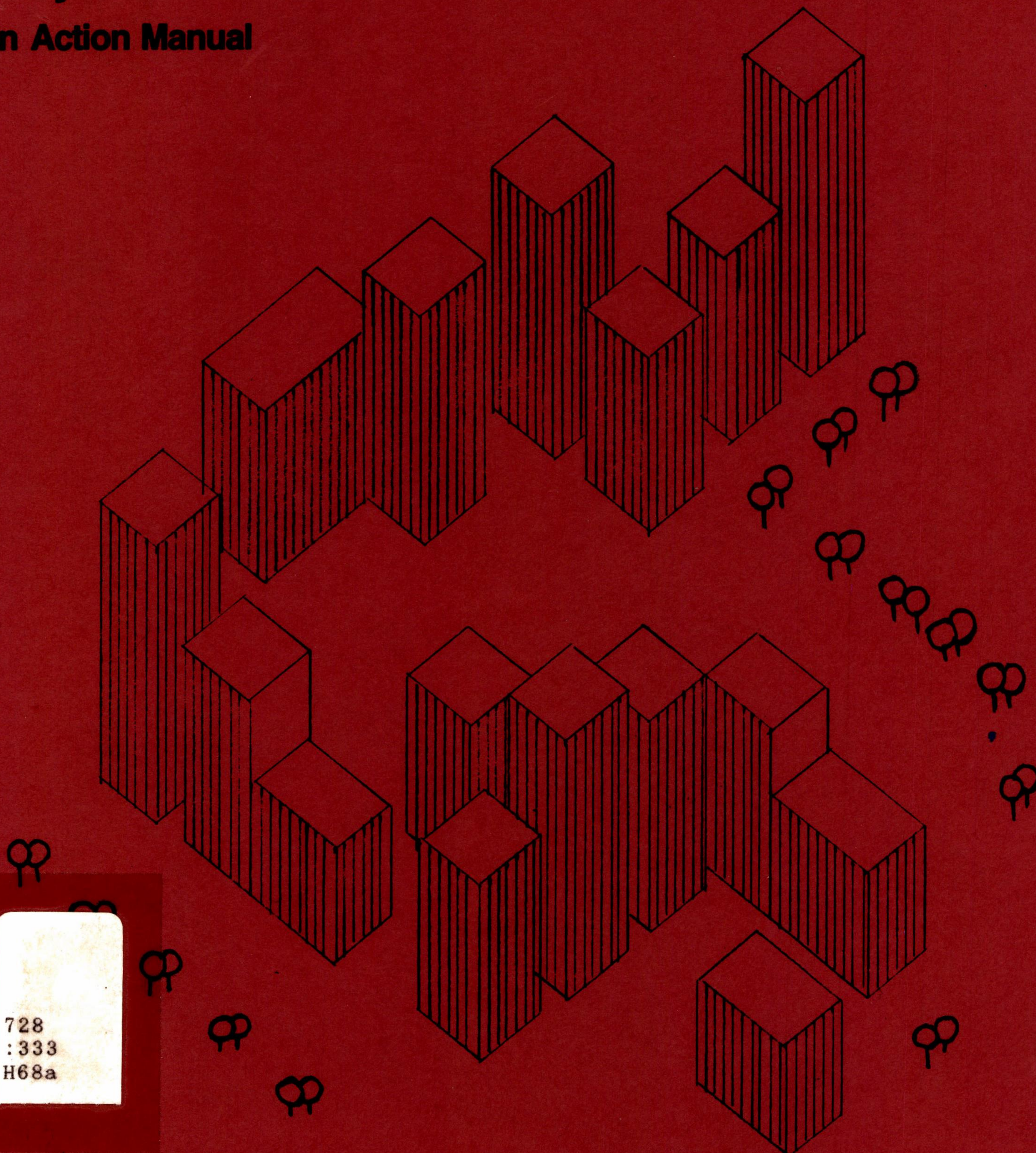
U.S. Department of Housing and Urban Development
Office of Policy Development and Research

Urban Neighborhood Community Association Project

An Action Manual



AN ACTION MANUAL FOR HOUSING OWNERSHIP

IN URBAN NEIGHBORHOODS

AN

INTRODUCTION TO LOW AND MODERATE INCOME COMMUNITY ASSOCIATIONS

Prepared by:

CAI - The Community Associations Institute

Research for this project was funded in part under a cooperative agreement (H-2948CA) with the Office of Neighborhoods, Voluntary Associations and Consumer Protection and Office of Policy Development and Research, U.S. Department of Housing and Urban Development

September, 1980

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ACKNOWLEDGEMENTS

The Urban Neighborhood Community Association Project: An Action Manual is the result of an 8-month project which called upon the experience and talents of a large group of residents, lenders, attorneys, activists, and leaders involved in the neighborhood movement. The manual would not have been possible without the financial support of the U.S. Department of Housing and Urban Development.

Thanks are due initially to Anita Miller and Louis Winnick at the Ford Foundation who provided the first support and seed money for the Urban Neighborhood Community Association Project (project).

Patricia J. Jenny was the CAI staff coordinator for the data gathering and writing for this "project", which was spread over nearly 10 months.

Of particular assistance in coordinating review of the drafts of the manual by HUD staff were the government technical monitors for this project, Christine Struminski and Clifton Barnhill (Office of Neighborhood Development, Program Support Division, HUD). Douglas Kleine offered extensive comments on the substance of the drafts, as did Elena Van Meter, of the Issues Analysis Division. Robert I. Gould, Deputy Office Director, HUD Office of Policy and Program Development, provided direction and support throughout the project.

Nearly 100 individuals participated in workshops developed to review written materials. While not all can be named here, the following were especially helpful: Clifford Treese, Condominium Insurance Specialists of America, Rolling Meadows, Illinois; Anne Blumenberg, St. Ambrose Housing Center, Baltimore; Jim Lowell, Anacostia Neighborhood Housing Services, Inc., Washington, D.C.; Bill McDonough, Upper Albany Community Organization, Hartford, Connecticut; Dennis McConnell, Cumberland Mortgage Corporation, Atlanta; Waymon Winston, South Shore Housing Center, Chicago; Philip Hickman, Oak Park Housing Authority, Oak Park, Illinois; Edward Ollarvia, U.S. League of Savings Associations, Chicago; William Thompkins and George Scarborough, Manchester Citizens Corporation, Pittsburgh; Dino Bello, Simmons Park Properties, Pittsburgh; and Barbara Burns, East Allegheny Community Council, Pittsburgh. Mildred S. Dunham, James Rouse, Clifford Treese, and Sam Rockwell III provided substantial assistance in identifying participants for review sessions and hosting review workshops in their respective geographic areas.

Among the many individuals who participated in interviews during research efforts were Philip Morrow and Frank Saia, Upper Albany Community Organization, Hartford; Joan Briscoe, Housing Specialists of America, Washington, D.C.; Mel Gradd, Homeowners Rehab, Cambridge; Henry McCartney and Maureen Ferris, National Trust for Historic Preservation, Washington, D.C.; Ruth Miles Bruns, Home-Tech Publications, Washington, D.C.; Brady Armstrong, D.C. Development Corporation, Washington, D.C.; George Knight, Urban Reinvestment Corporation, Washington, D.C.; and Peter Behringer, Multifamily Housing Services, Oxon Hill, Maryland.

Special thanks are due to the project team members who designed and wrote the various chapters of the Manual: Patricia J. Jenny, who wrote the chapters on Site Selection, Finance, Insurance, and the Urban Neighborhood Community Association in a Neighborhood; C. James Dowden, Executive Vice President of CAI, who authored the Development Process chapter; Wayne S. Hyatt, Hyatt & Rhoads, Atlanta, Georgia, responsible for Legal Framework and Community Association Documents; Robert Eager, Hyatt & Rhoads, Washington, D.C., who authored the chapters on Design and Architecture and

Rehabilitation; and Wayne Scheiner, CAI Program Director, Washington, D.C., who wrote the chapter on Management and Operations. Special thanks also go to Ian Graham, Fred S. James Co., Los Angeles, California for his expert advice on the chapter dealing with community association insurance.

Finally, we extend our thanks to the experts who reviewed the various drafts: Gurdon H. Buck of Robinson, Robinson and Cole, Hartford; Frank Hirons, Frank T. Hirons and Associates, Minneapolis; Robert M. Joselow, Federal National Mortgage Association, Washington, D.C.; Stanley M. Taube, Lanvesco Corporation, Edina, Minnesota; David Rhame, Rhame Associates, Inc., Arlington, Texas; G. Paul Carr, Federal Home Loan Bank Board, Washington, D.C.; Dorothy Fulghum, Norfolk Housing Authority, Norfolk, Virginia; and David Bergholz, Allegheny Conference on Community Development, Pittsburgh; C. James Dowden, Executive Vice President Community Association Institute; Wayne S. Hyatt, Hyatt 4 Rhoads, Atlanta, Georgia.

INTRODUCTION

A new energy is sweeping central city neighborhoods across the country. Public interest in housing rehabilitation projects, community group activities, Federal and local government involvement, and national coalitions are currently converging on the neighborhood. This attention is also being reflected in the media, housing conferences, and development programs. More than anything else, neighborhood development is a broad-based movement --in terms of locality types, the concerned populations, and overall objectives.

An Urban Neighborhood Community Association Project (UNCAP) is a program designed to develop housing opportunities for people who reside in urban neighborhoods and want to improve their residential environment. As described by this manual, a community association is a mandatory membership organization of dwelling unit owners which is established with the development of a condominium or homeowners association; a cooperative, as a common interest form of ownership, can also be considered a community association. In all three formats, establishment of a community association can expand ownership opportunities, improve and preserve the physical conditions of existing housing, and create a grassroots mandatory membership organization of residents. This manual seeks to promote those advantages by addressing persons actively involved in neighborhood housing: the directors and staff of community agencies, local government housing planners, and builders/developers specializing in urban residential development.

THE UNCAP CONCEPT

The many housing market forces now shaping the face of urban neighborhoods are beyond the control of most low- and moderate-income residents. Instead, politicians, landlords, bankers, realtors, and others determine what housing options will be available.

Ownership--as a means of control--is at the base of the UNCAP concept. Renters traditionally cannot influence the quality or costs of housing, and are more vulnerable to market fluctuations than are owners. In addition, renters cannot decide how much an owner will invest in their building, control how much they must pay for space, or monitor the sale of their building to another owner. Despite efforts to regulate the rental market to the advantage of tenants (through rent control, rent stabilization, and conversion ordinances), renters remain relatively powerless to affect their housing environment. This situation has become more critical as landlords, faced with inflationary housing and maintenance costs, are forced to raise rents or decrease investment levels in order to maintain comparable profit margins.

Ownership, on the other hand, offers residents several benefits. Tax laws offer a large subsidy to owners by allowing income tax deductions for property tax and interest payments. In addition, owners--as opposed to renters--establish equity with their monthly housing payments. For those who desire it, then, ownership is the more advantageous housing choice; the urban neighborhood community association (UNCA) is one method of expanding ownership opportunities for residents who are normally not able to buy a house.

OBJECTIVES OF UNCAP

The first objective of UNCAP is to help people learn to help themselves. Past efforts to halt housing deterioration in the central city areas have often ignored the importance of encouraging resident participation. Unless residents are involved in housing improvement programs, complex subsidy schemes and physical improvements will prove unsuccessful. Formation of a community association provides the framework through which residents can build their capacity to manage their housing environment.

The process of setting up a community association also can have a positive supportive effect on the neighborhood. Thus, the second objective of UNCAP is to contribute to community stabilization by offering residents the opportunity to remain permanently in the neighborhood as owners. By creating the opportunity for existing residents to stay as others move in or out, economic and racial diversity can be promoted. The physical improvements of property resulting from community association conversion contribute to the long-term maintenance of housing stock--a critical city resource.

The goals of improving the quality of urban housing for low- and moderate-income residents and building the capacity of neighborhood-based organizations go hand-in-hand. The last decades have shown that quality housing cannot exist when social problems or physical decay eventually overwhelm direct attempts to improve housing conditions. The formation of neighborhood groups which can identify specific problems and propose solutions will prove useful long after the phase-out of local or Federal neighborhood assistance. By its very nature, the association form of ownership unites good housing with concerned residents; with the establishment of such organizations, a neighborhood will be watched, guided, and directed by those who have a stake in its future.

UNCA FUNCTIONS

A community association (UNCA) functions to maintain and enhance the property of its owner-members and to enforce democratically adopted rules of behavior. A community association is a "common interest community"--living units held together by a common interest in and ownership of a significant portion of the property.

Created in accordance with State or local law by a recorded declaration of covenants, the association's legal documents make it a private organization with many public powers and obligations. An UNCA may set and collect assessments, make and enforce rules and regulations, and enter into business transactions. These powers represent a unique advantage because they give the property owners both the responsibility and the ability to administer their own affairs without interference from outside parties.

Membership in a community association is mandatory. Upon taking title to his or her home, a purchaser automatically becomes a member of the association. Although the form of an association and the type of housing may vary, the practical differences among associations concern scale rather than function or design. All UNCA's perform the same fundamental roles.

In its first role, the community association is a service-oriented business, providing maintenance, repair, and security services to its members who are its "owners." The association also acts as a private government, performing public functions. It has a taxing power (via assessments) and rulemaking and enforcing authority. Its documents and the applicable State statute establish its business and regulatory framework and support its operating functions.

OPERATING ASSUMPTIONS

An UNCA can be defined in terms of the properties, people, and neighborhoods involved. This concept is based on several assumptions. First, in the first phases of the project, it is assumed that existing rental properties will be converted to a community association form of ownership. These rental properties can be highrise multifamily buildings, attached rowhouses a group of flats, or detached single family houses. The scope of each project is limited only by the fact that the property owners must agree to the creation of the association and allow the imposition of the covenants.

Secondly, it is assumed that the UNCA will be available to the people who cannot easily afford to purchase housing in the regular market. As the costs of housing continue to escalate rapidly, the number of people who cannot afford to buy increases. Condominiums and cooperatives are often the least expensive form of ownership housing because of the economies of the the common space. Therefore, developing these alternative forms of ownership is a logical method of increasing housing opportunities.

Resident income levels will likely differ in each UNCA according to the scheme of financial development. The more cost savings achieved through the use of subsidized loans, secondary market programs, or commitments of lower interest mortgages, the lower the cost of each unit. Because a downpayment and ability to support monthly mortgage payments are necessary for ownership housing, an UNCAP as currently described is a moderate-income program. This assumption is not meant to preclude the possibility of designing an UNCA with substantial public housing subsidies for low-income families. However, the concept is used to define the most realistic range of income required to support the costs of developing a non-subsidized UNCAP.

Common interest ownership housing can be beneficial to moderate-income residents in either a declining neighborhood or a neighborhood undergoing renewal. In a deteriorating neighborhood, the process of UNCA conversion and rehabilitation will help to stop further decline by motivating residents and/or owners to invest in housing renovation on other properties.

Conversely, an inner-city neighborhood may become an object of renewal by higher income residents because of convenient location, attractive housing stock, or affordable prices. When builders and owners invest in rehabilitation, the general appearance of the neighborhood improves; however, displacement may occur when rents increase or units are converted to ownership. Conversion of units to condominiums or cooperatives, or creating an HOA which offers housing at lower prices are strategies for filling such housing shortages.

UNCA DEVELOPERS

UNCAP is neither a program designed to stimulate the production of housing units nor a financing mechanism. Rather, the Urban Neighborhood Community Association Project was designed to outline a plan of action for those people working in neighborhood housing. This process: (1) must be adapted to each situation; (2) will demand the energies of a committed group of people; and (3) is an avenue through which neighborhood residents can build their capacity to design and manage their housing environment. The authors of this manual envision that each UNCAP developed will be the product of a team effort--a partnership of residents, lenders, government, attorneys, and developers involved in putting together the project. The UNCAP sponsor will initiate and oversee each component of the process. Possible sponsors may include:

- a community development corporation;
- a neighborhood-based organization;

- o a group of tenants who are investigating housing ownership opportunities;
- o a local housing or redevelopment authority; and
- o a lender or group of lenders holding deteriorating properties.

The UNCA team (UNCAT) may include professionals from the real estate and development industry, the lending institutions, or a local technical assistance organization.

THE UNCAP MANUAL

This manual is addressed to any group of individuals which is considering whether to develop moderate-income housing in a central city neighborhood. For any such group, the process of developing real estate--particularly acquiring, rehabilitating, and marketing a building or group of buildings--is a very difficult and time-consuming task. It demands a grasp of many complex and technical areas of expertise. The scope of this manual does not provide for detailed instruction in each of these areas.

Instead, this manual outlines a model process. While it does present considerable basic information--and innovative options as well--it was designed principally as a summary of the tasks involved in developing, owning, and managing an urban neighborhood community association. Other sources which deal more comprehensively with specific components in this process are identified in the text and references section at the end of the manual.

The UNCAP manual focuses on condominiums and homeowners associations (as specifically defined in Chapter 1). Much of the information contained in the manual will be helpful for parties deciding to convert a property to a cooperative. However, the unique contribution of UNCAP is the application of fee simple ownership of a condominium or HOA unit to the low-and moderate-income market, and the potential benefits of a community association in an urban neighborhood.

The manual is only one part of the Urban Neighborhood Community Association "project." It can and should be supplemented by other written pieces, including the Executive Summary (which serves as a broad description of the "project") and short booklets directed to special interest groups such as the prospective homeowners and municipal planners.

The UNCAP manual is part of a continuous process. That is, as new information is generated, it can be incorporated by local groups as they see fit. The document is and will be a working tool to be shared, refined, revised, and proven. Like UNCAP, this manual is designed to work.

Chapter 1: THE DEVELOPMENT PROCESS

GENERAL CONSIDERATIONS

The primary goal of an UNCA is to make ownership housing available at costs within the reach of moderate-income individuals and families. At the same time, an UNCA functions to preserve that housing and to help stabilize the neighborhood. Accomplishing these goals demands an organized and competent development team composed of a chief sponsor and group of allied professionals. This development team must initiate and implement each step of the property conversion design. The organization undertaking an UNCAP will face a variety of policy decisions throughout the development process which will directly affect the viability and success of the project.

Why Create an UNCA?

Creating an UNCA is one method of addressing the housing needs of a diverse urban population. In addition, certain direct benefits and goals for low- and moderate- income persons are especially achievable with an UNCA.

When should an UNCA be considered as a means of providing housing? Chiefly, when:

- o it offers the best means for providing ownership housing for moderate-income families in urban neighborhoods, utilizing existing housing stock;
- o the site(s) being considered for ownership housing require the maintenance of common grounds and facilities or housing structures;
- o the property being considered requires the owners to share such structural features as accessways, hallways, walkways, elevators; or other facilities;
- o a self-governance organization is desirable to enforce operational and behavioral standards to protect the common living situation;

- o an organizational structure is desirable for residents wanting to be represented in city government and in other public agencies;
- o a community-based group is needed to provide services, programs, and general support to residents and others in the neighborhood; and
- o it is beneficial to unite various types of housing under one framework to foster the inprovement of a block or area.

Typical Small Scale UNCA's

The three basic types of UNCA's available for group ownership of housing are the condominium association, the homeowner association, and the cooperative housing corporation. The type chosen will affect the legal structure and basis of the association and determine the division of property ownership between individuals and the group in common. All three types, however, allow for the creation of a membership organization tied to housing.

A homeowner association (HOA) approach applies when individual units are on separate lots and the purchaser owns both lot and unit. The HOA owns anything to be used in common by all the owners, such as meeting facilities, parking areas, tot lots, and recreational areas. In addition, the association may maintain private lots and the exteriors of residences.

In a condominium, the individual unit owner owns the interior of the unit only and shares ownership in the facilities and common grounds. The association, on behalf of the owners, maintains the exterior of all structures and provides various services.

In a cooperative (co-op), the individual unit owner owns a share in the corporation and is permitted to live in a designated unit. The co-op corporation, on behalf of the shareholders, maintains the entire housing structure and facilities.

Of these three types of organizations, only the homeowner association applies exclusively to single family detached or attached housing on separate lots. The HOA legal structure ties the association directly to the land under the residences. The condominium and cooperative, on the other hand, can apply to any type of housing structure, including single family, attached or detached townhouses, or multifamily buildings. However, due to legal and organizational complications, condominiums and co-ops are principally used in stacked housing developments such as multi-flats, garden apartments, or multistory buildings (See Appendix I.1, I.2, and I.3).

Most states do not legally require a minimum or maximum number of units for UNCA's; HOA's and condominiums have been developed for as few as two units to as many as several thousand. However, the size of the association impacts on both the management of the association and on the distribution of expenses. A smaller UNCA (2-40 units), while relatively simple to manage, also places a greater burden of self-governance and financing on its owner members. Conversely, a larger association (40-200 or more units) faces complex management challenges calling for full-time professional staff while asking for less input from owners.

Large-scale UNCA Options

Condominiums, co-ops, and HOA's may be combined by means of a <u>multi-association option</u>. With several adjacent and diverse housing units, each property can be developed as an individual UNCA to be marketed to the same or to different income groups. Multifamily buildings can be organized as a condominium or as a cooperative; townhouse units can be developed as a condominium or as an HOA. Depending on the nature of the ownership and existing zoning and site configurations, further consolidation is possible. For example, townhouse units may be included in the condominium conversion of a 40-unit or 9-unit apartment. Given a choice, it is preferable to combine townhouse units with the 9-unit apartment to minimize the differences between the types of housing structures.

With a multi-association strategy, a sponsor can develop an entire block of mixed housing types, creating an individual association in a building or combination of buildings. A self-governance framework permits new owners to manage their own affairs within their own building.

In the multiple association situation, an additional organization may be needed to coordinate the smaller associations, to provide services or facilities needed by all the owners in the smaller associations, and to assure long-term continuation of the UNCA objectives. This kind of organization is called an umbrella association. The umbrella association may set standards for maintenance of exterior portions of the buildings and perform services necessary for all of the families on the block.

Within this framework, the individual associations in the separate buildings would continue to provide services internal to their structures only. The umbrella approach provides a formal, organized structure which allows residents a voice in an area larger than their immediate building and services not otherwise available from their individual association. Each owner of a unit in a subassociation is a mandatory member of the umbrella association, including tenants of rental units where desired.

