kemp may well need the bankers.

Whatever the reasons, a HUD study on the effects of rent control nationwide, mandated nearly two years ago, has yet to appear. The Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing, established to investigate restrictions on the supply of low-cost housing, is likely to serve simply as proof of good intentions. The report of its 22 commissioners, now traveling around the country to hold hearings at taxpayers' expense, will gather dust on library shelves. The taxpayers may be paying for the junket, but their comments seem far from welcome. The notice announcing the meetings stipulates that they are open to the public but that "no testimony will be taken."

Regulatory barriers are, in any case, local issues over which the federal government can have little direct control. The media, however, should help to structure the housing debate at all levels by attempting to understand and analyze the underlying conflicts. Jack Kemp and Congress could take the lead by expanding the voucher program to replace more costly current programs, by repealing the one-for-one replacement rule, by removing resale restrictions, and by directing funds on a priority basis to communities that scale back restrictive ordinances. Until and unless those actions are taken, housing policy will continue to be one of the most expensive shell games in town.

Notes

[1] In the Section 8 certificate program, the recipient's out-of-pocket costs for rent are fixed, generally at 30 percent of net income. He must find a unit renting at or below the fair market rate requirement for the area, but he has no incentive to save the government's money by finding a unit less expensive than the ceiling will allow.

[2] HUD's report outlines clearly the incentives of the voucher program. It also notes, in particular, that "over all, success rates in the Housing Voucher Program were 4 percentage points or 6 percent higher than the success rates in the Certificate Program." The "success rate" here refers to a prospective recipient's ability to find housing that meets program requirements and thus actually to receive assistance. See U.S. Department of Housing and Urban Development, Office of Policy Development and Research, Final Comprehensive Report of the Freestanding Housing Voucher Demonstration (Washington: Government Printing Office, May 1990), p. xi.

[3] Created at the behest of Senators Cranston and D'Amato to review housing policy, the National Housing Task Force was chaired by developer James Rouse, founder of the nonprofit Enterprise Foundation and oriented by experience toward construction.

[4] Fifteen-year rental certificates could be used at times as well. Because they are project based--that is, tied to the building, not the occupant--they tend to encourage con struction.

[5] U.S. Congress, Senate, A Bill to Authorize a New Housing Opportunities Partnership Program, 101st Cong., 2d sess., 1990, S. 566, pp. 343-45.

[6] There are no specific replacement provisions in "HOPE for Homeownership of Multiple Family Units" (Title IV, Section B), which covers nonpublic, multifamily housing of five units or more, or in "HOPE for Homeownership of Single Family Homes" (Title IV, Section C), which deals mainly with nonpublic, single-family housing. The rationale is that many of the units are defaulted properties originally bought with Federal Housing Administration loans and are not low-income properties.

[7] U.S. Congress, Senate, Title V, "Housing Assistance."

[8] For a fuller treatment, see Tom Bethell, "A Cruel Housing Hoax?" American Spectator, February 1990, pp. 11-13, and Tom Bethell, "Homesteading on the Liberal Plantation," American Spectator, April 1990, pp. 11-13.

[9] It would be interesting to observe the reaction should Congress ever stipulate that the predominantly middle-class recipients of Federal Housing Administration loans should not make an "undue profit."

[10] See also, Cassandra Chrones Moore, "Ghetto and Gulag," National Review, March 18, 1991, pp. 48, 49.

[11] "Congress Hails Its Bills on Housing As a Reversal after Decades of Neglect," New York Times, August 7, 1990, p. A10.

[12] U.S. Department of Commerce, Bureau of the Census, "Current Housing Reports, Housing Vacancies and Homeownership," H-111-1988-4, February 1989.

[13] Martha R. Burt and Barbara E. Cohen, America's Homeless, Urban Institute Report 89-3 (Washington: Urban Institute Press, 1989), p. 29.

[14] Carl F. Horowitz, "Washington's Continuing Fiction: A National Housing Shortage," Backgrounder no. 783, Heritage Foundation, Washington, August 22, 1990, p. 8.

[15] U.S. Department of Commerce, Bureau of the Census, "American Housing Survey: 1987, Public Use Sample"; cited by Horowitz, p. 4.

[16] See William Tucker, The Excluded Americans: Homelessness and Housing Policies (Washington: Regnery Gateway Press, 1990).

[17] "Congress Hails Its Bills on Housing."