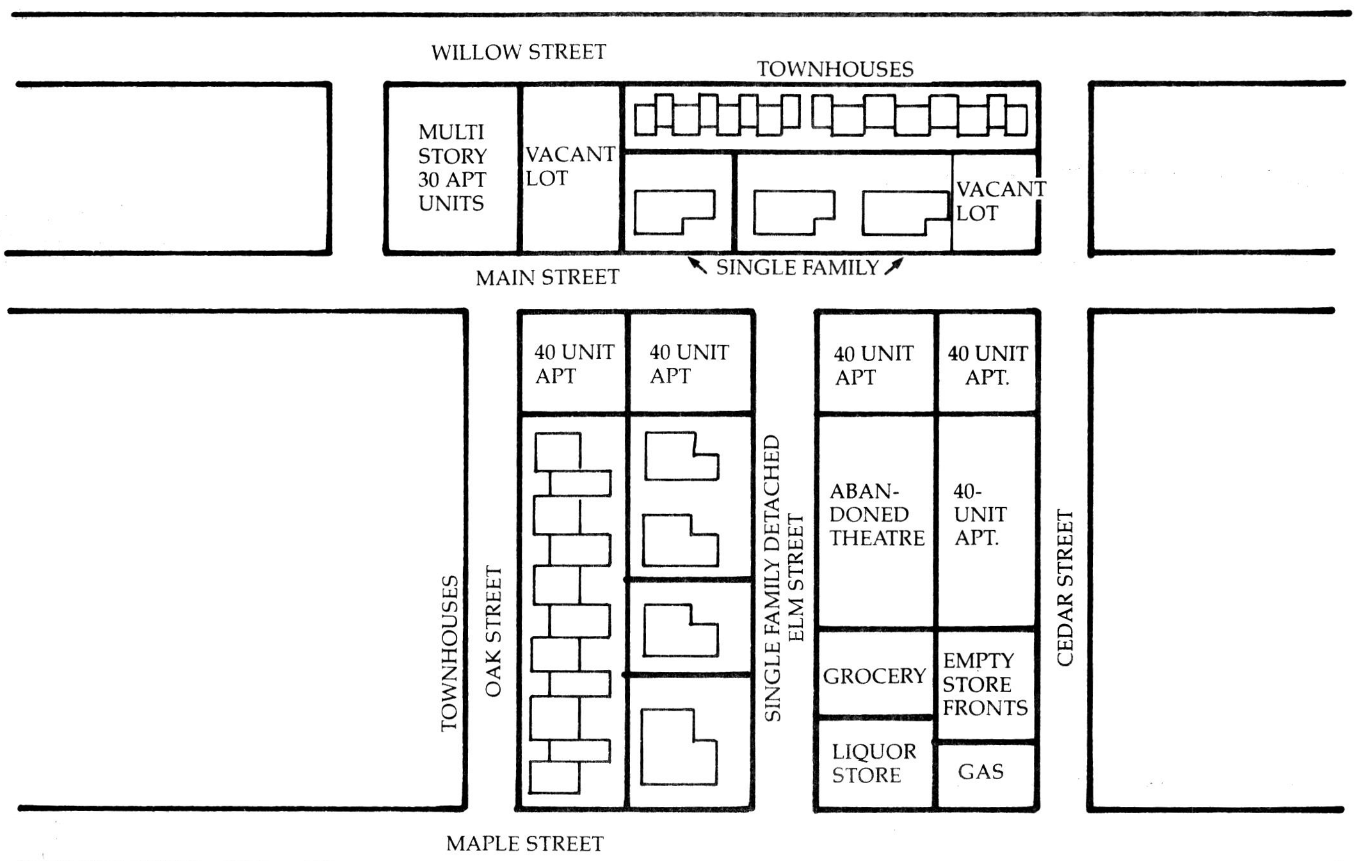
Forming an umbrella association for an UNCA increases the flexibility of the project design. For example, a sponsor can combine a moderate-income condominium, a lower-income cooperative, a rental building with Section 8 subsidies, and a mixed-income townhouse HOA. The umbrella form also permits phasing the development of a project. The documents can contain specifications for the eventual design of the UNCA and create an organization of owners to guide the process. Each owner is a member of the individual building's association, and each tenant is a member of the building's tenant organization, making decisions about building management. In addition, all owners and tenants are members of the umbrella association and participate in decisions and operations affecting the entire development. Membership in an umbrella association is mandatory upon residency and/or ownership in properties included in the UNCA.

A neighborhood association functions similarly, but without the mandatory requirement. Figure I-1 shows an overview of what might be a typical densely settled urban neighborhood with mixed commercial facilities. A sponsor may develop a strategy for redevelopment of a large area in stages; in this example, several vacant properties can be put to productive use if acquired and maintained by a community association.

In the block bounded by Main and Willow Streets, there is a potential for a 30-unit condominium mid-rise association and a separate HOA for the townhouses and single family units. The entire block can then be encompassed by an umbrella association responsible for maintenance and provision of services for all residents and improvement of the vacant lots. In the block bounded by Oak and Elm Streets, at least two condominium projects can be created in the 40-unit buildings or combined into a single condominium with redefinition of lot lines. The abandoned theatre may also be acquired by each of the separate umbrella associations or by the various associations within the 3-block area as a community center.

An umbrella association cannot be imposed after the fact. It must be designed and the legal documents prepared and recorded before the sale of

Figure I-1: UNCA APPLICATIONS IN A NEIGHBORHOOD (OVERVIEW)



the first unit to be encompassed by the umbrella association. It is, however, possible to develop the parcels in phases and add them to the umbrella association as the phases are concluded. Planning for an umbrella association must be undertaken very early in the development process.

An UNCA sponsor may wish to acquire residential housing in scattered sites. In such cases, UNCA development is possible if the program is carefully structured and the legal documents established for management of the umbrella association provide for the addition of properties. For example, in the first acquisition of a 12-unit apartment building, the total membership of the umbrella association will be the owners of the 12 units. As additional buildings or residences are completed, they can be encompassed within the association by means of declaration by the development team and documentation.

In a large urban residential area involving a variety of residential and commercial uses, the development team must define the total intended scope of an umbrella UNCA, and structure its documents accordingly. Properties including townhouses, stacked units, and recreation areas may then be acquired independently and sequentially, as availability and rehabilitation factors permit.

The use of a large-body association complicates the UNCA development process in terms of documentation, financing, coordination, and management. Inexperienced sponsors should start small and learn about creating a basic single association before designing a complex multi-association project. In geographic areas where common interest forms of ownership are unusual, it may be particularly difficult to put together the more innovative neighborhood or scattered-site umbrella association.

Finally, sponsors should note that imposing an UNCA structure on occupied properties will likely create owner resistance; it is much more feasible to convert rental properties in order to form a single condominium, HOA, or cooperative UNCA. Alternatively, in a neighborhood with widespread abandonment, an umbrella association can be created over unoccupied buildings.

Specific Conversion Problems

Specific problems unique to the conversion process include the following:

- Resident counseling. Prospective owners must be trained not only on matters relative to homeownership, but on the UNCA concept.
- Local Government Approval Process. Most local and State governments have established unique requirements and a substantial review process for UNCA conversions.
- Lender Requirements. Generally, lenders and financial regulatory institutions impose more stringent legal and underwriting requirements on association communities because of the interrelationships among the units and between the units and the association. Security values are affected by third parties such as the developer, the association, and other owners. Financing for purchases and subsequent resales requires early compliance with lenders' requirements.
- Establishing the Association Operation. Thorough planning of the association process is essential if the organization is to remain viable over time.
- Association Documents. The proper preparation and drafting of the legal documents is critical to the creation of the association.
- Extended Sponsor or Developer Involvement. In a community association development, the responsibilities of the developing organization are not concluded until all of the units are sold and all of the owners are properly prepared to assume their ownership role. In an UNCA, post-sales involvement (i.e., technical assistance and counseling programs) may be needed to ensure successful operations.

The Role of the Developer

An UNCA may be developed by any public or private organization with financial and legal capacity to: (1) acquire appropriate property; (2) undertake the rehabilitation of the physical structure; (3) provide necessary ownership counseling and governance counseling; (4) initiate a process for limiting displacement and dislocation; and (5) assemble the financing necessary to provide moderately priced ownership housing. Development organizations may include:

- o nonprofit housing organizations or community groups;
- o municipal or public housing agencies;
- o _ad hoc_ tenant organizations choosing to acquire their buildings; and
- o commercial housing developers operating in an urban neighborhood on a fixed-, limited-, or full-profit basis.

The role of the UNCA developer is to both facilitate and coordinate. Specifically, the developer is responsible for the following:

- o establishing the goals for the project;
- o defining the specific objectives and strategies to achieve these goals;
- o organizing the financing, rehabilitation, and operations;
- o selecting prospective owners, arranging financing, and consummating sales;
- o handling the problems of displacement and dislocation; and
- o establishing appropriate educational systems in the process of converting renters to self-governing owners.

The UNCA development process involves a series of decisions, and calls for both an understanding of _when_ the decisions must be reached and _how_ the development organization must be organized and structured to make those decisions. For example, preparing a building for habitation must continue simultaneously with efforts to select and counsel owners, deal with dislocation and displacement of renters, and create the association with an eye to long-term management.

The developer must also be an entrepreneur. The sponsor and team must assess the financial feasibility and marketability of the project and, ultimately, make a go/no go decision based upon that assessment. While the UNCAT or sponsor may not be concerned with profit in the traditional sense, the project should be economically viable for residents and its goals should be achievable within the project's economic constraints.

The Development Team (UNCAT)

Organizations involved in providing housing in urban neighborhoods must assemble the proper talents and skills to develop an UNCA from the onset. The group organized by the sponsor comprises the urban neighborhood community association team (UNCAT). Team members may include the following:

- an <u>architect or engineer</u> whose counseling regarding the rehabilitation and restructuring of the physical property will materially affect financing and long-term association expenses;
- an <u>attorney</u> to design the association legal documents consistent with the goals and design of the project set forth by the UNCAT;
- a <u>lender</u> or individual with development finance experience to assist in arranging for ultimate financing of the project (to include the various Federal or State/local mortgage insurance and financial assistance programs available);
- a <u>manager</u> who has the talent and experience to help create and monitor the operation of the UNCA;
- an <u>insurer</u> who can review the UNCA's unique insurance needs and help outline a basic insurance package;
- a <u>community organizer or neighborhood specialist</u> experienced in organizing neighborhood groups and administering neighborhood programs; and

- A contractor or builder with experience in rehabilitation and various aspects of construction, contracting, scheduling, marketing, and real estate.

Each UNCA project will require a different mix of talents. For example, a small project involving a few units and a simple organizational structure may require only two or three individuals; outside talent can be included from time to time as specific needs or problems arise. Large-scale developments involving 50 or more units will call for a number of individuals and talents. No matter how many individuals may be involved, the developer's task is to organize the team early in the process and to convene it frequently for review, discussion, and coordination throughout the UNCA process.

Defining the Goals of the UNCA

The sponsor's first task in the development process is to define the UNCA's goals. While these may vary for different organizations and neighborhoods, general goals may include:

- the provision of ownership housing for moderate-income families in urban neighborhoods;
- the stabilization and prevention of neighborhood decline through improvement of existing property;
- the maintenance and preservation of rehabilitated housing that does not entail long-term public or quasi-public financial commitments;
- the provision of a process of self-determination and self-government for residents of a housing development; and
- the strengthening of the neighborhood by means of an organizational mechanism tied to the UNCA.

Defining Strategies and Objectives to Achieve the Goals

Once established, housing goals should be reduced to specific objectives and strategies to provide direction to the UNCA. As a critical planning factor, the UNCAT should first define the population to be served. By its very nature, an ownership housing program requires owner-participants to have the economic capability to secure a mortgage and meet monthly payments. Future residents must demonstrate a steady source of income as a minimum threshold to insure the economic success of the project.

Income levels will dictate subsequent decisions in obtaining financial assistance to acquire and rehabilitate the property. The final costs of the units should be affordable by prospective owners; a minimum income level for ownership can be determined by projecting the total development costs of a particular site. Financial assistance or subsidy programs available must be examined to determine how they can apply to an UNCA.

Another initial consideration is to plan for any displacement and relocation of existing residents that will be necessary. The UNCAT must decide at the outset what strategy will be taken to handle displacement. If a project goal is to minimize displacement of tenants, then programs must be identified to enable existing tenants to become eligible for ownership. Notwithstanding these efforts, some displacement will likely occur and the UNCAT should plan to provide appropriate relocation assistance.

Counseling and education are strategic to the development goals of self-reliance and self-governance. Related activities will include information for neighborhood residents on the project to solicit their reactions and advice for the development scheme. The UNCAT should also provide training of prospective owners in personal financial management skills, and programs describing the proposed project and UNCA process.

The UNCAT should also coordinate efforts with existing neighborhood groups to obtain their cooperation and input. If no such groups exist, the UNCA can be designed to provide more extensive civic services.

THE DEVELOPMENT PROCESS

Overview

There are five basic phases in the development of an UNCA: pre-design, design, start-up, transition, and governance or management. The events of each phase are frequently a result of various local, State, and/or Federal government requirements; the timespan for each phase in any specific project will vary with the complexity of any one undertaking.

A brief discussion of the key elements and tasks for each phase follows. Detailed treatment of major functional activities follows in subsequent chapters of this manual. Figure I-2, at the end of this chapter, shows the proposed sequence of the development process.

Pre-design Phase

During the pre-design phase the developer or UNCAT will set the broad parameters for the proposed project and conduct preliminary assessments of the feasibility of the project. The first step will be to establish the specific goals to be served by the UNCA and outline objectives and strategies to achieve these goals, as discussed previously. Note that, while the primary goal may be to provide ownership housing to moderate-income families (and, in so doing, stabilize neighborhood housing stock), other goals may include job training and employment, neighborhood service programs, etc.

Neighborhood areas suitable for an UNCA must be identified and, within them, specific prospective housing sites identified. Demand for ownership housing in the neighborhood and for the sites chosen should be assessed. Assessment should include an analysis and evaluation of the physical condition of each prospective site, as well as an evaluation of the financial status of the building, including extent of outstanding debts and operating costs.

An evaluation of estimated project costs for each site must be completed during this pre-design phase. Potential approaches for financing the project can be developed and sources of financing identified. Finally, a determination and selection of the optimal site can be made, based upon a preliminary economic feasibility analysis comparing expected costs, available funding, and the capacity of the targeted families to meet costs at their income levels.

The pre-design phase determines whether or not the sponsor should go forward with the UNCA, whether a given neighborhood and site are suitable, and whether costs are affordable for the targeted families.

Design Phase

During the design phase, the developer implements decisions made during the pre-design phase. Related activities include physical and structural design options, marketing and staffing decisions, financing choices, and organizational decisions regarding the community association. At this point, the UNCA begins to take shape.

At the outset of the design phase, the developer team must be formally organized and structured to begin the process of design and decision making. The first task will be to initiate the negotiations for site acquisition.

The site acquisition price is a principal factor in the initial project budget which must be developed in this phase. Other aspects of the initial project budget include rehabilitation expenses and the overall costs of organizing the sales, counseling owners, and structuring the association. The budget must be figured over time; revenues and costs must be identified during the development period.

The UNCAT must decide on the nature and form that the association(s) will be used in the project. In order to approach lender sources for funds, the parameters of the type of association, scale of operations, and tentative budget must be decided. All arrangements for project financing must be completed during this phase. Limited arrangements may be pursued at this stage for permanent financing of unit mortgages but cannot be consummated until sales are ready to proceed. Before the design phase is completed, all legal, management, and operational decisions regarding the association must be firmly established so sales can be initiated.

Once the site has been acquired, the UNCAT effort can undertake several simultaneous activities, including:

- communicating with tenants and others nearby to explain the purpose and scope of the project and to solicit support;
- finalizing the intended scope of renovation and establishing priorities and a goal-specific schedule;
- initiating the process of prospective owner selection and establishing an education and counseling program;
- designing a relocation program for tenants who will not be participating as owners; and
- finalizing the community association design including legal documents, operating budget, capital reserves budget, the management scheme, and approvals from the lender and governmental entities.

Start-up Phase

The start-up phase legally establishes the association and begins the renovation process, sales, and UNCA operations.

The legal creation of the association occurs when the developer formally files its legal documents with the appropriate local government agency. Initially, the developer forms the UNCA Board of Directors from the development team, with the possible addition of an advisory group from the neighborhood or tenants' organization. A meeting of the Board of Directors of the association should be held immediately to adopt the association's bylaws, rules and regulations, and operating budget.

Major aspects of renovation and rehabilitation must be completed before sales can begin. In accordance with project design, the needs of existing tenants and prospective owners would be accommodated, when feasible, during the renovation process.

Next, the transfer of the ownership of units may begin. Prospective owners must receive counseling and education to prepare them for this unique form of ownership. The sponsor and UNCAT can prepare a homeowner's manual for the new owners to be distributed as they take possession of their units. Such a manual should set forth a general description of the UNCA, its purposes, procedures, and operational structure. One section might also be devoted to basic aspects of unit maintenance.

Next, the developer should implement the relocation plans previously mentioned. The scheduling of the renovation and subsequent move-in by a new owner will have to accommodate this activity. On the other hand, if the entire building(s) will have to be vacated to complete major interior renovation, early move-ins of new owners will help limit security problems and demonstrate to the neighborhood at large the association's commitment to renovation.

As the transfer of units to new owners takes place, the association's operational responsibility and financial process will begin. While the developer may structure the finances in such a way as to assume most of the responsibility for early funding, the association should become independent of the developer's control as soon as possible in order to take full responsibility for providing common services and maintaining common facilities. The earlier owners become involved in the governance process, the more committed those owners will be to the overall success of the association.

Transition Phase

During the transition phase, the owners will gradually take over the UNCA's operations and responsibilities. The transition phase can be described generally as that period during which 25% to 75% of the units are sold, with the balance of the units in some stage of rehabilitation or tenant occupancy.

The transition phase centers on the completion of rehabilitation activity, the preparation of the owners to assume the operations of the association, and completion of sales and move-ins. At this time, the owners are contributing assessments to the association and using the common areas and facilities on a regular basis. There will now be sufficient numbers of owners to support participation in association activities and to begin taking a greater role in association committees and the Board of Directors. Most of the tenants who are not buying units will have moved.

Most, if not all, of the major structural renovation will be completed by this time. Individual unit renovation may still be underway depending on the method for interior rehabilitation.

A process should be initiated to involve owners on the Board of Directors with a particular understanding of the association process to assume a leadership role. By the end of the transition phase, the developer should transfer majority control of the association board to the owners through an election.

As more and more new owners take possession of their units, an increasing share of the total revenues collected will be coming from the owners rather than the developer. In addition, an increasing proportion of the common area and facilities will be in use by owners and more expenses will be incurred for maintenance and operation. The key to successful transition of control will be efforts to prepare owners for leadership positions, good management and management procedures, and good communication between the sponsor, UNCAT, and owners. Part of this training is provided by the involvement of the owners on committees; as they gain process experience at this level, they can gradually assume positions on the Board of Directors.

Governance Phase

The association reaches the governance phase when owners are elected to a majority of the seats on the Board of Directors and full responsibility for association operations transfers to the owners. The last of the rehabilitation work will be completed. Owners will take possession of the last remaining units, and the development will be fully occupied by owners.

Board members will set policies; let contracts; implement or amend controls, rules, and regulations; and, in general, shape the future course of the association and the community. How well these elected representa tives perform on the board and how well the balance of the owner membership adapts to the association style of ownership will depend in large measure on earlier efforts to provide effective counseling and education.

During the governance phase, the UNCAT will prepare to "move out" and can do so once the last of the units are sold, the rehabilitation work is completed, and the association operations are functioning smoothly. At this point, the sponsoring organization may offer to provide continued guidance and assistance during the formative years of self-governance. By retaining an advisory position on the Board of Directors after complete assumption of owner control, the UNCAT may be able to head off potential problems or difficulties during this period when the association may be at its weakest, financially and administratively.

Regardless of the developer's continued role, all association records, books, contracts, and other legal documents should be transferred to the owners' association. Legally, financially, and operationally, the UNCA is now under the control of the owners. In its role as advisor, however, the sponsor can build a positive relationship for the association with the surrounding neighborhood and increase the impact of the association on the neighborhood at large. The association can be utilized as a force to stimulate further public and private investments in the neighborhood and to utilize the talents and experience of the developer and the owners in bringing about similar developments in adjacent areas.

The development process of an urban neighborhood community association is clearly a complex one, involving a variety of interrelated tasks and responsibilities that place a premium on careful planning, scheduling, and communication. The developer, as creator of the UNCA, assumes the greatest burden of making significant decisions affecting the long-term viability and success of the project. In this process, careful deliberation and attention to detail will be rewarded by the successful achievement of the goals set forth by the developer.

UNCAP Development Phases

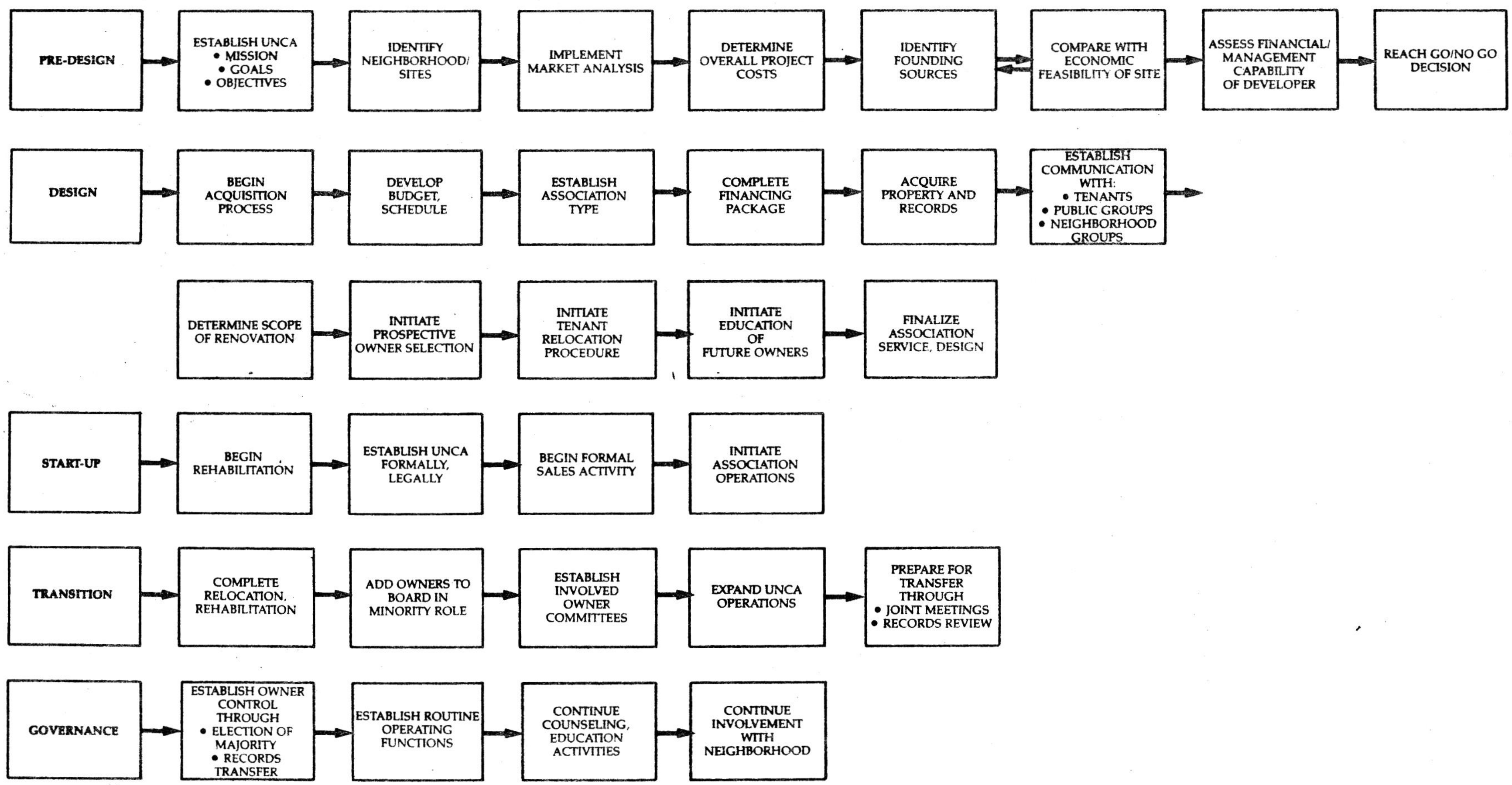


Figure I-2: SEQUENCE OF DEVELOPMENT PHASES

Chapter 2: CONSIDERATIONS IN SELECTING A SITE

There is no ideal setting for an UNCA. However, many different aspects of a property and its surrounding neighborhood will influence the successful operation of an UNCA over time. This chapter outlines the types of information that the sponsor should uncover to ensure adequate planning. How each sponsor goes about finding the data and how the data are interpreted will depend on several variables.

FRAMEWORK FOR SELECTING SITES

The first step in site selection--data gathering--depends to a large extent on the nature of the transaction. If, for example, a community organization wants to rehabilitate properties for sale or lease to existing neighborhood residents, the feasibility study will have to be anonymous and unobtrusive. This approach avoids both overreactions by tenants and inflated selling prices from owners. Obviously, if a redevelopment agency is disposing of publicly owned properties, information gathering need not be anonymous; the sale price will be regulated by law or program design and will be a matter of public record. There will be a similar openness of record if an established neighborhood group develops a defined area as part of a larger redevelopment strategy. However, in this case there must be well defined methods of notifying and working with tenants to minimize opposition.

Closely linked to data gathering is the risk analysis process. New community developers, for example, must determine both their ability and desire to take on risks that may be considered too high by others. Public redevelopment agencies may measure properties against tested criteria, or share risk with the private sector (through mortgage insurance, housing subsidies, etc.). Neighborhood or tenant groups will tend to weigh the needs and capacities of specific residents; where existing residents wish to purchase a building, feasibility analysis will focus on the cost of conversion.

Throughout the site selection process, the perspective of the sponsor should be paramount. The citywide community organization must decide whether to target its efforts in one area or to consider many neighborhoods. Redevelopment agencies can be concerned with stabilizing a neighborhood, developing alternative forms of community management or ownership, or merely disposing of certain properties. While a neighborhood group has already chosen a site, it must still select suitable persons for common interest ownership; similarly, a small tenant group, having decided to buy a building, must determine the scope of work involved.

A sponsor's goals and objectives will also determine how individual factors will be weighed in the final analysis. For example, if a sponsor wants to revitalize a neighborhood, physical factors and financial feasibility--including the potential for leveraging more investment--must be carefully examined. For such a sponsor, a successful first project is important in an overall neighborhood strategy. If, on the other hand, the goals are to provide housing for existing residents who face incursions from newcomers, site considerations are less important. Instead, the group must identify residents who need assistance and could benefit from an UNCA.

For a new, small, or relatively inexperienced sponsor, all site factors should be weighed against whether the concerned individual(s) can manage and carry through a project in a particular property. A large and complex conversion will involve many hours of work and dedication. If the sponsor group is not willing or able to devote the necessary time and energy, a smaller or less complicated project is mandatory. (For specific examples see Appendix II.1)

EVALUATING THE SUITABILITY OF A NEIGHBORHOOD FOR AN UNCA

Just as design defines a building, the characteristics of a neighborhood determine the quality of its housing. The group undertaking the development of an UNCA should determine how conditions in the neighborhood will affect the establishment of a community association and, in turn, what effect the UNCA could have on the neighborhood.

Six critical factors in selection--market identification, demand identification, physical conditions, convenience, existing organizations, and inclusion in existing programs--are presented in Table II.1, following.

EVALUATING THE SUITABILITY OF A PROPERTY FOR AN UNCA

The concept of housing incorporates structure, design, space, location, financing, and investment; the building itself is only one facet of this concept. The conversion of an existing property to a community association form of ownership is particularly complex because it involves a building which has already been designed, financed, constructed, and lived in.

A group undertaking an UNCA must first examine a building in its current state. While a wide range of building types may support the establishment of an UNCA, some are more amenable to the ownership concept and to a workable community association.

Factors related to setting, general characteristics, and physical structure are summarized in Table II.2, following. Data on general characteristics can readily be determined by a walk through the property area at the onset. Upon gaining entry to the property, the physical structure can be examined by an engineer, architect, or rehab specialist. Building and housing code records, as well as original building and alteration plans, will also be helpful.

Table II.3 summarizes factors necessary to the successful operation of the UNCA--including financial, ownership, and legal considerations. Extensive research in each is needed at this stage before plans for the association can become concrete.

MAKING A DECISION

This chapter is designed to help the sponsor make a systematic and thorough review of factors which will affect the UNCA process. The information produced will have little utility in and of itself. When combined with the goals of the UNCA sponsor, this analysis will be much more pertinent to the site decision. The ultimate decision will probably be subjective--based upon the general feeling for the suitability of buildings and location, and informed by systematic review and analysis of all available data.

Table II.1: EVALUATING NEIGHBORHOOD SUITABILITY

	Factors	Considerations	Information Source
Market Identification	1. area unemployment 2. neighborhood income level 3. household composition	1. a study source of income is essential for ownership 2. will define scope of UNCA 3. age and size of household will determine design features and services	municipal planning or housing office (market info. & maps) Housing and Population Census Reports (Census data) R.L. Polk & Co. (neighborhood conditions) tax assessor records (owneship) building permit records local bank records* windshield surveys
Demand Identification	1. vacancy rate 2. turnover rate 3. rent or price levels 4. level of (housing) investment	1. vacancy will determine price and marketability. Few vacancies = lower acquisition costs; many = low demand 2. high turnover = difficulties in UNCA management 3. rates will determine market for units 4. UNCA may lower cost of ongoing activity or provide framework for new activity	
Physical Conditions	1. quality of housing stock and other buildings (per local standard) 2. quality of infrastructure (streets, walks, lighting, sewers)	1. level of deterioration will determine UNCA "agenda," total environment will affect structures 2. will determine general benefit	planning and development agencies (possible surveys) housing reports Polk Reports windshield surveys
Convenience of Location	1. proximity to employment 2. proximity to commercial services 3. proximity to recreational and community services 4. availability of transportation	1. residents will be attracted to employment opportunities 2. regular and daily needs must be met 3. essential support services must be determined and made available 4. the site should be served by public transportation	social service agencies planning agencies recreational commission windshield surveys

* All federally insured lenders must provide information of loans by zip code under the Home Mortgage Disclosure Act of 1976, plus other credit information.

Table II.1: EVALUATING NEIGHBORHOOD SUITABILITY (cont.)

	Factors	Considerations	Information Source
Existing Organizations	1. neighborhood-based groups 2. tenant groups 3. community development corporations	1. existing organizations can support residents of an UNCA in the conversion process and early years of operation.	community development office city planning departments mayor's office
Inclusion in Existing Programs	1. Community Development Block Grant target area 2. Neighborhood Strategy Act 3. housing improvement program 4. neighborhood improvement program 5. code enforcement area 6. private investment area 7. Neighborhood Housing Services (NHS)	1. if all or part of the neighborhood is already included in a public or private investment target, it will be easier to identify financial and technical assistance. 2. an UNCA can be compatible with these programs and enhance the benefits of them.	

Table II.2: GENERAL CHARACTERISTICS/PHYSICAL STRUCTURE

Factor	Considerations
Site Plan	
Extent and Condition of Grounds	° need for landscaping installation and maintenance ° availability of recreational space ° scope of grounds allowing for maintenance
Parking	° sufficient parking
Sidewalks/Walkways	° usable walkways that unite property elements
Type of Structure	residents consider most suitable for ownership (i.e., duplexes, single family dwellings, townhouses) ° type will define UNCA form; noncontiguous structures may create operational problems
Size of Property	
Small (less than 25 units)	° requires involvement of most of resident families ° may require self-management to keep fees low ° fixed costs (common element maintenance) must be shared by small no. of families
Large (over 150 units)	° requires less involvement from families ° requires sophisticated management system ° requires common elements (i.e., elevator) that are expensive to maintain ° fixed costs can be spread on larger scale ° conversion will be complex, longterm, and riskier
Condition of Structure	
Exterior	° roof: signs of age or leaking ° floors: indications of weakening below floor covering ° windows/doors: ease of opening, need for weatherstripping, presence of rot, adequate light/ventilation

Table II.2: GENERAL CHARACTERISTICS/PHYSICAL STRUCTURE (cont.)

Factor	Considerations
Condition of Structure (cont.)	
Interior	° exterior walls: mortar solid in bricks, no cracks in stucco, solid support beams ° no code violations or manageable level of repair ° fireproofing: fireproof structure, use of firewalls between units ° interior fixtures and appliances: state of repair
Mechanical Systems	
Heating/Air conditioning	° heating/air conditioning systems: workability, date of installment, remaining life, satisfaction of code
Electricity	° electric system: adequacy for number of units and usage, approximate location of outlets and fixtures, satisfaction of code
Plumbing	° plumbing fixtures: need for replacements general condition, satisfaction of code
Architectual Features	
Unit Layout	° floor plan: attractiveness to proposed tenants ° number of bedrooms: should meet needs of target population
Amount of Common Area	° should be in keeping with association's budget ° should (preferably) allow for a community room
Entrances	° presence of private outside entrances (for establishing feelings of ownership)
Other features	° certain features may be difficult to maintain (i.e., flatroof prone to leakage, etc.)

Table II.3: Operational Factors

Factor	Considerations	Source of Information
<u>Financial Factors</u>		
Current Operating Costs	° coverage of operating costs by rental income ° decreased costs due to structured and mechanical changes in conversion ° increased costs due to ownership trends in cash flow from previous 3 years	financing/operating statements from past 3 years tax bills from past 5 years contracts with management/maintenance services
Current Debt Structure	° amount and structure of debt to be assumed by new owner ° potential penalties for paying off original mortgage before term is up	
<u>Current Owner</u>	° privately owned: is owner willing to sell? ° publicly owned: what special provisions are necessary?	local building deeds and records city clerk
<u>Current Residents</u>	° percent of existing residents wishing to become owners after conversion ° percent of existing residents who can afford to become owners (conversion is easiest where large numbers stay and purchase)	existing rent levels (for determining who can afford ownership)

Table II.3: Operational Factors (cont.)

Legal Factors		
Zoning	° potential changes in present zoning requirements?	city code
Conversion Ordinances	° provisions for compliance with conversion ordinances	
Building/Housing codes	° potential for special compliance with codes under new management	
Title	° clear access to title	
Existing Leases	° existence of long-term to be negotiated or maintained	

Chapter 3: LEGAL FRAMEWORK

INTRODUCTION

The development and operation of an urban neighborhood community association requires the understanding and resolution of numerous legal issues. There are several "layers of law"--local codes and ordinances, State laws, and Federal provisions--which may apply to a particular project. In addition, each layer has rulings specific to the location of the project, type of community association, particular neighborhood or city, individual property, and income levels. This chapter is designed to outline the scope of the necessary legal analysis and to show how the developer can use the law to enhance rather than impede the urban neighborhood community association. Specifically, it provides a checklist for the UNCA attorney, itemizing the major issues involved in forming and operating the association.

The "layers of law" applicable to an UNCA can be pictured as a pyramid, with local law comprising the base, State law filling in the middle, and Federal law topping the figure. Each step in the process of creating and operating an UNCA is affected by one or more of these sets of regulations.

The body of regulations becoming known as community association law is not restricted to real estate law. Corporate, administrative procedure, constitutional, tax, insurance, and other substantive topics are very much a part of community association law. All personnel involved in the creation and operation of the UNCA should be aware of developments in these areas in order to answer legal questions in the most pragmatic manner.

The fundamental legal principles of moderate income urban community associations are the same as for all other community associations. However, neither beginner nor "experienced hand" should underestimate the potential complexity of a community association's legal issues. The UNCAT should rely upon not only the growing body of statutory and case law as well as the experience of other community organizations, but also consult the basic source materials set out in the References and Resources section.

TYPES OF COMMUNITY ASSOCIATIONS

While basic UNCA types were defined in Chapter 1 of this manual, it is important to present them again here in terms of their legal implications.

Home Owners Association

The homeowners association (HOA) is generally a nonprofit corporation to which the developer deeds the common facilities, improvements, and land. The HOA therefore owns the common property. The owners of the lots and detached or attached houses in an HOA community have title to their units and the land included within the lot's boundaries. By virtue of the covenants on the land, the owners also have an automatic, mandatory membership in the homeowners association. The owners in an HOA community receive perpetual access to the common ground and facilities.

The declaration and the articles of incorporation create the HOA and are the basic enabling documents. The owners are bound by the conditions of the recorded declaration of Covenants, Conditions, and Restrictions (CC&Rs). This document, together with the bylaws, provides the legal, financial, governmental, and administrative basis of the association. The legal foundation for the HOA is usually recognized as common law. Although there are Planned Unit Development (PUD) ordinances in most jurisdictions, these ordinances are primarily land use in nature and do not deal with the creation and operation of the community association.

Condominium Association

The condominium association differs from the homeowners association in that it typically does not hold title to any real property. Instead, the unit owners have title to their own units and a proportionate ownership interest in the common property. A unit is defined as a specifically platted portion of a building which has been divided into vertical and horizontal boundaries; it is a recognized legal form of real property ownership.

The association is composed of the owners and is a separate legal entity responsible for the maintenance and replacement of common properties. Typically, this common property includes the roofs; exterior walls; interior portions of the buildings, such as hallways, heating, cooling, and ventilating systems; and the land, including streets, walkways, recreational facilities, and open space. Each condominium owner has title to his or her unit bounded by the interior surfaces of the specific unit. The subflooring, the bearing walls, and the utility lines, however, are usually owned by the residents in common.

The UNCA's duties and powers are defined in a master deed or condominium declaration, a set of association bylaws, and the rules and regulations. The condominium is created and the declaration drafted in accordance with the State enabling statute, unlike the HOA. In addition, some cities, (e.g., Chicago) have ordinances which enable and/or regulate the process of condominium ownership--particularly the conversion of existing rental buildings to condominium ownership.

Although the condominium and HOA community differ in terms of property interests, their membership, financing, and powers are similar. The main difference is function: the homeowners association owns the common property, while the condominium association administers the common property and related services. This legal difference has considerable significance to the developer in both operational and legal terms.

INTRODUCTION TO LOCAL LAW

The process of UNCA development begins with decisions about land acquisition, condition of the structure and extent of rehabilitation, permitted uses of the land and structure in the particular area, costs of preparation and marketing, and a variety of other related concerns. While each of these are to a great extent business decisions, they are all affected by local law. The UNCAT attorney and sponsor must look to local law to determine whether the particular project can be built or converted and, if so, how. (State law will deal with how the association is to function and the structure of ownership interests.)

Zoning

Zoning, in its basic form, is perhaps the most common type of land use control. Zoning regulates land use by prohibiting certain uses in specified areas. Typically, a city's zoning ordinance will establish districts or zones for residential, commercial, industrial, and other uses--and may place further limits or qualifications upon use within each zone.

For purposes of an UNCA, the residential zone is the important classification. Residential zoning might permit either single family or multi-family residences and can limit the density, the number of persons per unit, and units per acre. The regulations may also control the height and size of the structure as well as its location on the lot and how much of the lot must be open space.

In the case of an UNCA, many of the zoning restrictions may be satisfied or waived because the existing structures satisfied zoning law when constructed. Generally, the change from tenant to owner occupancy has no effect upon the validity of the use under existing zoning.

It is important, however, that density requirements be observed. Caution must be exercised to insure that a building's particular use was not the result of a variance that applied before the current zoning. Then again, a new use may violate the zoning even if permitted under the variance. The UNCAT attorney should insure that any business activities of the association--i.e., nonresidential--will not violate the zoning.

Subdivision Regulations

Generally, zoning regulates individual lots in urban areas. Subdivision regulations are a companion regulatory device primarily used in the suburbs to establish land use schemes for large undeveloped areas, and apply to dividing land into several lots. The ordinance will specify the layout and standards for the lot-by-lot development; the developer or subdivider is not permitted to make improvements, divide, or sell the land until the plan (as shown on the subdivision plat or map) has been approved. Approval is contingent upon compliance with the ordinance.

Ordinarily, a local subdivision ordinance will not apply to an UNCA. There are few large vacant tracts left within cities, and the typical community association will usually involve existing structures. However, subdividing a lot or building owned by one individual to create units owned by several--as in a row of townhouses--could constitute a subdivision and would likely be covered by such ordinances.

The UNCAT should determine whether the development form involves a subdivision and, if so, whether subdivision ordinances will apply. In order to accommodate the need for such flexibility in development, many zoning and subdivision ordinances provide for a planned unit development (PUD), planned residential community (PRC), community unit plan (CUP), or other such classifications. The PUD zoning classification is a very innovative device which permits mixed, clustered, and other uses which would not be allowed under the basic zoning ordinance. Its objective is to allow more flexibility in land development in accordance with a comprehensive plan. PUD classifications regulate density, land use, support systems, and other considerations.

Condominium Conversion Ordinances

In an increasing number of cities, local ordinances regulate the conversion of existing structures to the condominium or cooperative form of ownership. Such ordinances, designed to establish minimum procedures and standards for conversions, have a twofold purpose: to protect the existing tenants in rental housing from the possibility of dislocation and displacement, and to protect the unit purchaser.

These ordinances actually deal with several problems experienced during initial conversion activity: displacement of existing tenants (especially elderly and low-income residents); depletion of rental stock; increased housing costs; and consumer problems, resulting from the conversion and sale of older buildings which often requires extensive repair or replacement after purchase.

The ordinance may require tenant notification and delayed evictions, tenant rights to purchase, disclosure of pertinent information concerning the physical condition of the structure, the remaining useful life of basic components, and the certification of the quality of construction and renovation of the building. Some cities (e.g., Washington, D.C.) also require that a majority of the current tenants in a building consent to the conversion if ongoing rents are below certain specified levels.

The UNCAT should be thoroughly familiar with the policy behind and provisions of any applicable condominium conversion ordinance. The objectives of these ordinances and those of an UNCAP are usually the same: with each, the aim is to provide housing opportunities within existing neighborhoods for the current residents (particularly low and moderate income residents) and to provide those residents a genuine voice in the conversion process. These ordinances should therefore be considered a positive part of the process and as a planning tool.

Some jurisdictions have enacted or periodically enact moratoria on conversions. The underlying policy is to allow for the enactment of plans to save existing rental stock and stem displacement. In jurisdictions with a moratorium, the sponsor and UNCAT attorney should study the ordinance carefully in order to determine if exceptions are possible. Possibilities include tenant conversions, vacant building conversions, co-ops, and multi-use rentals. Local governments should be encouraged to realize the importance of the UNCAP process and exempt it from moratoria.

Meeting Local Codes

Once the site is selected and the zoning and land use decisions made, the UNCAT should determine the rehabilitation necessary to the structure(s).

The initial legal analysis should identify the specific local government requirements and limitations applicable to the structure and rehabilitation. This should include a review of the building and housing codes. (The building code regulates the condition of the structure; the housing code regulates the conditions of occupancy of the building.)

Building Codes

A state or a city may establish building codes in order to set minimum safeguards for the structural soundness of a building. The code itself is usually a series of standards and specifications dealing with such matters as structural and foundation loads and stresses, construction materials, fireproofing and firewalls, building heights, ventilation, heating, plumbing, electrical systems, exits, stairs, elevator construction, and safety devices.

There are wide differences in building codes. The UNCAT should, as part of the early analysis of the property, become thoroughly familiar with the area code and the people who administer it. With some basic requirements, such as the electric code, there may be no room for accommodation; others will be more flexible.

All areas of the code should be reviewed to determine how to satisfy the goal of quality, regardless of constraints or resources. It may be possible to use less expensive materials and techniques, and prefabricated materials; it may also be feasible to use tenant owners to perform the work, with judicious planning.

Few local codes specifically cover rehabilitation;* building codes

* Massachusetts is a notable exception.

generally favor new construction and subdivision types of development. The general lack of rehabilitation codes or provisions--and the concurrent lack of trained staff in rehabilitation programs--can complicate the compliance problem. In reviewing the code, the UNCAT should seek:

- o acceptable, balanced minimum standards for rehabilitation reflecting the age, nature, and uses of the building;
- o phased or staged rehabilitation which permits self-help efforts while calling for ultimate code compliance;
- o standards for utilities and metering that reflect the nature of the community association as well as energy costs; and
- o a relatively simple and inexpensive permit system (present systems are often expensive and require multiple permits for the same structure--particularly for rehabilitation work).

Housing Codes

The housing code establishes minimum standards protecting general safety, health, and welfare. Generally, this code covers three areas:

- o minimum facilities for a residential structure, including toilets, baths, heat, water, light, and ventilation;
- o level of required maintenance (both sanitary and structural); and
- o occupancy standards, including rooms and dwelling sizes, number of permitted occupants, and related issues.

There are no uniform criteria for determining "substandard" conditions; moreover, existing codes are rarely enforced. The UNCAT and sponsor should therefore be responsible for zealous enforcement in low and moderate income neighborhoods undergoing rehabilitation. The association should be especially concerned about maintaining sanitary and structural standards. Both legal and practical requirements must be understood and reflected in budgetary and management decisions.

Finally, the Federal government and certain local jurisdictions have specific regulations dealing with access and usability for the elderly and handicapped. The sponsor and UNCAT should be concerned about such "barrier free" provisions, both to comply with the law and to increase the enjoyment of the property for all potential UNCA members.

Local Tax Considerations

Local tax laws can significantly affect the legal planning of an UNCA. Property taxes must be budgeted during the financial feasibility analysis--recognizing that rehabilitation and other improvements can increase the value of the land and, accordingly, its taxes.

There are several tax programs which can be of assistance during both the planning and operation stages. The following list indicates the types available (some are limited to certain localities).

- <u>Tax incremental financing</u>. Here, any tax increases stemming from property redevelopment will go to finance public costs in the area or to retire bonds financing the development. Basically, it is a "pay as you go from what you do" system."

- <u>Taxation of land values</u>. Several states and communities have tax programs that tax the value of the land rather than its improvements--thus encouraging development and rehabilitation.

- <u>Tax exemptions or abatements</u>. State law can exempt a property from taxation or abate tax amounts, as with most church-owned or government property. Some states apply abatements or exemptions to low and moderate income housing; there are also increasing numbers of local abatement or exemption programs for rehabilitation.

- <u>Tax deferment</u>. Tax deferment programs will postpone increases in property values and taxes resulting from rehabilitation.

- <u>"Circuit breakers."</u> A circuit breaker, placing a maximum limit on property taxes, usually applies to elderly or low-income persons. All property tax paid over that amount becomes an income tax credit.

The association form itself also has tax consequences. For example, since a condominium association does not own common property, it pays no property tax (the State condominium statute indicates how this works). The HOA, on the other hand, does own common property and is therefore responsible for the tax. Since HOA property is subject to members' use rights (a fact reflected in their tax bills) and may not be sold free and clear of those rights, its value is very low. The sponsor and UNCAT attorney should delineate these differences for tax authorities to avoid being double taxed.

Finally, the sponsor and UNCAT should investigate the possibility of tax credits for the municipal services performed by the association. Since an association performs certain functions which relieve the municipality of its obligations, this cost saving can and should be shared.

INTRODUCTION TO STATE LAW

State law is broad in scope; it deals with both the creation and operation of an UNCA and the rules of conduct applicable to its members. Further, the legal areas <u>potentially</u> applicable to an association are extremely broad. This section, due to practical considerations, is limited to those principles which either are uniquely applicable to an UNCA or which have importance in the creation of any association.

Much of the applicable law--particularly at the State level--will be case law; that is, law determined by judges on a case-by-case basis. Statutory law--enacted by State legislature--may also apply. A condominium for example, is created in accordance with specific State statutes; an HOA, for the most part, is not. The lack of State laws for the HOA requires reliance upon other areas of substantive law.

State corporate law is applicable to both the condominium and HOA, and is particularly important to the latter. Other areas of substantive law--such as nuisance, title and lien law--are also important to UNCA operation.

Declarant

In both the condominium and the HOA, the crucial first factor is the declarant, or person(s) preparing and filing the declaration. Because the declaration is a "covenant which runs with the land," (a legal document which is binding upon all who take title to all or any portion of the land), the declarant must usually be the landowner. Legal consequences arise from that status. For example, the declarant is responsible for preparing and distributing the public offering statement, where required; developing warranties; and establishing the administration of the association. Naming a declarant is essentially a business decision with strong legal and social consequences.

Condominium Law

All states as well as the District of Columbia and Puerto Rico have condominium statutes (see References and Resources section). Most of these are based on the original Federal Housing Administration (FHA) Model Act and are relatively inflexible--with few provisions, narrow definitions, and a bias towards high-rise buildings. A few states have recently adopted more flexible statutes. These "second generation statutes" contain considerably more detailed guidance on the creation, sale, and operation of a condominium. The developer's first step is to determine what type of condominium statute exists in the State. The UNCAT attorney should also learn how the particular statute has been used and how well it has worked.

The statute itself should be thoroughly and imaginatively reviewed. (The potential interpretation of condominium statutes is treated in the Community Association Documents chapter.) In the initial review of the statute, the UNCA team should be aware of:

- o assessment obligations;
- o lien rights;
- o rulemaking and enforcement provisions;
- o insurance provisions and requirements;
- o tort and contract liability;
- o organization and powers and duties of the association;
- o administrative provisions (voting, quorum, etc);
- o the creation process--i.e., contents of the declaration, bylaws, plats, and plans;
- o common and limited common elements;
- o unit definitions;
- o expandability;
- o eminent domain;
- o taxation;
- o warranties; and
- o consumer protection and disclosure.

Regulations affecting condominiums are increasingly based on case law as the courts become directly involved in developers, lenders, and association activities. It is essential that the UNCA legal advisor be familiar with the nature and extent of these cases. Most deal with various aspects of the developer-consumer relationship, association inter-relationships, and operational rules of conduct.

Flexibility and Uses of a Condominium

The choice between a condominium or HOA has legal implications that must be considered from the onset. For instance, if a primary objective is to integrate the UNCA into the neighborhood, the developers should determine which of the two forms offers the necessary legal flexibility.

While the traditional form of condominium is the single, multistory building, many variations are available. For example, the condominium plan might include separate buildings added in phases. Single family structures may be included but may cause administrative problems if they are not contiguous.

Several states have attempted to deal with issues of development flexibility through second generation condominium statutes. For example, Virginia and District of Columbia statutes have introduced several new concepts:

- Convertible land--a building site which is a portion of the UNCA's common elements; it may be used for additional units.
- Convertible space--a portion of the condominium structure which may be converted into one or more units.
- Expandable condominium--a condominium to which designated additional land may be added.
- Contractible condominium--a condominium for which designated portions of the land may be withdrawn upon approval of the UNCA management.

Most second generation statutes provide sufficient flexibility by permitting noncontiguous parcels and the expandability concept. Where the condominium laws have not been revised by second generation statutes, the preparers of condominium documents have attempted to solve these problems by one of three methods. The first calls for the development of a series of individual condominiums sharing common elements that are owned by a separate nonprofit entity. This approach is flawed by the potential illegality of joint budgeting under existing law. However, it can be a means by which the UNCA can become involved in neighborhood activities.

The second approach (the "Chinese menu") indicates in the initial declaration the ownership shares of all of the units, as set forth in the first phase of the project. It also allocates alternate shares to those units in the event that subsequent phases are constructed. This approach is justified on the basis that all interests are set forth in the declaration, and satisfies the precise requirements of the condominium statute. However, this technique is questionable in some states because it alters a fixed legal interest--the assigned percentage of ownership. It can also bind the UNCAP developer to a fixed program of development, which may not be possible in the face of changing demands.

The third approach, which also conflicts with State law, is the use of a retained power of attorney by which the declarant reserves each owners' right to vote on an amendment changing the percentages. This approach is almost unusable because it sustains multiple powers of attorney over time.

Creation of the HOA

For the most part, States have no statutory laws directly dealing with the creation and operation of homeowners associations.* The basic applicable legal structure is a State's real estate law, as it specifically applies to deed restrictions and covenants, and the State's corporate law, particularly the nonprofit corporate code. Most HOAs are incorporated and thus operate in accordance with that code.

* Virginia, New York, New Jersey, California, and Idaho are among the states which have enacted or are considering such enabling or regulatory legislation.

Four essential legal steps are necessary for the creation of the HOA, as indicated below. These work only when the owner(s) of the land subject to the documents agree to the conversion.

A plat must be prepared showing the property subjected to the covenants, conditions, and restrictions. The plat serves the function of a deed in conjunction with the declaration, subjecting the property to the regime being created. The common properties as shown on the plat must be conveyed to the association.

About the same time, a declaration must be prepared and recorded covering the land shown on the plat. The association's articles of incorporation and bylaws must also be prepared and filed with the appropriate State agency (also see chapter on Community Association Documents).

Lastly, the process comes to fruition through the sale and conveyance of units shown on the plat--by means of deeds which are subject to the declaration.

Real Estate Law

The local PUD ordinance and general principles of real estate covenant law control the formation of the HOA to a greater degree than any specific provision of State real estate law. Prior to the creation of an HOA, the UNCAT attorney should review the following:

- rules governing preparation and recording of a plat;
- restrictive covenants including enforcement, reciprocal negative easements, common scheme of restrictions, staged developments, and removal;
- affirmative covenants including assessments, liens, personal obligations, homestead exemptions, mortgage lender relationships, and tenants;

- o additional property; and

- o duration of covenants, modification, and amendment.

Two excellent sourcebooks on State real estate law are The Homes Association Handbook (Technical Bulletin 50 of the Urban Land Institute) and Creating a Community Association, of the Community Associations Institute/ULI.

Party Walls

Many urban neighborhood HOAs are clusters of townhouses or rowhouses, for which local law on party walls is particularly important. A "party wall" is a wall which divides two connected and mutually supported buildings and benefits the owners of dwellings on either side. The architectural design and attached housing normally demands the creation and existence of party walls and mutual easements (rights of use) between adjacent unit owners.

Since existence of a party wall may give rise to owner disputes, it is important that party wall covenants be firmly established and enforced, particularly in regard to maintenance and repair. UNCA documents should state that if an owner fails to pay his share of expenses for wall maintenance, the adjacent owner may attempt to recover the money in an ordinary personal action, as for a debt. Provisions should also be made for shared rebuilding expenses in the event of destruction or damage not stemming from personal negligence.

Flexibility and Uses of the Home Owners Association

The HOA is much more easily expanded than the condominium because it owns common property and all owners are members without delegated portions of ownership interest. Expansion, moreover, does not affect a vested property right. Land can be added if the right is reserved in the original declaration. Legal issues can be resolved by thoughtful document preparation.

Corporate Law

Both in the condominium and the HOA, corporate law provides a framework for the operation of the UNCA. The corporate organizational questions are also very important to the UNCAT in determining the UNCA's organizational form.

Organizational Form of the Developer

Sponsor type (i.e., organization as a corporation, partnership, or joint venture) should be determined by factors such as potential liability, income taxation, and allocation of managerial control. In some cases (e.g., sponsorship by a governmental agency), the sponsor may already exist in its most appropriate form so that there is no need to create a new business entity to act as sponsor.

In most cases, however, the UNCAT must determine how its business objectives can best be met. Often the formation of a developer/sponsor will result in at least one corporation. The State statute of incorporation governs most of the relationships among principals in the corporation, and the chief sponsor or developers exercise control as members of the Board of Directors.

Developers of real estate projects are often organized as full or limited partnerships, which offer tax advantages. Tax deductions from depreciation and mortgage interest can be used to shelter income from other sources. However, these opportunities are usually lost when units are sold; in such a conversion, realized income exceeds acquisition and development costs. Depreciation deductions may be allowable during the period of development (if the property is also held for rental during this period). These deductions, however, are generally too small in relation to sales income to produce tax shelter benefits.

The principal advantage of a corporation over a partnership is limited liability. Financial liability for the developer is potentially large, and includes responsibility for borrowing large amounts of money, selling units, and paying for personal injury or property damage resulting from construction or rehabilitation.

Since the corporation (rather than its principal investors or shareholders) transacts business, the liability of investors is limited to loss of investments in the corporation. In a partnership, each partner is potentially liable. A limited partnership can be used to limit the liability of partners. However, at least one of the partners must be a general partner, with unlimited liability. Usually the general partner will be the sponsor group or individual developer--and may be a corporation. In the absence of tax shelter incentives, a limited partnership with corporate general partner has no significant advantage over a single corporate sponsor with all principal investors participating as shareholders.

If the development group consists of more than one organization, there are several options: (1) each organization can remain a separate corporation; (2) each organization can join in a limited partnership specifying a corporate general partner; and (3) a separate sponsor group can be formed as a new corporation in partnership with the other organizations.

Partnerships and joint ventures provide the most flexibility in allocating control. Under most State corporate statutes, corporations have a relatively formal, centralized management with decisionmaking powers held by a Board of Directors. In addition, a corporation remains primarily responsible to its shareholders--a situation with the potential for conflict if sponsor personnel rather than unit owners serve on the UNCA's Board of Directors.

Fiduciary Duties of the UNCA'S Officers and Directors

The responsibilities and basic powers of an incorporated or unincorporated association are the same; its standards of conduct are similar to those required of the officers of a not-for-profit corporation. The directors, elected by and responsible to the association's members, develop policy and ensure supervision of the association. The officers, elected "by and from the board" and responsible to the directors, direct the execution of policy and day-to-day operations.

The first fiduciary duty required of officers and directors is to observe the "business judgment rule"--essentially, the law of negligence. Under this rule, a director who acts reasonably will not be liable for decisions or actions which result in losses to the association. Lack of reasonable supervision and delegation of too much responsibility to agents are examples of actions resulting in liability. A court will ordinarily not interfere with the internal affairs of a corporation so long as its decisions have a reasonable basis. In applying the standards of reasonableness, courts have considered subjective as well as objective factors--including the nature of the enterprise, the director's commitment in terms of time, and the nature of the director's experience.

The second part of fiduciary duty is good faith. When making a business decision, a director must act in good faith reflecting a free, honest exercise in judgment not influenced by personal or other considerations.

Fiduciary duty mandates that a good faith effort works for the association's benefit; this duty is most sensitive, and courts will closely scrutinize any action which appears to involve self-interest.

The general requirement to act with good faith--as well as diligence, care, and skill--applies to Board decisions, including rule enforcement, assessment collection, review of architectural changes, and many others. The Board's failure to discharge this duty can subject the director to personal liability.

The fiduciary obligation can arise not only from the business relationship, but also stems from the nature of control. When an officer or director is able through his or her position to directly influence the rights, interest, and property of another, he or she must maintain the trust and confidence of the other person and is held to a high standard of conduct. This is particularly true when the developer or sponsor totally dominates the association.

Title Law

The UNCA sponsor and UNCAT must consider both the law and practice concerning land titles and title insurance. Of particular interest are:

- o the timespan for conveyance of the title;
- o the initial titleholder in the event the title is held until sweat equity work is performed; and
- o the jurisdiction's title standards.

Eminent Domain

The State law on eminent domain affects both the acquisition of property and its taking under an UNCA. The State condominium act should be reviewed and should be examined by the UNCAT for possible eminent domain provisions.

Nuisance

Law of private nuisance generally provides individuals with protection from interference by others in the reasonable use and enjoyment of their property. Because the law of private nuisance has its origin in the common law, its interpretation will vary from State to State. It is almost universally recognized that land ownership carries the right to have one's property unimpaired and the right to reasonable comfort and convenience in the occupation of that property. When these rights are threatened, any of the following remedies may be used:

- Money damages can be recovered for a loss of value in the use or enjoyment of the property. This loss can result from personal discomfort or inconvenience, and personal or property injury.
- Injunctions may be applied under general principles of equity. These principles include consideration of the relative economic hardship of the parties, the good faith exhibited by their conduct, and the conduct's value to the public.
- Self-help may be permitted when immediate harm is imminent. This concept includes entry on another party's land and the use of all reasonable force as is necessary to terminate the nuisance. Self-help may even permit the destruction of valuable property if the damage is consistent with the threatened harm. It does not, however, usually include personal injury to another.

Warranties

Warranties are of two types: express and implied. Generally, the express warranty is either included in the contract of sale or is presented separately at the time of closing. This warranty generally runs from one or two years and is somewhat vague in its wording.

There are two major problems concerning the express warranty. First, it usually does not refer in any manner to the common elements--and this creates confusion concerning construction problems in the common area.

First, it usually does not refer in any manner to the common elements--and this creates confusion concerning construction problems in the common area. This problem is aggravated when construction on the common area takes place throughout the development period, exceeding warranty limits on individual units. The second problem, common in the home building industry as well as in condominiums and HOAs, is lack of specificity--and particularly, the use of broad disclaimers. In its model warranty program, the National Association of Home Builders has begun to take positive action toward alleviating this situation.

The result of these deficiencies is the absence of any express warranty regarding common elements in most condominium and homeowners association projects. In those instances in which express warranties have been made--either orally or in writing--they are generally enforceable under basic theories of contract law.

As of 1979, 25 states have required that the sale of a dwelling by a vendor-builder carries with it an implied warranty that the dwelling is constructed in a reasonably workmanlike manner and is fit for habitation. Four additional states have also extended that rule to leasehold interests in real estate.

INTRODUCTION TO FEDERAL LAW

Constitutional Issues

Potential constitutional issues confronting an UNCA stem from the First, Fifth, and Fourteenth Amendments and include freedom of association, due process, equal protection of the law, and privacy. These issues are faced at all stages of the UNCA process. For example, the means of acquiring and marketing property can result in constitutional questions.

Both the standards and methods for choosing an UNCA's members may present constitutional issues as well. If the sponsor and UNCAT wish to limit participation in the UNCA, due process requires reasonable standards that are free from favoritism, partiality, and arbitrariness.

As long as the UNCAT is a private group, constitutional proscriptions do not expressly apply. If any member of the UNCAT is a public or quasi-public body, the constitutional principles may come into play either directly or indirectly.

A number of operational and administrative issues are directly affected by due process and equal protection principles (see document chapter for details); these will impact on initial planning. As noted above, the association's mandatory nature and its authority to affect property by and through State law are essentially governmental. The most serious problems relating to governmental operation relate to:

- o deciding whether the Board or the association membership should make major decisions;
- o determining if a decision is reasonably related to the purposes of the association, and reasonable in its import and effect; and
- o judging whether procedures are fair and in accordance with the applicable statutes.

Rulemaking

Substantial court activity has involved rulemaking and architectural control. Several cardinal principles apply. First, rules are made in accordance with the declaration and bylaws resemble municipal ordinances. Because the unit owners are living in proximity and using common facilities, each unit owner must give up a certain degree of freedom of choice which he or she might otherwise enjoy in separate, privately owned property.

The owners comprise a "democratic subsociety" which has the power to make rules. And, as one court stated, the test of the enforceability of those rules is the rule of reasonableness. Courts have also required that rules be precise enough to be understood.

The rules should be tailored to fit specific needs, as follows:

- they should vary substantially from year to year, with the composition of the Board;
- they should contain specific, detailed standards;
- they must be reviewed by members prior to their effective date;
- they should not be adopted if the association can or will not enforce it; and
- they should be reasonably related to the purposes indicated in the declaration and State statute.

A failure to heed these guidelines for rule enforcement will create potential liability for members of the Board and the association's members.

Assessments

The courts have strictly construed declaration and statutory provisions for levying and collecting assessments. They have carefully analyzed the imposition of any charges not originally authorized or contemplated by the declaration, and have been conservative in approving amendments. To gain approval, amendments must be reasonable in light of the overall development scheme.

Nature of Occupancy

The courts have upheld both public (ordinance) and private (covenant) restrictions dealing with the nature of occupancy. For example, several courts have upheld provisions in condominium documents requiring that all units be owner (rather than renter) occupied. In one leading case, the court pointed out the "uniqueness" of condominium living and the resulting "necessity for greater control over and limitation upon the rights of individual owners."

Restrictions upon the age, number and relationship of occupants have generally been upheld when the courts have found valid purposes and reasonable restrictions uniformly applied.

The courts have also upheld public policies arising from the community association form of ownership. They have held that these associations are democratic subsocieties in which some of the normal freedoms of action associated with property ownership must give way to commonality of interest and ownership. The key is to define the "public policy" of the particular association in the creating documents and to be reasonable in enforcement.

Speculation/Resale Control

The sponsor and UNCAT may want to control resales in order to limit speculative profit (suggested approaches are included in the Documents chapter). Local real estate law will determine alienability of property and the relative flexibility of the courts on such issues. Absolute restrictions on the right of a property owner to sell his or her property are prohibited and will not be accepted by FHA, VA, and other agencies. Once again, restraint must be reasonable and applied in a non-discriminatory manner.

The courts have upheld restrictions such as rights of first refusal which restrained but did not prohibit the right to sell. An absolute prohibition on resales would probably not be enforceable. One limiting resale for a specified period of time may be valid in some circumstances.

Covenant limits on profit realized upon resale are valid if the restraint is limited in scope and time; the restraint must also be reasonable in the amount of the limitation and the uses to which the recaptured profit will be put.

A buy-back or pre-emptive right is clearly valid if its terms are reasonable. This policy prevents speculation and encourages the UNCA concept by (1) keeping housing available and funding other projects, and (2) permitting equity appreciation and realization, as in any other homeownership system. Clearly, the UNCA should first determine its policies as the foundation upon which its legal arguments are built.

Federal Tax Code

The UNCA, regardless of its status under State law, is considered a corporation for Federal income tax purposes. The term "corporation" in the Internal Revenue Code is defined to include "associations," so that even an unincorporated association will be included within its meaning (an unincorporated UNCA may be treated as a partnership or trust, under certain unusual circumstances). This means that the association may have a tax liability for any year during which it spends less than all of its income (including assessments) for deductible expenses.

This is contrary to the assumption that profit has nothing to do with the association's purposes. It is true that an UNCA merely functions as a conduit through which members spend money for personal, housing-related expenses. Nevertheless, the duty applies and may be enforced through criminal as well as civil penalties. Certain opportunities for tax planning can at least mitigate tax liability and in many cases eliminate it altogether, although the burden of preparing and filing returns cannot be avoided.

Previous to 1976, no financial reserve (i.e., for repair and replacement of roofs, pavement, and other expensive capital assets) could be accumulated without incurring a tax liability because assessments (income) had to exceed expenses in order to build the reserve. This meant that at least 20% (the corporate income tax rate on the first $25,000) of assessments used for reserve fund contributions could be, in effect, wasted by constituting an income tax liability. The Internal Revenue Service's suggested remedy was to treat assessments (under very restricted circumstances) as contributions to capital rather than income. These techniques seriously restricted the UNCA's flexibility in using its reserves.

The Tax Reform Act of 1976 added Section 528 to the Internal Revenue Code. Section 528 applies only to associations voluntarily electing its application. Under Section 528, the UNCA must file each year's return on Form 1120-H, meeting various conditions concerning function and financial operation. (Most condominiums and HOAs will meet these conditions except when large transactions such as the sale of common elements take place.)

The effect of Section 528 is to exclude all owner/member assessments from income for tax purposes (and, conversely, to prohibit the deduction of most of the association's expenses). If 528 is not elected, the association is taxed like any other corporation, as described above. Section 528 has simplified the income tax burden of associations electing and qualifying for its use, but at least two problems remain and deserve some tax planning attention.

First, 528 raises the tax rate for non-exempt income. The rate increase is substantial: from 17% for the first $25,000 under the latest (1979) rules to 46% for all income not exempted under Section 528. The income most likely to be affected is interest received from investing the reserve fund. The increased tax rate under Section 528 is a high price to pay for any association with substantial reserves. It effectively reduces the after-tax rate of return to only about half of the nominal interest rate.

Techniques for accumulating reserves as capital contributions rather than income, based on the rulings described above, should be considered if application of Section 528 is not elected. However, loss of flexibility and risk of uncertain tax consequences will in most cases outweigh the advantages of these techniques.

The second problem results from imposing an additional legal entity between property owners and their tax deductible individual expenditures. Owners itemizing deductions for income tax purposes may deduct payments for interest and <u>ad valorem</u> taxes on their real and personal property. They cannot, however, deduct interest paid by the association or taxes on association-owned property, even though the source of funds for these payments is the assessment paid by these same owners. For moderate-income owners who are less likely to itemize deductions, this loss may have no real consequences. Such tax consequences should always be considered when deciding how the title to common elements is to be held, or whether the association (rather than members) should incur any interest-bearing indebtedness.

HUD Programs

Federal programs such as Urban Development Action Grants, Community Development Block Grants, and Neighborhood Strategy Areas can increase the potential for neighborhood impact. Available only in conjunction with local government efforts, these are discussed in more detail in the chapters "UNCA in the Neighborhood" and "Finance."

Specific HUD property disposition rules govern the UNCA's ability to acquire Secretary-owned housing for the purpose of conversion. Since rules change regularly, the UNCAT should consult the HUD area office for recent information.

Federal Labor Laws

Federal labor laws may affect both the construction stage and the lifetime of an ongoing UNCA. If Federal funds are used during construction, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Occupational Safety and Health Act will come into play.

The Davis-Bacon Act essentially sets a minimum wage platform for all laborers and mechanics employed on Federal and federally assisted contracts for construction, alteration, repair, painting, or decorating on any project of six units or more with expenses exceeding $2,000. It requires both contractors and subcontractors to pay their craftsmen the prevailing regional wage rate. The complexity of the Davis-Bacon regulations have bred numerous disputes and the Act should be interpreted carefully to avoid lengthy and expensive delays.

The Contract Work Hours and Safety Standards Act applies to laborers or mechanics employed on projects receiving financing under any Federal statute which provides wage standards for such work. This act requires that covered personnel receive at least 1 1/2 times the basic rate of pay for all hours worked in excess of 8 hours per day or 40 hours per work week. A contractor or subcontractor violating this prescription is liable not only to the affected employee but also to the Federal government for liquidated damages. These amount to $10.00 per day for each day the employee worked overtime without proper compensation. A Federal agency may withhold funding from the project in amounts necessary to satisfy the unpaid wages and damages.

Safety standards potentially affecting UNCAs are authorized under both the Contract Work Hours and Safety Standards Act and the Occupational Safety and Health Act. Each authorizes inspections to determine compliance with health and safety regulations. Under the Safety Standards Act, noncompliance can result in the withholding of Federal funds designated for payment. Additionally, the Occupational Safety and Health Administration (OSHA) has the authority to impose penalties and mandate the abatement of the safety and health hazard within a certain time period. The penalties are generally monetary, but in serious cases can amount to criminal liability.

Finally, UNCA personnel should be aware of the potential application of the Fair Labor Standards Act. This act applies to enterprises with employees who are engaged in interstate commerce or involved with goods or materials moving through interstate commerce. Employees who, for example, regularly use the mails, telephone, or telegraph for interstate communication or who regularly cross State lines in the course of their work would be covered by the Act. The Act sets minimum wage, overtime pay, equal pay, and child labor protections. Some employees are exempted from the minimum wage and overtime provisions. Since exemptions are changeable, the concerned UNCA's should consult the most recent terms of the Act to determine their applicability.

Chapter 4: FINANCE

INTRODUCTION

Financing the development of an UNCA demands a sophisticated knowledge of and experience with real estate finance methods. Although the need to develop an UNCA or any other form of housing project for low and moderate income persons arises in part from a recognition of the failure of the free housing market to provide for everyone, UNCA developers must understand and use the tools of the private market. Even assisted housing must meet the standards and feasibility tests of any other real estate project.

OVERVIEW OF DEVELOPMENT FINANCE

An UNCA developer becomes an enterpreneur through his/her roles in initiating the process, taking the financial risks, and coordinating the project participants. It is often assumed that profit may be only one of a developer's motivations, and it may not even be included in the objectives for developing an UNCA. However, no housing project can succeed unless it works financially, providing a reasonable return for its investors.

The Concept of Risk

Risk--or the likelihood of failure--is at the heart of real estate investment. The risks of developing each project must be carefully assessed; the less risky it is, the easier it will be to put together the financial package and obtain financing at a reasonable cost. The variations on risk include the following:

- the risk that the developer will never complete the project;

- o the risk that the project will not generate enough revenue to support the costs of development and rehabilitation;
- o the risk that the UNCA unit owners will not be able to pay mortgage payments or assessments; and
- o the risk that the market value of the project will fall below the level of investment made by sponsors and purchasers.

Return on Investment

In return for taking on risk, any party investing in an UNCA expects a certain return on an investment of time or money:

- o the UNCA sponsor may seek to provide viable moderate income housing and/or expect a certain profit margin;
- o the purchaser of an UNCA unit may want decent shelter and/or property value appreciation and equity buildup;
- o the lenders seek regular income from unit mortgages at a specific rate of interest; and
- o the municipal government, if involved, will seek property tax revenue.

Returns on investment can therefore take on several forms--interest earned by lenders; profit, or excess revenues after costs have been covered; and flow of income from a mortgagor and resident in the UNCA. In rental housing, investment returns can be in tax shelter form, as explained in the section on tax considerations.

The Leveraging Concept

Real estate projects are largely financed with borrowed money because a developer does not have all of the funds necessary for completion. The amount of project cost that is not borrowed must be raised in some other way, such as cash investment by the sponsor or developer.

Real estate financing thus consists of equity, or up-front, non-borrowed money, and debt, or money that is borrowed at a specific rate of interest. Each UNCAT will have to identify the sources of both equity and debt financing.

The smaller the initial investment (equity), on any project, the greater the rate of return to that equity. Consequently, a sponsor-developer will normally attempt to borrow as much as possible of the cost of development. Leveraging is the process of reducing initial equity investment by acquiring more debt financing, thus increasing the rate of return to the initial equity. This concept is shown below in two approaches to sponsoring the same $1,000,000 property.

Initial cash investment	$100,000 (10%)	$200,000 (20%)
Borrowed financing	900,000	800,000
Interest paid on debt at 14%	63,000	56,000
Profit before interest	100,000	100,000
Net profits after interest payments	37,000	44,000
Rate of return (to equity)	37%	22%

Time Is Money

Because of the reliance on borrowed capital during development, a developer pays interest on the money used to finance construction or rehabilitation--even if delays occur and money is being "drawn down" or used. Thus, it is very much in the developer's interest to complete the project according to schedule.

The Financial "Package"

The combination of equity and debt financing can be thought of as a total package which will be used for development purposes. The manner in which it is put together will determine to a large extent the viability of the UNCA. In assembling the financial package, each UNCA sponsor must determine:

- o sources of funds;
- o the cost to use these funds (i.e., interest rate and term);
- o the organizational form of the developer, sponsor and team; and
- o returns available to various investors.

Raising Working Capital

The money that must be raised up front to undertake a project can come from several sources. The sponsor must contribute a minimum amount of money initially, since it is impossible to borrow 100% of the necessary funds. In a condominium or HOA the sponsor will get the equity back upon sale of the units. Therefore, the capital needed up front can be called working capital, and will be available to the sponsor to use in another project once the UNCA units are sold. In a cooperative the equity of the corporation (as sponsor) remains in the project. There are several ways to raise equity or working capital.

- o The sponsor can purchase the building, rehabilitate it, and sell units to eventual owners in order to retrieve the initial investment. In this option, the UNCA sponsor is sole owner during development and must contribute the full amount of working capital.

- o The UNCAP sponsor can enter a joint venture--a general partnership formed to carry out a specific business venture in which each partner has a voice equal to his relative investment in the venture. An experienced developer can contribute valuable expertise, the ability to absorb predevelopment costs, and equity capital. This relationship is prescribed by State contract law, corporate law, and the IRS tax code.

- o If the UNCA will be owned by a single or corporate entity for a period of time and leased to prospective owners, the sponsor can become a general partner and set up a limited partnership in order to syndicate or sell a portion of the equity in the project (explained further in the section on taxes). A partnership is an association of two or more persons acting as principals and contributors of capital in a business venture. Usually they share profits and losses, but remain unincorporated. A partnership can own and develop property and act as a tool for generating equity capital. Syndicating equity among limited partners is advantageous only if units are to be rented or leased immediately after development rather than sold.

- If the UNCA sponsor is a corporation (e.g., community development corporation), the actual project can be owned by the corporation and equity raised by the sale of shares. Shareholders in a corporation do not have personal liabilities beyond the amount of their actual investment.

In an HOA condominium, the corporation can either develop and sell units, or maintain ownership for a period of time during which residents would rent or lease units. In a cooperative, the owner is by definition a nonprofit corporation.

Project Financing

Raising the bulk of the funds necessary to develop an UNCA will require borrowing from one or several lending institutions. The search for debt financing will involve deciding the <u>most appropriate</u> and <u>most available</u> source of loans. The UNCA sponsor will be responsible for finding two kinds of financing: (1) short-term development financing; and (2) long-term "end loan" commitments for the unit purchaser.

The <u>short-term financing</u> covers acquisition and rehabilitation or construction of the property, along with some predevelopment front end costs for the sponsor. During the development period, the developer pays only the interest on the loan.

Once the project is developed, <u>permanent</u> loans are secured which buy out the development loans. In a cooperative, permanent financing will consist of one mortgage for the whole project. In a condominium or HOA, permanent financing will consist of one end loan per unit. Permanent loans are often called take-out mechanisms because they essentially buy out the short-term development loans. Usually the short-term lender requires assurances of permanent financing in order to be guaranteed repayment.

Because the risks of development are considerable, interest rates for short-term financing are generally higher than those for permanent financing. Construction financing is "drawn down" (released incrementally) as development continues, and interest is charged only for the amount of funds already drawn down.

Once the project is completed, financing involves a different set of risks. In a condominium or HOA, each purchaser of a unit is assessed for his or her credit risk. The end loans are in the form of mortgages, and the property is the security for the loan. A lender may place a lien on the unit if the owner defaults or does not pay debt service. A mortgage is an amortized loan--i.e., debt service includes payments on principal interest.

Because there is a considerable amount of financial interdependence in a common interest project (i.e., condominium or HOA), a lender must consider the viability of the entire project by examining:

- the governing documents identifying the structure of developer control;
- the definition and arrangements for the common elements;
- subordination of assessment liens; and
- provisions for foreclosures.

Special Considerations for Conversions

Financing a building's conversion from rental housing to a form of ownership is unique because the existing mortgage must usually be refinanced in some manner. There will probably be no established release procedure.

A <u>bridge</u> or interim loan provides an instrument for paying off the existing mortgage and supplementing the funds necessary to acquire, improve or market the property. The bridge loan is available from the lender now holding the mortgage or a new lender who will finance any development or rehabilitation costs.

The seller of the property can participate in the conversion by taking back a <u>purchase money mortgage</u> from the UNCA sponsor. The seller then becomes a lender and accepts a mortgage from the buyer in payment for the purchase price.

A <u>wrap around mortgage</u> is an instrument by which an investor (such as a lender or the original owner) can assume liability for payment on the existing mortgage by the UNCA sponsor, as borrower. The investor can advance additional money to the borrower, usually at a higher rate of interest. The sponsor will repay the investor for the entire amount of the wrap around, and the investor will pay the first mortgage holder.

Special Considerations for Rehabilitation

In certain areas, obtaining financing for a rehabilitation project may be more difficult than for new construction due to a different set of development risks:

- o it is more difficult to make accurate estimates of what it will cost to rehabilitate an existing structure;
- o closer supervision will be necessary; and
- o the rehabilitation industry is relatively new--characterized by small firms operating in limited areas.

In some areas of the country, lenders may not be as familiar with rehabilitation and therefore are more reluctant to take on the risks.

Consequently, the UNCAT or sponsor must be prepared to deliver convincing arguments that the project is viable.

POTENTIAL RESIDENTS

A primary UNCA objective is to develop housing which is affordable to a given group. This is a deviation from the "normal" housing feasibility analysis. A further deviation is that the market of potential residents may already be defined by the existing tenants or the existing residents in the neighborhood.

Income Levels of UNCA Residents

Resident income levels will determine what amounts can be spent in acquisition and rehabilitation of the property. Assuming that a family can afford to spend 25% of household income on housing, a family with an income of $10,000 yearly would spend about $208 per month on shelter. However, the 25% ceiling is rapidly becoming outdated. Because the costs of housing are increasing so quickly, most families--particularly those with low incomes--are spending larger percentages of their income on shelter. Lending institutions reflect these higher standards in determining whether a family can afford to support a mortgage. The following table reflects a more realistic summary of funds available for housing using 35% of monthly income.

Housing Income for a Family of Four	Available Monthly Expenditure
$10,000	$292
$11,000	$321
$12,000	$350
$13,000	$379
$14,000	$408
$15,000	$437
$16,000	$467
$17,000	$496
$18,000	$525
$19,000	$554
$20,000	$583

UNCA residents must cover the costs of principal and interest payments on the mortgage, taxes, insurance, utilities, and the monthly association assessment fee--which usually includes most of the costs of insurance and a portion of utility costs (see Table IV.1).

Table IV.1: DISTRIBUTION OF HOUSING EXPENDITURE

Household Income for a Family of Four	Monthly Expendi- ture (30% Income)*	Cost of Unit	Debt Service 80% Mortgage at 10 1/2%-30 yrs.**		Ass'n Fee	Amount Remaining for Other Housing Expenses***
			Mtge Amount	Debt Service		
$10,000	$ 250	$20,000	$16,000	$ 146	$ 50	$ 54
11,000	275	20,000	16,000	146	50	79
12,000	300	22,500	18,000	165	60	75
13,000	325	22,500	18,000	165	70	90
14,000	350	22,500	18,000	165	90	95
15,000	375	25,000	20,000	183	90	102
16,000	400	31,250	25,000	229	90	81
17,000	425	31,250	25,000	229	90	106
18,000	450	37,500	30,000	275	90	85
19,000	475	37,500	30,000	275	100	100
20,000	500	43,750	35,000	320	100	80

* The 30% or other rule-of-thumb used will indicate what portion of income is necessary to cover principal, interest, taxes and insurance (PITI) only. This means that families with these incomes may be considered eligible for even higher mortgages. Any additional costs would then increase the percentage of income spent on housing, but should not jeopardize a family's eligibility to secure a mortgage.

** This table makes no assumptions that any publicly assisted program will be used. This is especially important given the downpayments indicated ($4,000 to $8,750); families in the income levels shown would find it very difficult to raise the required cash. One or several methods of assistance would probably be necessary. If private mortgage insurance (PMI) is obtained, a family can secure a 90% mortgage, and a PMI premium must then be added to monthly costs.

*** Other expenses may include utilities (not included in an association assessment), personal property taxes, and insurance for personal belongings.

FEASIBILITY ANALYSIS OF THE CONVERSION

The first task of a feasibility study is gathering of information to determine the costs involved in development and conversion. These costs can be divided into several clusters:

- acquisition and closing costs (title search, title insurance, and transfer taxes);
- rehabilitation costs (materials and labor, administrative supervision, builder/contractors' insurance, plans and specification preparation, engineering studies, architectural design fee, and landscaping);
- financing costs (origination and commitment fees and costs of any bridge or interim loans);
- sales and marketing costs (optional advertising and promotion, a brokerage fee, and maintenance of a model unit);
- operating costs during conversion (property taxes; maintenance of elevator, fuel, utilities, water, and payroll; legal costs; insurance; interest payments on short-term financing; and contingency reserve); and
- developers' overhead.

In addition, the following scheduling items should be determined:

- the month that the development loan will close;
- the month that unit sales will begin;
- the number of units sold month by month; and
- the number of units which will be rented during each month of the conversion.

After these assumptions are made, the <u>income</u> that will be available to the sponsor can be determined month by month. The costs of developing the project can also be projected month by month as rehabilitation is begun and completed, and fees and interest are paid.

Such assessments are essential to creating a realistic and useable feasibility study. The study also needs to reflect revenue or income sufficient to cover the costs of operation over the long term, and the necessary return on investment to all of the principal contributors.

Appendix IV.1, presents a sample breakdown of costs for developing an UNCA in a 20-unit existing structure.

Feasibility of Established UNCA

Although the developer will not be involved financially after the conversion is completed, the feasibility analysis should also show the costs of operation of common elements of the property. Both annual (recurring) and maintenance costs should be accounted for, as well as insurance fees and real estate and property taxes. Table IV.2 shows other considerations and information sources.

Once the operating budget has been determined, each owner's pro rata share of assessments and schedule of payment (to begin at closing) can be established.

IMPACT OF THE IRS TAX CODE ON AN UNCA

Many of the provisions of the Internal Revenue Service (IRS) tax code are designed to attract investment capital to real estate--particularly, to residential development. In particular, a preferred tax status is given to low and moderate income housing and rehabilitation of historic structures (two areas that may normally be deprived of capital); finance packages are often designed to capitalize on these benefits.

IRS tax laws apply to investor-owned housing. This discussion is therefore not relevant for a condominium or HOA, in which units will be sold to purchasers immediately after rehabilitation and conversion. However, for a leased cooperative or a leased condominium (in which ownership remains in

Table IV. 2: MANAGEMENT AND OPERATIONS BUDGET

Operating Expenses

Administrative
- Supplies
- Insurance
- Audit
- Legal
- Professional fees/Staff salaries
- Telephone

Unit Services Maintenenace
- Trash Collection
- Exterminating
- Security

Common Element Maintenenace
- Plumbing
- Electrical
- Roof
- Heating/ventilation/air conditioning
- Janitorial
- Snow Removal
- Landscape
- Miscellaneous repairs

Utilities
- Electricity
- Gas
- Oil
- Water & Sewer

Rapair and Replacement Reserves
- Roofs/gutters
- Lobby/hallways
- Electric wire/service equipment
- Light fixtures
- Soil/waste & vent piping
- Domestic water piping
- Boiler/burner
- Domestic water heating
- Circulation pump
- Laundry equipment

the hands of a sponsor, general partner, or group of limited partners for a specified period of time), investors can benefit from tax savings as explained below.

Tax planning involves two unwritten laws: pay as little as possible, and pay as late as possible. Tax benefits for housing development allow investors to have income taxed in a lower bracket and/or defer payment of taxes (both options are considered a tax shelter). These benefits can be created by two means.

First, investors may take deductions for depreciation (aging or wearing out of an asset). These deductions may exceed the amount of initial investment, and allow an investor to reduce the amount of taxes paid on income from other sources.

Secondly, investors may defer payment on any gain until the property is sold. If the gain is the result of the sale of property which has been held for the required period, the gain is eligible for a lower tax rate. The seller can choose one of two methods to achieve a lower tax rate: by reporting only half of the gain or by applying the alternate tax with a maximum rate of 25%.

These standard benefits are increased for low/moderate income housing or historic structures. Under IRS Section 167K, depreciation can be taken rapidly in the first five years of the project for rehabilitation expenses on low and moderate income substantial rehabilitation projects.

Under Section 191, similar allowances are made for rehabilitation of certified historic structures or structures within an historic district. In addition to rapid depreciation, a tax credit equal to 10% of the investment is permitted (the credit is simply subtracted from total tax liability).

Section 191 applies regardless of the prospective use of the historic building.

The impact of these tax benefits occurs when the sponsor and UNCAT are looking for equity or working capital. Investors are willing to contribute money to a project in return for partial ownership and tax shelter benefits. Through the ownership structure of a limited partnership, a sponsor can syndicate or sell equity in the project, thereby obtaining necessary capital. The wealthy investor uses the depreciation losses to offset other income and defers tax liability on the investment until sale, at which time it is taxed at capital gain rates.

The UNCA sponsor must prove that the limited partners' investment will produce enough benefits to offset initial risks. These benefits come from the expected cash flow and "paper losses" or tax shelter, and do not have any relationship to the quality or endurance of the UNCA housing. The amount of shelter available to each partner will be determined by his or her share of the equity. The impact of the shelter will also depend on the investor's income and tax bracket. The UNCA sponsor or general partner can retain any amount of equity or ownership depending on how much capital can be raised initially. Also, the number of limited partners can vary.

Syndication can be a complicated and time-consuming effort on the part of the sponsor. The use of a professional "syndicator" who will package the exhibits and identify the limited investors may be necessary. In addition, syndication may be contrary to the UNCA's objectives: ownership of the project during any leasing period will be held by investors who most likely live elsewhere, have never seen the property, and have no real interest in providing decent shelter or achieving any other neighborhood-related objectives.

Tax benefits are also available for owner/residents who itemize their taxes. Deductions can be taken for the interest paid on an individual mortgage and property taxes (condo/HOA), or the portion of monthly cooperative carrying cost that goes into interest and taxes (coop). In the early years of a mortgage, most of the monthly debt service goes to paying interest.

APPROACHING THE LENDER

The urban lending industry is more sensitive to the credit needs of low and moderate income communities than in the past years. The current climate, due in part to legislation such as the Home Mortgage Disclosure Act of 1975 and Community Reinvestment Act of 1977, supports loans for rehabilitating existing city properties.

In order to win lenders over, every loan application should indicate that:

- o the project will produce enough net earnings to insure monthly payments (in condos and HOAs, the units will be sold and occupied);
- o the borrowers (sponsor and eventual residents) have sufficient equity to cover periods of poor sales/earnings on the property; and
- o the sponsor has sufficient credit to justify the lender's confidence.

Full documents to submit with loan applications (as recommended by the National Trust for Historic Preservation) are included below.

<u>Project Description</u>

Brief narrative explaining UNCA
Photographs of building and neighborhood
Map noting location
Sample floor plans
Plat map (from title report)

<u>Debt Service Requirements</u>

Market study or explanation of local area housing need

Comparable sales (are there similar projects elsewhere in the city? metropolitan area?)
Value appraisal
Documentation of acquisition
Drawings of proposed alterations
Necessary building permits
Copies of engineering studies
- specifications of rehabilitation
- cost breakdown
- contract with rehabilitation contractor (subject to loan approval)

Documentation of UNCA Sponsor's Ability to Pay
Background, objectives of sponsor and any joint venture developer
Financial statement of developer and/or sponsor
Cash flow projection from project
Credit report

Items Relating to Buyers' (or Cooperative Members') Ability to Pay
Description of buyers' financial status
Deposit receipts on pre-sales

Sources of Funding

For short-term (development) loans, commercial banks are the principal source of financing. Because the source of their funds is more liquid, the loans they make are short-term and also more liquid. The commercial banker will service the loan by on-site supervision of the rehabilitation process to check whether the work is being completed as contracted.

For permanent financing, savings and loans (S & L's or thrifts) are a major finance source. S & L's write over half the mortgages in the United States for single family dwellings. They may be either State or federally chartered, and are in the business of making loans on properties for relatively long periods of time. Other sources include the following:

- Savings banks, or mutual savings banks, are useful for home mortgages. State chartered, they are concentrated in the Northeast.
- Commercial banks write permanent mortgages as a side business (currently holding 15% of U.S. mortgages), and are not a likely source in times of tight money.

- o Mortgage banking companies use the money of private investors to write home loans, and concentrate on FHA or VA backed mortgages. They buy and sell insured mortgages and profit from the servicing fees, and are a likely source for the project mortgage.

- o Life insurance companies, State-chartered, invest in both multi-family and single family loans.

- o Pension funds are just beginning to get into the residential investment market, although they concentrate on multi family properties. Pension funds are now buying pools of mortgages from secondary markets.

- o The seller can be the source of financing as noted above, particularly in a conversion project. This can be done through a purchase money mortgage or a contract sale. This type of arrangement should be carefully constructed to protect the purchaser (UNCA sponsor).

- o Credit unions are now allowed to write home mortgages and may be a good source for end loan commitments for an UNCA in a particular city.

OTHER ACTORS

Public Agencies

The Federal Housing Administration (FHA) does not write loans: instead, it insures them against default. Because the lender's risk is reduced, FHA interest rates usually run slightly less than market rates, and downpayments are substantially reduced. Currently, loans can be made at 97% of value for the first $25,000 and 95% of the remaining value up to the $60,000 limit.

Applications for FHA loans are made through FHA-approved lenders. Applications are sent to local HUD area offices for inspection and appraisal. For project mortgage insurance on multifamily properties, processing time can vary from 1 month to a year, depending on the program and local HUD office. Processing is accomplished in specific stages (feasibility, conditional, and firm commitment) for these multifamily project mortgages. The lender will prepare the documentation necessary on various FHA forms.

A feasibility application is suggested for rehabilitation projects to determine if the project is viable under FHA programs. At this time, there is no fee for feasibility application. It does not provide a commitment to insure.

The conditional commitment step is optional, and may be replaced by the firm commitment application. A processing fee is levied on each unit for condominiums; for cooperatives, \$2/\$1,000 of mortgage value is charged for processing a conditional commitment and \$1/\$1,000 of mortgage value for a firm commitment. Processing time for insurance on individual unit mortgages is considerably shorter--about 1 to 2 weeks for approval.

The Veterans Administration (VA) guarantees a portion of a loan (equal to a reasonable downpayment or \$25,000, whichever is less) for eligible veterans. Because of this guarantee veterans can get 100% mortgages, without a required downpayment. Like the FHA rate, the VA rate is fixed at slightly below market rates.

Because FHA/VA insured loans are available at below market interest rates, lenders will often charge <u>points</u> in order to raise the effective yield of the mortgage. Points are equal to 1% of the value of the mortgage and must be paid up front by the seller (who will include the additional cost in the property price).

Private Mortgage Insurance Companies

Private mortgage insurance companies (PMI) handle the greatest volume of mortgage insurance, and serve the same functions as FHA or VA insurance. PMIs usually insure the top 25% of the loan balance, thus allowing loans up to 95%. The premium for this insurance usually amounts to 1/4% for 90% mortgages and 1/2% for 95% mortgages.

The Secondary Markets

The secondary market allows mortgage originators to sell their mortgages--thus freeing up their funds to make more loans. The secondary market agencies in turn sell securities that represent pools or blocks of mortgages to other investors, much like stocks and bonds. Only lenders or mortgagees (rather than an UNCA developer) deal with the secondary market agencies directly. The UNCAT and sponsor should be familiar with the terms and programs, however, because they are used frequently for low and moderate cost housing loans.

The Federal National Mortgage Association (FNMA or Fannie Mae), a privately owned corporation, trades in government backed and conventional mortgages and provides liquidity for the national market. Its activities are explained in more detail later in this chapter.

The Government National Mortgage Association (GNMA or Ginnie Mae) is part of HUD. It subsidizes housing by purchasing publicly subsidized mortgages at above market prices and selling them to investors at market value--absorbing the cost differential. The term "tandem plan" refers to the FNMA administration of GNMA housing programs. Tandem programs 27 and 29 are explained later in this chapter.

The GNMA pass-through program provides securities from a pool of FHA/VA mortgages. The mortgages in the pool are serviced by the original lenders, GNMA guarantees payment of principal and interest, and all payments are passed through to the holders of the securities.

The Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mae) is another private secondary market agency for residential mortgages which buys principally from S & L's.

The Regulators

The Federal Home Loan Bank Board (FHLBB) regulates federally chartered savings and loan institutions. FHLBB has been instrumental in increasing the availability of mortgage funds in central city areas through the programs listed below.

- o The Office of Community Investment provides training materials, educational sessions, and other technical assistance to S & L's working with public programs.
- o The Community Investment Fund (CIF) provides a Bank Board commitment of $10 billion in below-market loans to member institutions for purchase and rehabilitation of over 300,000 housing units.
- o Special waivers have been used to modify regulatory requirements.

For instance, 10 Pittsburgh S & L's and three banks with FHLBB supervision will originate $14 million in Title I loans to be repurchased with recourse by the Pittsburgh Urban Redevelopment Authority.

The National Credit Union Administration (NCUA) regulates federally chartered credit unions. It has developed a training program for persons interested in chartering community development credit unions. NCUA is now allowing credit unions to sell mortgages on the secondary market to FNMA, GNMA, and the FHLMC.

The Community Reinvestment Act (CRA) of 1977 required that all Federal financial regulatory agencies encourage lenders to meet the credit needs of the community they serve. A CRA statement and past performance record is used when a lender applies for a charter, expansion, relocation, or other regulated activity to ensure that the lender has historically met the needs of the low and moderate income residents.

The Neighborhood Reinvestment Corporation (formerly the Urban Reinvestment Task Force), under the direction of a board of directors from HUD and the regulatory agencies, administers the Neighborhood Housing Services (NHS) program. Currently operating in 75 cities, NHS establishes a non-profit partnership of residents, representatives of municipal government, and lending institutions. This local corporation provides a number of services to certain neighborhoods, such as establishing revolving loan funds, to increase rehabilitation activity and support ownership.

INTRODUCTION TO USING FEDERAL AND LOCAL PROGRAMS IN THE DEVELOPMENT OF AN UNCA

Table IV.3, following, is a guide to Federal, State, and local programs potentially available to an UNCA sponsor. Several warning signals should be noted for all of these programs:

- Even if the program has existed for several years, regulations and funding levels change frequently. Check with the appropriate agency to obtain specific figures and criteria for eligibility.

- These are public programs administered by local offices of a Federal agency or various State or municipal agencies. Each UNCA sponsor must approach and work with local personnel first; it may take considerable time and effort to put together a funding package.

- There is never enough money to go around, since the demand for subsidized housing programs is higher than the supply. However, it is easier to get money under certain programs and localities than in others.

In any case, having an UNCAT member who is familiar with housing and development program regulations is very advantageous. An experienced grantsperson who can put together good grant applications will also assist an UNCA team in obtaining public funding.

Table IV. : GUIDE TO PROGRAMS FOR AN UNCAP SPONSOR

	Programs Which Reduce Cost of Mortgage Interest Rate or Downpayment	Programs Reducing Cost of Rehabilitation Financing	Methods of Reducing Costs of Property Acquisition
For project mortgage	S. 234(d) with GNMA S. 213 for coops	S. 312 CETA FNMA rehabilitation loan program	° Acquire HUD-held (S.246) properties ° Acquire city-held properties ° Receive a gift ° Community land trust
For unit purchaser	S. 235 S. 234(c) with GNMA Program 27 or 29 S. 213 for coops S. 245 State Housing Finance Agencies Local tax revenue bonds mortgage plans Local or state housing assistance programs VA insurance	S. 312 Local/CDBG rehab loan programs	

FHA MORTGAGE INSURANCE AND ASSISTANCE PROGRAM

HUD/Federal Housing Administration (FHA) mortgage insurance programs provide Federal insurance for mortgages written under various sections of the National Housing Act. Depending on the program, downpayment or interest subsidies are also provided. Local lending institutions will provide mortgages under any number of HUD/FHA housing programs.

Mortgage insurance programs mean that the mortgage held by the bank is insured by HUD. In the event of default, the mortgage can be assigned to HUD by the bank. A mortgage insurance premium (MIP) is paid by the mortgagor (UNCA sponsor and buyers of the units) in order to insure the mortgage. For most FHA programs, the MIP is 1/2 of 1% of the unpaid balance of the principal. It is paid monthly and effectively raises the interest rate by 1/2%.

Section 234(d)

Under Section 234(d), FHA insures mortgages to finance construction of condominium projects or to finance substantial rehabilitation of an existing property to be converted to a condominium (project mortgage).

Individual units can be released from the blanket S.234(d) mortgage, sold to purchasers, and insured under S.234(c); sold and subsidized under S.235(i); or financed conventionally.

Section 234(c)

Section 234(c) provides FHA mortgage insurance for condominium units in projects of 12 units or more which must be constructed or rehabilitated under S.234(d) or any FHA mortgage insurance program for unsubsidized multifamily rental buildings. A property containing 11 units or less may be converted to a condominium and insured under S.234(c) even if it was not built or rehabilitated and insured under a section of the Housing Act.

Section 235(i)

Section 235(i) is a program for single-family homeownership assistance which reduces the interest cost on the mortgage for the purchaser.

A sponsor of a condominium built or substantially rehabilitated under S.234(d) can secure a convertible commitment for S.235(i) if the unit is to be sold to a family eligible for assistance payments. The statutory limit that not more than 40% of the units in a project can be insured under S.235 may be waived if there is rehabilitation or if the project is located in an urban neighborhood with an established plan for redevelopment, allowing for subsidized units. Even if the property is less than 11 units, or if the property was originally built under a HUD/FHA insurance program, substantial rehabilitation is necessary if the building is to be converted to a condominium and the units sold under S.235(i).

A Comparison

If an UNCA sponsor develops under a Section 234(d) project mortgage, the downpayment is reduced to 10%. Also, it is possible to release the project mortgage for sale of individual units under S.234(c) or 235(i), if there is an 80% presale.

Sections 234(c) and 235(i) reduce the cost of purchase for the unit owners. First, both programs substantially reduce the downpayment requirement under both programs. Also, under S.234, the FHA interest rate is slightly less than market interest (S.234 can provide lower cost mortgages when used with Program 27 or Program 29, the targeted tandem programs of

GNMA.) Finally, Section 235 provides a very viable option for a sponsor to use in developing low cost condominium units. Because of the maximum mortgage amounts, it is easier to develop condominium units at these costs than detached single family units.

For an illustration of how an UNCAP could be financed under S. 234 or S.235, see Appendix IV.2. For further information on processing and availability of funds, contact the local HUD/FHA area office. Local lending institutions which participate in FHA programs will also have the necessary forms and information.

Section 213

Under Section 213, FHA insures mortgages for cooperative housing projects of five or more units for construction, acquisition, rehabilitation, or improvement and resale of memberships. Management-type cooperatives which are initiated by a cooperative corporation (presale management cooperative) or by an investor, and sold to a cooperative corporation, are eligible under Section 213. Here, the corporation owning the cooperative is the mortgagor. A nonprofit sponsor is not eligible to use S.213 and must use S.221(d)(3).

A presale is a group of residents that have already formed a cooperative corporation. In a presale, the monthly cost of a unit in a cooperative insured under S.213 is only slightly less than a comparable condominium unit insured under S.234. The downpayment necessary from a for-profit sponsor is the same as the 10% required under S.234. Upon sale to the cooperative corporation each member must pay a 2% downpayment. A nonprofit sponsor developing a cooperative must use S.221(d)(3), which allows 100% financing. This will result in slightly higher monthly costs.

Section 245

Section 245, one of the newest FHA mortgage insurance programs, insures mortgages which combine an attractively low downpayment with reduced monthly costs through a graduated payment mortgage (GPM). S.245 is applicable to the S.234 condominium program and S.203(b), the single family mortgage insurance program. Other kinds of graduated payment mortgage plans are also available without FHA insurance from savings and loans.

With S.245, mortgage payments during the first years of ownership are lower than comparable FHA rates, and rise over a period of 5 to 10 years until they are above the regular rates. Obviously, this system is best for purchasers who expect their incomes to increase over the next 10 years. During periods of inflation, the GPM mortgage is particularly attractive since later and higher payments are made with increasingly cheaper dollars. There are five payment options which vary the increases: generally, the greater the rate of increase (or the longer the period of increase), the lower the early mortgage payments.

FEDERAL NATIONAL MORTGAGE ASSOCIATION PROGRAMS

An UNCA sponsor uses FNMA programs <u>through</u> a lending institution. In most cases, with the exception of the Urban Loan Participation Program, the institution must be approved by FNMA. For condominiums and HOAs, FNMA must approve the overall project and its documents.

Project aspects examined by FNMA include:

- the legal descriptions of unit and common areas;
- insurance requirements;
- reserves and assessment procedures;
- presale requirements from 55 to 70%; and

o rights of first refusal.

The latter requirement can be a potential problem for a sponsor if it affects the "marketability" of the unit or the mortgage holder's rights.

While FNMA commitments do not reduce the costs of the mortgage, they are useful in increasing the availability of funds for common interest ownership projects in urban areas. FNMA will purchase loans for conventional condominiums and government-insured projects on similar terms.

Under the Urban Commitment Program, FNMA will purchase an individual FHA, VA, or conventional mortgage in a 1- to 4-unit property, condominium unit, or HOA unit in older urban areas. These properties can be existing, new, or undergoing substantial rehabilitation. FNMA provides a commitment to purchase mortgages for a 12-month period. Under the newest version, the commitments are not tied to specific properties.

The Urban Loan Participation program is designed to involve non-FNMA approved lenders. FNMA buys a 60-90% share in a pool of mortgages rather than single loans. Condominium or HOA unit mortgages must be in FNMA-approved projects.

FNMA has also set up a rehabilitation loan program which buys mortgages for purchase or rehabilitation of units. The rehabilitation portion of the loan will be placed in an interest-bearing escrow account which is drawn upon as work progresses. Funds are thus provided at long-term mortgage rates rather than short-term construction rates.

Another new FNMA program allows banks (commercial and savings and loans) to borrow from FNMA to finance new construction or rehabilitation in urban areas. Each loan is secured by a pool of residential mortgages. Further information on these programs can be obtained from FNMA-approved lending institutions or the FNMA Regional Offices in Chicago, Philadelphia, Atlanta, Dallas, Los Angeles, or the Washington, D.C. central office.

GNMA TANDEM PROGRAMS

FNMA has special assistance tandem programs which can be used to reduce interest rates on FHA insured mortgages. The lender utilizes and prepares their documentation. Program 27 is targeted for projects within cities and counties eligible for HUD's Urban Development Action Grant program (322 metropolitan areas). Program 29 commits money for projects within Neighborhood Strategy Areas (NSA's). S.234(d) condominium projects and S.213 or S.221(d)(3) cooperatives are eligible under Programs 27 and 29.

For a rehabilitation project, the lender obtains a GNMA purchase commitment after the FHA S.234(d) or S.213 or S.221(d)(3) feasibility letter, conditional commitment, or firm commitment is issued. For a 234(d) project, the GNMA commitment is converted to a commitment to purchase individual 234(c) unit mortgages.

LOCAL HOUSING ASSISTANCE PROGRAMS

Many states and communities are designing and implementing assistance programs to stimulate rehabilitation in urban neighborhoods or lower housing costs. An UNCA sponsor may be able to take advantage of cost savings by using these local progranms. In fact, the difference between a successful and an unsuccessful undertaking may well be the methods and support provided by local government, especially in high-cost areas.

Housing Finance Agencies

State housing finance agencies (HFA's) have been very successful in providing financing for multifamily housing and increasingly for single family ownership projects. In fact, over 60% of HFA bond issues in 1978 were for single family housing. Of the 37 states with operating agencies, 30 currently have single family programs which could be utilized for the development of a typical UNCA.

A bill recently introduced to the House Ways and Means Committee (H.R. 3712) forbids states and localities to issue tax exempt bonds for single family mortgage programs. This bill is in response to the controversial municipal bond programs for mortgages (explained later in this chapter), and essentially stops the single family bond market. An UNCAT and sponsor should check on the progress of this bill with the local HFA.

An HFA acquires funds through the sale of tax exempt notes and bonds to investors, then uses these funds for long-term mortgage and short-term construction loans for low and moderate income housing development. Because the bonds and notes are generally marketed at rates well below current mortgage lending rates, HFA's can in turn lend out money at below market interest rates.

The UNCA sponsor may be able to secure development loans through a single family program of an HFA. Some of these programs provide direct construction financing to the developer. Most of the single family development loans, however, are made through the loans-to-lenders or mortgage purchase program. In the loans-to-lenders program, the HFA lends money to bankers from bond sales which they use for low and moderate income housing mortgages. Through the mortgage purchase program, the HFA acts as a secondary market and buys below market rate mortgages with bond or note proceeds from the lenders. Most of these programs require the mortgages to be insured through FHA, VA, or private mortgage insurance.

It is important to note that an HFA may be one of the only sources for low cost mortgage money if FHA S.235 or Program 27 or 29 are not available. Sponsors should check with their State HFA (listed in the Appendix) about single family programs.

Many HFA's also have designed special mortgage programs. An example is the Minnesota Housing Finance Agency, which has funded a program directed to moderate income families which combines downpayment assistance with graduated mortgage payments.

This assistance decreases annually by $5 per month ($60/year). When the full loan is advanced, repayments increase by $10 per month until full repayment is achieved. With the initial loan ($75/monthly), assistance will continue for 15 years. The purchaser contributes from 15% to 20% of his/her adjusted income.

Local Tax-exempt Revenue Bonds for Single Family Housing

An innovative and controversial means of raising funds for housing assistance is the issuance of tax-exempt bonds. Because there is an increasing demand for affordable single family housing, and because cities want to attract this market, the use of bonds to promote homeownership is becoming popular among local governments: some 23 local governments have issued them since 1978.

Most local programs work in the same manner: the government first borrows money from investors by selling tax-exempt bonds, then relends the proceeds through a private lending institution for individual home mortgages. However, these programs are coming under closer scrutiny by housing administrators and policymakers because of several factors.

- o Tax exempt bonds produce a loss to the Federal treasury in tax revenues. (It is estimated that for every billion dollars of new issues, the treasury loses $26 million over the life of the bonds.)

- o The bonds may drive up the cost of other bond issues (i.e., roads or schools) that have traditionally been financed with bond revenue.

- o The mortgage plans have not been closely targeted to any lower-income families in need of decent housing. It is possible that the bond programs accelerate displacement of lower income residents by allowing more moderate and middle income families to buy and renovate.

- o Prices of housing locally may rise in bidding, since there are more purchasers for every existing supply of units.

Because of such disadvantages, HR 3712 (noted earlier) may disallow the issuance of tax exempt bonds to finance single family home mortgages. However, at present, local bonds can assist potential UNCA unit purchasers by providing lower interest mortgages for condominiums or HOA units.

PRIVATE SECTOR EFFORTS

In response to programs, guidelines, and legislation emphasizing urban lending, many local lenders have established assistance programs. An UNCA sponsor would be wise to identify which lenders have good records in serving the credit needs of the community. Relevant CRA statements (described earlier) are available to lenders on request.

Some examples of lender-initiated programs follow.

- o The Mechanics and Farmers Savings in Bridgeport, Connecticut, has established a $2 million fund as part of its Community Investment Fund plan. Mortgages and home improvement loans are available at interest rates 1% below market. The agency is also working with a housing and development corporation to rehabilitate houses and sell them to low and moderate income families.

- Lander Federal Savings and Loan in Memphis, Tennessee, has established an urban lending department for residential and second mortgages and home improvement loans. As head of a consortium of banks, Lander offers below-market rate home improvement loans in targeted areas.

- Dallas Federal Savings and Loan in Dallas, Texas, has an active loan outreach program (via mobile units) to promote low- and moderate-income housing in older areas.

- State Savings Company in Columbus, Ohio, has organized a wholly owned subsidiary to rebuild selected neighborhoods in Columbus.

REDUCING COSTS OF REHABILITATION FINANCING

Just as there are programs to ease the difficulty and reduce the cost of ownership, there are programs which write down the cost of financing rehabilitation. In this chapter, it is possible to describe only a few of the many types of programs available. For further information, see Financing Techniques for Local Rehabilitation Programs (David Gressel: National Association of Housing and Redevelopment Officials, 1976).

In most cases, rehabilitation loans such as those described below are available to property owners. The sponsor will have to determine whether local programs can be used after acquisition by unit purchasers.

It is crucial to remember that Title I, Section 312 loans, or other local rehabilitation loan programs provide longer-term second trust financing. For a cooperative, 312 or Title I loans can be used once the corporation is established. The costs of repayment on the loan can then be divided among the cooperative members over the term of the loan. In a condominium, only purchasers could apply for funds, since the association does not own the property. In an HOA, the association can use rehabilitation loans for the common elements.

Federal Rehabilitation Loan Assistance Programs

The Title I Property Improvement Loan Insurance Program has recently become very useful in local programs to stimulate rehabilitation of housing in older urban neighborhoods. Title I is being used in tandem with CDBG funds to insure and subsidize rehabilitation loans.

Loans issued under Title I are insured by FHA with up to 90% reimbursement in case of default. All processing is done fairly quickly by participating lending institutions, and lenders use normal credit standards. Eligibility for Title I loans is <u>not</u> based on the appraised property value, but rather on the credit rating of the applicant.

While Title I loans cannot be used for acquisition, an UNCA owner/resident can use Title I loans to:

- o enlarge, replace utility systems;
- o paint;
- o insulate;
- o install new bathrooms, kitchens, bedrooms, living rooms;
- o repair or replace roofs, windows, floors;
- o construct sidewalks, and landscape; and
- o construct an attached building for UNCA residents' use.

Title I is significant in that many public and private organizations use Title I insured loans in rehabilitation programs. The HUD booklet "FHA Title I Property Improvement Loans in Public Rehabilitation Programs: Case Studies," describes these programs in greater detail.

The Section 312 rehabilitation loan program exists at various levels of funding. HUD provides funds to local agencies such as housing authorities or municipal community development offices.

An UNCA sponsor should check the availability of S.312 funds with the local housing agency. The low interest rate (3%) and longer term (20 years) of S.312 loans are the key ingredients which can reduce the cost of rehabilitating an UNCA.

Section 312 loans cannot generally serve as short-term financing in the development of a condominium or HOA. However, they can be used in a cooperative and are being used in the urban homesteading program. In the latter program, single family purchasers are buying units at very low cost from a city and often using Section 312 for rehabilitation. When the title passes (3 to 5 years), the owner becomes mortgagor of the S.312 loan.

Section 312 is difficult to use in rehabilitation and conversion to a condominium or HOA for two basic reasons:

First, the 312 payments schedule and procedure are not designed for short term development financing. It is not worthwhile for the local government, HUD, and UNCA sponsor to arrange all of the necessary documentation for a 20-year loan, only to turn it over to a project mortgage or group of mortgages on condominium units in one or two years.

Secondly, the intent of Section 312 is to bring property up to code standards. Because a condominium and HOA are made up of individually owned units, a local government or HUD might be reluctant to arrange separate loans with each unit owner; it is difficult to design a standardized rehabilitation program which will satisfy all owners.

LOCAL REHABILITATION PROGRAMS

Since the passage of the 1974 Housing and Community Development Act, many local governments have used CDBG funds to set up rehabilitation programs. Rehabilitation costs may be reduced by:

- o Making loans directly at lower than market rates (as in Section 312);
- o Setting up a revolving fund so that loans are made from the proceeds of the first loans as they are repaid;
- o Making direct grants to cover all or part of the cost of rehabilitation;
- o Subsidizing interest rates on loans made through lending institutions; and
- o Providing a pool of funds to a lending institution as a guarantee for rehabilitation loans made. Reducing the risk for the lenders should result in lower cost funds.

Dollar Savings Through Alternative Sources of Energy

Sponsors who demonstrate new energy savings technologies may be eligible for funding through the National Solar Heating and Cooling Demonstration Program (administered through HUD and the Department of Energy). The Department of Energy (DOE) administers energy demonstrations in commercial structures, while HUD is responsible for the residential applications through the Residential Solar Demonstration Program. Grants are available to developers and builders who wish to market housing equipped with solar systems. Most recently, grants have focused on water heating systems in existing multifamily housing; it is expected that this trend will continue.

Applicants must respond to the Requests for Grant Applications announced through the general media and the mailing list of the National Solar Heating and Cooling Information Center (see Appendix for address and phone number). Nonprofit housing sponsors which have successfully installed solar heating, cooling, and hot water systems include the San Bernadino

Community Development Corporation, Durham Housing Authority (North Carolina), and Peoples Development Corporation (the Bronx, New York).

REDUCING LABOR COSTS

The cost of labor is a sizeable portion of rehabilitation costs. It is possible to use CETA (Comprehensive Employment Training Act) labor in the development of an UNCA. However, costs in terms of paperwork and time may outweigh the benefits of reduced wages. The program is also subject to vast funding cutbacks.

CETA funds provide wages for trainees and/or instructors, and create employment and training for unemployed residents of the community. CETA labor costs can be subsidized for any phase of rehabilitation, and the financing consequently reduced. Auxiliary costs for training are covered by the total CETA grant. In some cases, actual residents may receive CETA stipends for their work (as in New York City's Sweat Equity Urban Homesteading Demonstration). In Milwaukee's Sherman Park Community Association, CETA workers are prepared for union apprenticeship exams in cooperation with the Milwaukee Building Trades Council.

The U.S. Department of Labor booklet, "Guide to Seeking Funds from CETA: A Booklet to Assist Individuals and Organizations to Learn How to Apply for CETA Monies" is a useful guide in this area.

REDUCING THE COST OF PROPERTY ACQUISITION

The following techniques present a means for acquiring low-cost properties for UNCA development.

From HUD

In many cities, a large supply of housing has been acquired by HUD through foreclosure of the mortgage insured under a section of the Housing Act. These properties represent a substantial source for acquisition and conversion to the UNCA form of ownership--for a reduced amount.

Sales by HUD are either through competitive bids or negotiation. In a competitive offering, an UNCAT must bid against other potential purchasers to buy the property with cash, a purchase money mortgage, or an insured mortgage. Negotiated sales may be made to local agencies or nonprofit groups who wish to form a cooperative or condominium. Properties acquired through negotiated sales are usually cheaper than competitive offerings.

In several locations, HUD area offices are working with local government or private organizations to design innovative disposition techniques. Section 246 of the 1978 Housing and Community Development Act allows HUD to sell a HUD-owned property to a cooperative corporation. The acquisition price can be set at an amount reflecting the non-profit income of the property after payment of taxes, insurance and reserve. In other words, the price of the property can be adjusted to fit the income levels of the residents. UNCAP sponsors should pursue possible use of this authorization with the local HUD office.

From the City

Municipalities also become landlords when the original property owners stop paying property taxes (the city, through foreclosure proceedings, receives the property if taxes remain unpaid for a specified period of time). These properties are another potential source of low cost structures for UNCA conversion. Each municipality will have its own procedures for acquiring tax-delinquent properties and conveying them to new owners at tax sales, auctions, or through a bidding process. The UNCA sponsor should approach the city prepared to explain the intentions of the group and benefits of the project.

Receiving Gifts of Property

An individual or institution that donates property as a total gift or sells property at less than the appraised market value to a nonprofit sponsor (classified under a 501 Section by the IRS) receives a tax deduction. The seller of the property, whether individual or corporation, can deduct the absolute value of the property from annual income or deduct a portion of the donated value over six years. These tax laws can enable an UNCA sponsor to acquire property for free or less than market value.

There are a number of circumstances in which this type of donation would be a viable setting for a community association project. For instance, an already recognized neighborhood group may receive property which they do not wish to hold. If the structure could be developed into an UNCA, the burdens of owning and leasing property for the group would be eliminated. This was true in Oakland, California, where the Trust for Public Land helped nine community groups acquire property through the donations of foreclosing S & L's. This type of gift can also be made directly to an UNCA sponsor.

LAND TRUSTS

Another potential UNCA source is community land trusts, chartered to hold property in stewardship so that existing residents may share any value appreciation. The trust can prepare the property in a number of different ways for eventual sale as low and moderate income condominiums or units in an HOA. For instance, an interim stage between renting and eventual purchase by residents can be set up through a nonprofit land trust. Each trust will have its own set of objectives and procedures for conveying properties to an UNCA sponsor.

For further information on designing and developing a neighborhood land trust, see Citizen's Action Manual: A Guide to Recycling Vacant Property in Your Neighborhood, prepared by the Trust for Public Land (Washington, D.C., Department of Interior, 1979).

TECHNIQUES OF RAISING WORKING CAPITAL

Raising the necessary working capital can be a difficult but crucial task of the project for the UNCAT. Following are some ideas for raising the up front money needed to leverage financing.

Using Local Sources

Local foundations are possible sources of seed money, particularly now that neighborhood preservation has become a priority issue in many cities. (The Foundation Directory, Foundation Grant Index, and other directories in local libraries list local foundations.) After determining which projects each foundation supports, the sponsor should submit letters briefly describing the proposed UNCA to likely groups.

Local churches can be another source of grants for equity funding or a source of information on which national church-related organizations provide funds for neighborhood housing activities. Direct mail campaigns--or borrowing from supporters on a promissory note basis--are other alternatives (both were used successfully by Jubilee Housing in Washington, D.C.).

Almost all State housing finance agencies have the authority to provide interest-free loans or seed money to nonprofit or public housing developers. An UNCA sponsor can use seed money to cover the costs of an option on property, professional assistance from lawyers, architects and other consultants, or other up-front costs. In most cases, seed money is available if a sponsor can secure a commitment for financing a project. The loan can be paid back to the housing finance agency from the proceeds of the development or rehabilitation financing.

Most HFAs use a revolving fund to provide money for these seed loans. For example, the Michigan State Housing Development Authority created a $1 million fund from which $1.3 million were loaned to 27 nonprofit groups in four years (1974-1978).

Using Federal Sources

Community Development Block Grant (CDBG) funds are available to nonprofit organizations for neighborhood preservation or economic development projects. An UNCA sponsor allied with a recognized community group that represents low and moderate income residents of a city may be able to use CDBG funds to raise necessary equity or working capital. The sponsor group should approach the city agency that formulates the long-range plans for CDBG expenditures to discuss their intentions.

Urban Development Action Grants (UDAG) funds can also be used for neighborhood redevelopment projects in cities which meet the HUD formula for physical or economic distress. Since only cities are awarded the funds, community groups should prepare an application which the city can submit to HUD on the regularly scheduled six-month cycle. (Cities may submit more than one application on each round; however, all applications must be approved through the local review process.) UDAG projects must involve the private sector. Using UDAG funds as equity for an UNCA is a good method of leveraging or raising financing for the development of a community association.

The UDAG office at HUD in Washington is particularly interested in (and awards bonus points to) submissions from neighborhood groups. UDAG projects funded in previous cycles include the Neighborhood Improvement and Preservation Project, Inc. of Flint, Michigan (which sponsored a 40-year project for housing preservation) and the 42nd St. Redevelopment Corporation in New York, which will use its $1,900,000 award as loans for theatre, restaurant, and other commercial rehabilitation projects.

For more information, contact the UDAG office of HUD in Washington, D.C. (202) 755-6234.

Revolving Funds

A revolving fund consists of seed money which supports loans for meeting specific objectives. The fund is renewed as loans are paid back and the money can be circulated to new projects. Revolving funds are generally used as a source of higher risk loans to leverage other financing in the private sector. Many revolving funds have been set up by nonprofit organizations to stimulate neighborhood reinvestment. Normally, loans from these funds are short term so that the money can be "revolved" quickly. Many cities have also set up revolving funds with CDBG funds.

The sponsor of an UNCAP can use a revolving fund loan as equity to seek financing for the project. Alternatively, the sponsoring organization can start a revolving fund using money raised from local and private foundations or public dollars such as CDBG. A revolving fund is useful for financing phases and stimulating private reinvestment--particularly if an organization is involved with redevelopment of a whole neighborhood.

The National Trust for Historic Preservation has a $1,000,000 revolving fund which is lent to member nonprofit and public agency organizations on a matching basis for projects involving recognized historic properties (listed in the National Register of Historic Places). The loans are made at half of prime rate for 5 to 7 years.

Projects that serve lower income residents of historic buildings have the best chance of being funded under this program. Loans average $25,000 to $50,000 and must be matched by an amount raised by the organization.

Loans from this revolving fund have been made to the Neighborhood Housing Services, Inc. in Anacostia (Washington, D.C.), and Little Rock, Arkansas. Neighborhood Housing, Inc. in Fairhaven, Connecticut is using a National Trust Loan in conjunction with money from the Connecticut Housing Finance Agency for property acquisition. The Lafayette Square Restoration Committee in St. Louis, Missouri, set up its own revolving fund with seed money from the National Preservation Revolving Fund.

For further information on the National Preservation Revolving Fund, contact the Office of Preservation Services, National Trust for Historic Preservation, 740-748 Jackson Place, N.W., Washington, D.C. 20006.

Using Multiple Sources of Funding ("Piggybacking")

It is possible for an UNCA sponsor to combine and package funding from several available sources and finance 100% of project costs. The sponsor group may already receive monies from several sources such as CDBG, UDAG, or State and local housing programs, and use them on a revolving basis. In other words, the loans used to develop one property are paid back when the property is sold, and can be reused for the next project. The UNCA could be the "next project."

For example, the Upper Albany Community Organization in Hartford, Connecticut, has packaged CDBG and UDAG monies, loans from the Connecticut Housing Finance Agency and State Department of Community Affairs to finance rehabilitation of housing. At sale, the CDBG funds are used to write down the price of the unit, and the remainder of the development monies are reused for other properties. Permanent financing commitments are made through the Connecticut Housing Finance Agency.

THE LEASING OPTION

The UNCA sponsor can develop the project as a leased or rental condominium, HOA units, or a cooperative--stipulating a period of time after which the resident can opt to purchase. This manner of development achieves several objectives:

- a substantial portion of development funds can be raised through syndication, as explained earlier in this chapter.
- Residents do not need a downpayment to live in the units. However, the option to purchase at the end of a specified period allows them a chance to build up "equity" for a downpayment when the option expires.
- The option period demonstrates the tenant's ability to make regular housing payments. In addition, ownership counseling during the leasing period can be designed to train residents in the financial and maintenance responsibilities of homeownership and to develop an ownership mentality.

Through this system, the UNCA sponsor purchases and rehabilitates the property with a combination of conventional financing or FHA-insured mortgages through a State housing finance agency program or other available sources. The equity capital is raised by syndication to a group of limited partner investors. These limited partners contribute capital and in return receive tax shelter through depreciation deductions. The sponsor becomes general partner and manager of the project. Syndication of equity is attractive for investors only if there is substantial rehabilitation which allows deductions for losses created by rapid depreciation. At the end of 3 to 5 years, the tax shelter is diminished and the investors can sell and invest in another project.

Residents take on long-term leases with an option to buy at the end of a specified time period for a stated price. If the resident does not opt to purchase, the sponsor and partnership can sell the unit to another resident or maintain ownership themselves.

This basic description of the leasing option can be altered in various ways to fit the specifics of a situation. The Upper Albany Community Organization (UACO), in Hartford, Connecticut, has proposed a program which could foster the development of an "ownership mentality" by requiring a $30 monthly equity payment of renters. If the resident leaves the unit at any point during the leasing period, or does not exercise the option to purchase, he or she cannot withdraw the equity payments and loses the money. Therefore, there is built-in incentive for the resident to stay in the unit and maintain it. Each month he or she has a little more invested in it.

In this arrangement, UACO extends many of the benefits of ownership to residents who could not afford downpayments without saving the equity payments during a leasing period. UACO can also raise equity itself for the initial acquisition and rehabilitation through syndication.

Chapter 5: DESIGN AND ARCHITECTURE

INTRODUCTION

Design--as much as any other element in the development process--is integral to a project's long-term success in meeting its residents' needs. Design decisions affect marketing costs, ease of maintenance, and in general, the way a conversion will "work." Even under the limited physical possibilities offered by conversion, design choices are critical to meeting the principal objectives of overall resident satisfaction.

A home is not only a shelter, but also a highly personal expression and a setting for many significant social interactions. A community association conversion must account for those factors in the design process, and also permit the successful functioning of an association controlled by its owner-members.

DECIDING AMONG CONFLICTING DESIGN GOALS

Once a building(s) and surrounding property have been selected for conversion, the sponsor and UNCAT will need to address the many, frequently conflicting design goals which can be pursued. Goals must be weighed in relation to available financing, the target population, the sponsor's long-range program, and the property's location within the neighborhood. Goals may include:

- efficient energy use and corresponding savings;
- quality of workmanship and frequency of future renovation and maintenance;
- use of space to maximize the number of residents (within housing code limitations), thereby spreading costs over large numbers of units;

- o esthetic considerations;
- o physical security and the residents' sense of security;
- o clear definition of residents' responsibilities through design features;
- o impact on the surrounding neighborhood through visible exterior changes;
- o creation of recreational facilities open to the public;
- o barrier-free facilities for the handicapped or elderly; and
- o historic preservation.

During the development planning process, priorities must be assigned to conflicting values and goals, and decisions made in light of physical and budget limitations. Starting with an existing property will dictate only part of the final results; the greater the extent of rehabilitation, the greater the opportunity to incorporate extensive and significant design changes. Once the overall rehabilitation and design changes have been made, however, specific choices between short-run rehabilitation costs and long-run operating costs will remain.

GAINING THE TRUST OF THE NEIGHBORHOOD AND OWNERS-TO-BE

Most tenants do not belong to organizations. Thus, there may be no recognized neighborhood group through which the sponsor and UNCAT can present information to potential owners and defend the UNCA's legitimacy and credibility. In any case, the process of designing and rehabilitating the property will be one of the most important sources of contacts with these tenant "clients." Both the choice of personnel and the procedural methods must therefore foster a good working relationship with neighborhood residents.

The UNCAT should identify the informal block or building leaders who command the respect of their neighbors. Information about these individuals is often available from teenagers or younger children, and clergy or other social service professionals. Once these leaders have been found, the UNCAT should begin the difficult process of gaining their understanding and trust. The sponsor group and UNCAT may be suspected of being just another outside group with little true understanding of the neighborhood or ability to help it. At worst, the UNCAT will be seen as a group seeking to take advantage of a poor and powerless neighborhood by taking housing away from existing tenants and displacing them. The UNCAT must explain the goals and advantages of the UNCA in terms which are meaningful to the neighborhood in order to gain support. At the same time, it should neither disregard nor minimize the difficulties of success or the financial realities of the program--including the fact that displacement may occur. Sensitive initial contacts, in which UNCAT members may present the program while listening as much or more than they talk, will permit a period of testing before the working trust takes shape.

Every professional connected with the UNCAT, especially the architect and rehab foreman, must strictly observe the common sense, human relations guidelines necessary to successful work with neighborhood residents: direct, honest, and straightforward communications; sensitivity to fears, aspirations, and expectations; and a sincere declaration that the residents' needs lie at the heart of the UNCA.

INVOLVING RESIDENTS IN DESIGN DECISIONS

In making design decisions, the development sponsor, design professionals, management experts, and prospective residents will each have roles to play. The owners-to-be should be involved to the maximum extent feasible in the design process, because their satisfaction will determine the ultimate success of the project. Ready-made design packages are not necessarily desirable, since group tastes and lifestyles vary considerably throughout the United States.

One way to ensure owner involvement is to establish "sweat equity" groups. Such groups work closely with an architect chosen to modify projects to meet individual needs. Such modifications may include the connection of buildings to increase apartment size and the creation of community facilities, as with multifamily housing units in New York City (HUD, 1977).

With or without sweat equity, residents should participate in the selection of the project architect when possible. Whether a full-time staff member or a consultant, the architect must meet a number of criteria:

- o Ability to design and conduct a rehabilitation project (new construction experience alone is not a sufficient qualification);
- o Willingness to work with neighborhod residents and owners-to-be, giving preference to resident needs over professional considerations;
- o Ability to develop designs satisfying both the user's needs and financial realities; and
- o An understanding of UNCA's goals and the particular needs of a community association.

Resident input in any design decisions will impact the eventual role of the owners' association. After transition, the UNCA will be responsible for operating and maintaining the common areas, for overall security, and for enforcing architectural restrictions and controls established by the developer or association. If the UNCAT, sponsor, lenders, or any principal funder alone make design and other choices independently of the ultimate users, conflict may occur. Including prospective owners in the design process will encourage consensus, make them better aware of difficult budget-design tradeoffs, and help train them for assuming full responsibility after transition.

Beyond the choices owners can make concerning their own units, a practical method for determining preferences concerning the common areas should also be found. This may be a difficult task if all the new owners have not been identified, if the budget is highly restrictive, or if no ready consensus emerges. If the new owners have not been identified, the UNCAT and sponsor may use representatives from neighborhood groups already assisting with the conversion effort. In conjunction with either the prospective residents or neighborhood groups, the developer will have to determine whether general group meetings, resident or neighborhood surveys, or use of representatives will be the most legitimate and efficient method for measuring opinion. Design decisions made on the basis of a market survey of prospective buyers may be too expensive for an UNCA, unless it is large and well funded.

While residents should take part in providing necessary information, final decisions must be made by the UNCAT, which is responsible for the solvency and success of the entire project. Potential conflicts between the UNCAT and resident participants may be avoided by discussing how structural and budgetary limitations affect project plans.

Experiments with self-help design and resident participation have developed workable methods for involving residents in specific design choices. In projects requiring restructuring of interior spaces, for example, scaled-down models with grid lines and movable pieces have allowed residents to understand and experiment with various floor plans. At the same time, the architect is able to point out concretely the problems or difficulties of any proposal. In any case, residents can participate in interior and exterior tours to discuss possible modifications, and can review working and final drawings.

These methods have proven successful, and architects have been increasingly willing to join in such efforts. Over 60 cities now have Community Design Centers to provide assistance. Schools of architecture have also participated in self-help programs, both as outreach services and as training grounds for their students; local universities or chapters of the American Institute of Architects should be consulted by prospective sponsors or developers. The technical assistance organizations listed in the References and Resources section include some which offer design services.

WORKING WITHIN THE LIMITS OF A REHABILITATION PROJECT

Except in gut rehabilitations, existing walls and structural features will limit the extent of feasible changes. Features and standards mandated by local housing and building codes will also place limits on possible savings and changes. In federally assisted projects, the HUD Minimum Design Standards for Rehabilitation for Residential Properties must be consulted. Recently revised, these standards include requirements concerning basic systems and suggestions concerning other features. While these standards may not mandate significant additional costs, they may place constraints on design changes.

Regardless of such limitations, interior space can be rearranged to meet modern needs more adequately, to create sufficient storage spaces, and to enhance both privacy and congeniality. The Federal National Mortgage Association (FNMA) Forum One Project included model layouts for portraying such modifications, applicable to both new construction and conversions. For instance, more satisfactory bath facilities can be created without addition of expensive new fixtures; existing bathrooms can be divided into separate compartments for the toilet, shower, and sink. Each compartment can then be in use at the same time (i.e., with a large family) without any user disturbing the privacy of another.

New construction or landscape materials can also be chosen to meet defined objectives. Decisions concerning materials should be based on durability, cost of installation, cost of maintenance, intensiveness of projected use, energy efficiency, and other considerations. Careful research should underly such decisions: woods, for example, may vary considerably in terms of bending strength, stiffness, freedom from warping, and paint holding capability (Anderson, 1978).

SAVING ENERGY THROUGH DESIGN: BASIC CONSIDERATIONS

The number of energy-saving and cost-reducing devices has been increasing rapidly. Thus, the conversion project planner will need to find out both the most recent and the most affordable new developments. A number of energy saving features will reduce energy costs by as much as one-third. These include: insulation sufficient for the climate, weather stripping, double-glazed windows, and "air lock" vestibules which separate heated interiors from the cold outdoors. The extent of rehabilitation and the life expectancy of existing heating or cooling equipment may dictate how many other energy saving changes are feasible.

In general, energy saving methods can be divided into two types: active and passive. Active methods generally rely upon technology and include the traditional furnace and air conditioner, the heat pump, and solar energy collectors. By contrast, passive design features have few moving parts, are low cost, and use natural energy sources. Because many older structures already incorporate many of these passive design features, conversions should focus on enhancing their original contributions. Many simple passive design changes can result in significant energy and money savings. Shutters, awnings, and other simple movable screens can be used to control light and heat; trees and landscaping can provide shelter from both winter winds and summer sun. If possible, glass can be concentrated on southern exposures to take advantage of natural (solar) heating.

Energy-Saving Investments

The effect of energy saving modifications varies considerably among housing types, as determined by a HUD study (Figure V-1). Of the four types discussed, townhouses show the greatest savings in return for structural, heating, and internal energy related modifications.

The effect of rising energy costs over time (Figure V-2) is another major consideration.

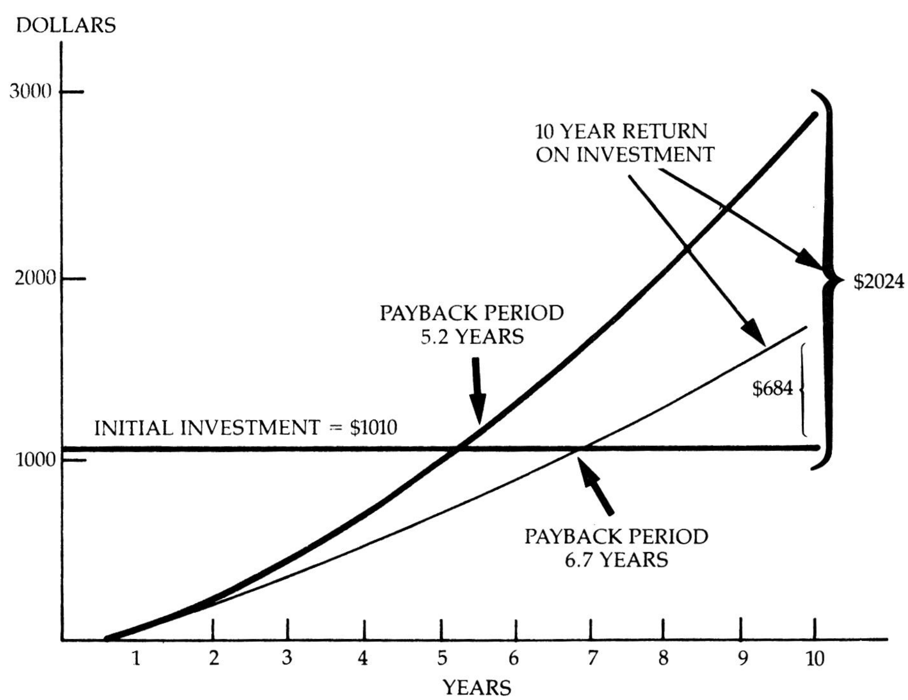
As indicated, single family homes can realize an investment return in about five years, with a doubled return in ten years. Stacked housing units can achieve similar success even though initial energy savings costs are considerably higher. A 417-unit condominium, for example, recently installed window, lighting, and insulation features to realize a 39% fuel savings in the first year alone (Washington Post, April 19, 1979); an investment return of five years was projected.

Figure V-1: ENERGY SAVINGS DEVICES

	ANNUAL ENERGY SAVINGS			
	Single Family	Town-house*	Low Rise*	High Rise*
1. Structural modifications (incl. storm doors & windows, insulation, etc)	17.5%	23.0%	18.0%	16.0%
2. Heating & cooling systems modifications	10.7	10.7	0†	0†
3. Internal factor (appliances, lighting, etc) modifications	8.0	11.4	10.3	7.7
Totals	36.2%	45.1%	28.3%	23.7%

*Values shown in these columns are for the whole building.
†Heating and cooling systems in these characteristic structures were the best of those analyzed.

Figure V-2: COST BENEFITS OF ENERGY SAVINGS DEVICES ON A SINGLE FAMILY HOUSE



Assumptions:

1. Energy costs are 20¢ per therm (gas) and 4¢ per Kw-hr
2. Assumes 10% increase in energy cost per year
3. Assumes no increase in energy cost per year
4. All dollars are 1972 dollars
5. Ten percent interest compounded annually on initial investment

Source for Both Charts: *Residential Energy Conservation,* (HUD-PDR-175) p. 4.

Exterior Modifications

Figure V-3 evaluates the energy saving potential of specific exterior modifications to an 8-unit townhouse (the figures for a single-family home or highrise multifamily dwelling are similar).

Many of these modifications do not readily apply to a moderate or cosmetic rehab project; however, others are feasible. Specifically, addition of storm windows and doors, use of window shades and awnings, and caulking and weatherstripping can make significant differences in reducing the loss of heat through cracks in siding, windows, and doors.

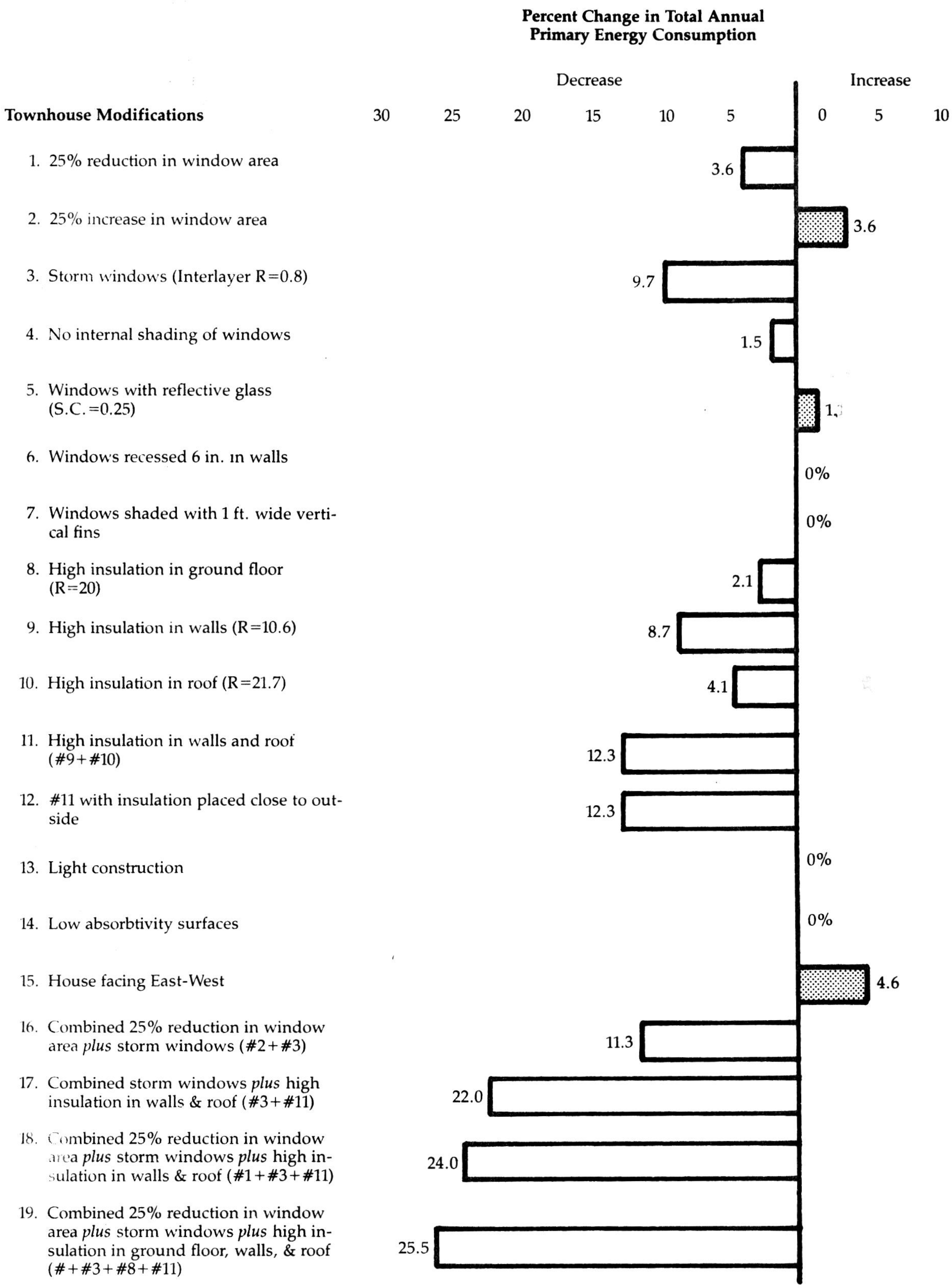
Better insulation can significantly increase a dwelling's energy efficiency, although many existing structures must forego improved insulation in side walls because vapor condensation promotes rot in wooden structural members. (While this type of damage can be prevented with vapor barriers and proper outside insulation, the American Institute of Architects advocates more cost effective techniques for saving energy in frame houses--such as complete furnace and air conditioner checkups, caulking, and weatherstripping.) Figure V-4 summarizes general insulation recommendations. More specific improvements are included in the appendix as Appendix V.1.

Interior Modifications

By contrast, the savings possible from changing conventional heating systems are much less. In fact (as Figure V-5 indicates), such modifications are more likely to increase than to reduce costs.

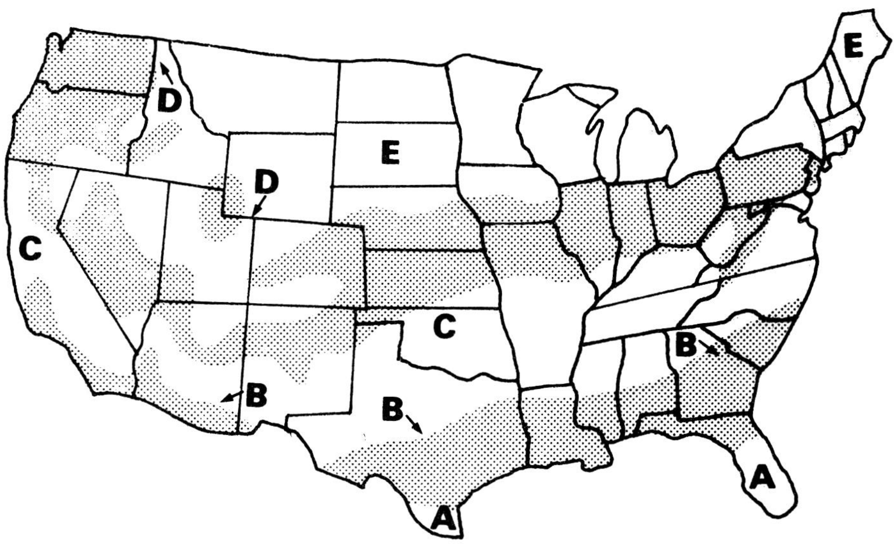
Oil and gas furnaces have comparable efficiencies; a major concern in both is fuel loss through chimneys (new systems deliver only about 60% of fuel energy to living areas).

Figure V-3: PARAMETRIC ANALYSIS OF 8-UNIT TOWNHOUSE (AS COMPARED TO THE CHARACTERISTIC TOWNHOUSE)



Source: *Residential Energy Conservation*, (HUD-PDR-175), p. 18.

Figure V-4: INSULATION REQUIREMENTS



For oil heat, gas heat, or heat pump		*Climate Zone (see accompanying map)* A	B	C	D	E
Ceilings	*minimum**	R-3†	R-3†	R-6†	R-9	R-9
	recommended	R-19	R-19	R-19	R-30	R-30
Frame walls	*minimum*	none	none	none	none	none
	recommended	none	fill cavity		fill cavity	
Walls of heated basements and crawl spaces	*minimum*	none	none	none	none	none
	recommended	none	none	R-3	R-11	R-11
Floors over unheated spaces	*minimum*	none	none	R-6	R-6	R-6
	recommended	none	none	R-11	R-11	R-19

For electric resistance heat		*Climate Zone (see accompanying map)* A	B	C	D	E
Ceilings	*minimum*	R-6†	R-6†	R-9†	R-9	R-11
	recommended	R-19	R-19	R-30	R-30	R-38
Frame walls	*minimum*	none	none	none	R-3	R-3
	recommended	none	fill cavity		fill cavity	
Walls of heated basements and crawl spaces	*minimum*	none	none	none	none	none
	recommended	none	none	R-3	R-11	R-11
Floors over unheated spaces	*minimum*	R-6	R-6	R-6	R-6	R-6
	recommended	R-11	R-11	R-19	R-11	R-19

*Recommended levels are based on the proposed revisions to the HUD Minimum Property Standards, April 1978. The minimum levels in the tables are approximate.

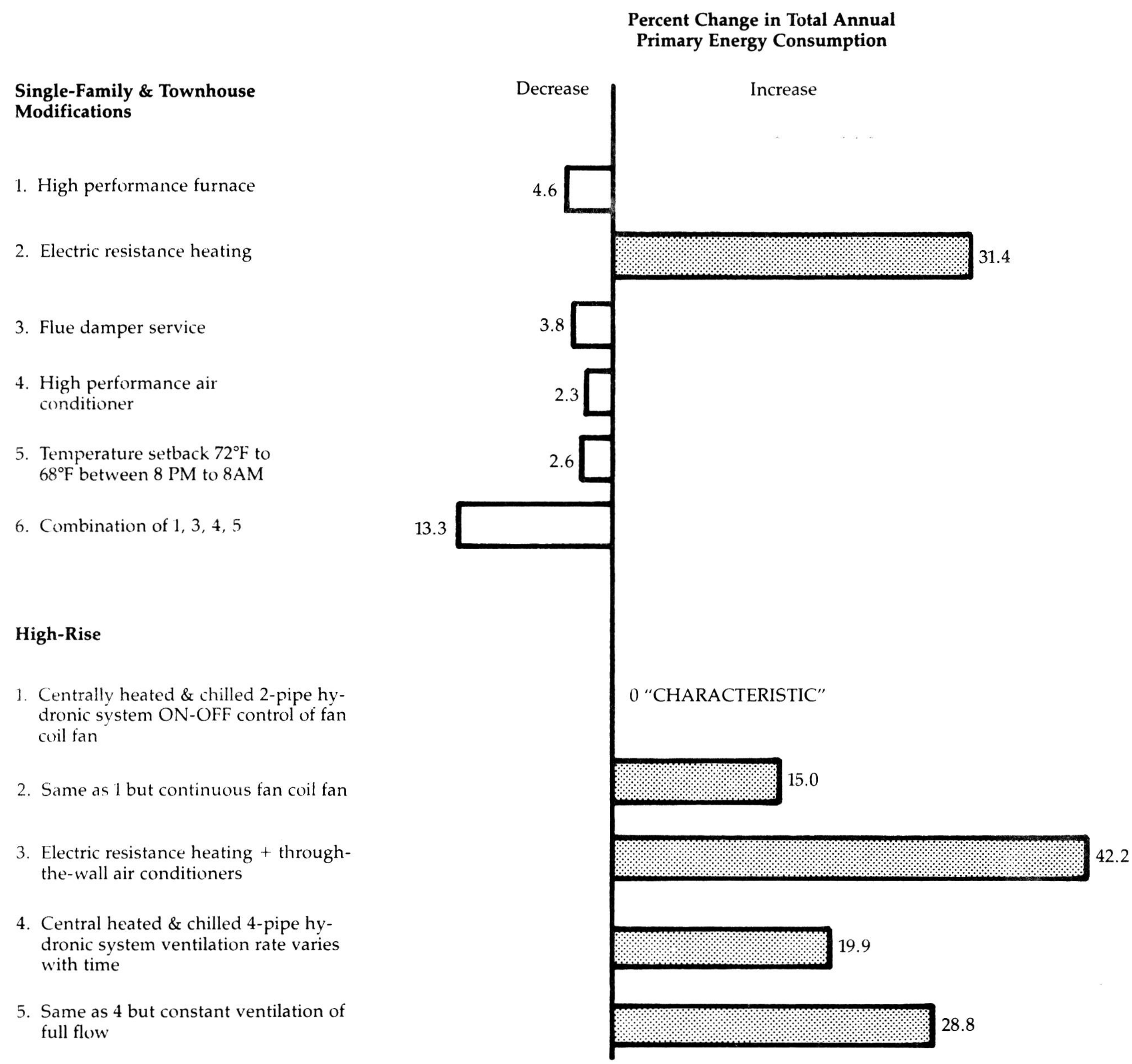
†R-9 if the house has central air conditioning.

To use this table, first locate your proper climate zone (A to E) on the accompanying map. Then use the proper table based on the type of heat. Finally, refer to the measure being considered. The minimum numbers refer to the minimum amount of insulation suggested by any standard. Below these levels you should insulate to the levels recommended by the HUD minimum property standards or slightly better. If your present insulation level falls between the minimum and recommended levels then other energy saving measures should be considered before additional insulation is applied.

[1]The R-factor is a measure of effectiveness: the higher the number, the greater the effectiveness.

Source: *Historic Preservation*, March April 1979, p. 45.

Figure V-5: ANALYSIS OF HEATING AND COOLING SYSTEMS MODIFICATIONS



In gas furnaces several new concepts are promising: heat exchangers which extract energy from the flue and deposit it in return air ducts.

Source: Residential Energy Conservation, (HUD-PDR-175) p. 11

In gas furnaces several new concepts are promising: heat exchangers which extract energy from the flue and deposit it in return air ducts, new high efficiency furnaces located outside the house, and automatic flue shut-off devices which close the flue when the furnace is not operating. Such innovations could save about 8.4 percent of the annual primary energy consumed in the characteristic house.

Electric resistance heating imposes a severe energy penalty when considering the actual primary energy consumed and the relative depletion of the national energy supply. As shown, electric heating for a single family townhouse reduces primary energy consumption by 31.4 percent. Electric heating may also be supplied with a device known as a "heat pump," which is about twice as efficient as resistance heating. Heat pump heating is considered superior to electric resistance heating (HUD, 1977), and should be promoted in those areas where electric heating is increasing due to gas and fuel shortages.

A recent study shows that selection of gas appliances (ranges, clothes dryers, and hot water heaters) can reduce energy consumption by over 20 percent (HUD, 1977). However, the study's assumptions are based on the relative prices of gas and electricity and may be significantly changed by national energy policies and the availability of fuel supplies. Decisions should thus be made on the basis of the best available information concerning long-term prices and supplies.

Decisions concerning energy consumption by appliances and lighting may be based on other, more specific considerations. Fluorescent lighting uses less energy than conventional incandescent lights, but may not offer the same esthetic qualities and flexibility. When new appliances are purchased (refrigerators, hot water heaters, and ovens), they can be evaluated according to their insulation and efficiency.

Metering of Energy Consumption

Whenever possible, each dwelling unit should contain its own electric and gas usage meters, and each owner should be responsible for paying utility bills for his or her unit--even if initial conversion to such a system is relatively expensive.

A study of the Department of Energy has concluded that an individual unit served by a master electric meter tends to use 30-35% more in utility services than the same unit if it were metered individually and the owner paid directly for usage. Under a master meter, individual families in a multi-unit building have less incentive to conserve energy because their monthly utility costs will be based on the formula for determining their monthly association fee, rather than actual use. Conservation-minded families thus in effect subsidize their more wasteful neighbors.

Solar Energy

Because of its relatively high installation costs and dependence upon a large number of relatively cloud-free days for maximum efficiency, solar hot water and space heating may at present offer only limited advantages in many parts of the country. The difficulties in "retrofitting"--installing solar collectors on an existing building--may add further problems. Even so, solar energy systems should be considered a viable alternative. The following questions and considerations suggested by the National Solar Heating and Cooling Information Center describe conditions which make this method feasible.

- o Does the roof have enough southern exposure to accommodate the collectors? Does that area have any existing or potential shading problems?

- o Is the roof strong enough to hold the collectors? This factor is critical with solar space heating systems which require large collector arrays; the small number of panels required for domestic hot water systems should not affect most roofs.

- o If a solar space heating system is to be added, is the present heating system compatible? Forced-air heating systems work well with solar systems because they operate at similar temperatures. However, hot water and steam heating systems are less suitable because they operate at temperatures higher than those produced by most solar flat-plate collectors.

- o Will there be special costs to remodel the building for solar? The cost of necessary remodeling is a vital factor when determining whether a solar retrofit will be economical.

Other factors may encourage a decision to go solar. Federal loans may be available for installation of solar equipment (see chapter on Finance). Moreover, the project can receive valuable, free news coverage and publicity by incorporating such innovative energy features.

If a solar system will be installed, reputable guidance will be necessary in order to determine how large a system is feasible. Because this technology is relatively new and because many installers and manufacturers have correspondingly short track records, special care is needed in finding the best system (taking into account efficiency, installation costs, maintenance costs, and life expectancy) and the best firm to install it. Warranty coverage and the availability of competent service may also be factors in the decision. The potential availability of Federal (and some State or local) grants for solar installations and of the Federal income tax energy saving deduction may also influence this choice.

Once the system has been installed, the installer should thoroughly test it. For instance, the system should be pressure-tested to detect leaks. Thermometers should be placed on pipes or ducts going to and from the collectors to monitor the system's heat gain; another thermometer should be placed in the storage area to measure how much heat is being retained. All switches and moving parts should function quietly, and elapsed-time meters should be used to find out whether these parts (i.e., pumps or fans) are working more than they have to. Simple monitoring equipment (i.e., thermometers or pressure gauges) should be a part of the system so that performance can be checked from time to time. Finally, the installer should leave an operating manual for the system.

BARRIER-FREE DESIGN

In many cases, careful design can respond to the needs of handicapped persons without appreciable impact on cost. Projects receiving Federal or State assistance may be required to meet barrier-free design standards. Regardless of the legal requirements, barrier-free design should be incorporated to the greatest possible extent. The HUD publication Barrier-Free Site Design discusses in detail these considerations and presents a number of barrier-free design possibilities. It includes recommendations concerning design of walks and entrances, walls, gates, parking areas, vegetation, lighting, and recreational amenities.

Recent attention to the needs of the severely handicapped have also generated some design priorities for dwelling unit interiors. A 1979 study of a "Creative Living" apartment complex for the severely handicapped includes a ranking of interior features according to their ability to support a handicapped resident's independence. The study (HUD, 1979) groups features according to priorities for spending required additional funds, as follows (items are alphabetical within each category):

Most Important for a Supportive Environment

Automatic main door to building
Emergency call system
Environmental controls
Kitchen and living room tables
Patio doors
Portable "on call" system
Site location
Site plan
Storage space
Unit front doors
Unit layout

Intermediate Importance for a Supportive Environment

Bathroom medicine cabinet
Bathroom sink
Drapery and window controls
Interior court walk overhand
Kitchen counter space
Kitchen refrigerator
Kitchen sink
Kitchen stove
Wall corner protectors
Window size

Least Important for a Supportive Environment

Bedroom size
Fences around the property
Kitchen oven
Laundry room
Lounge/size/location/decor
Shower modification

Note that, while this list relates to the particular complex studied, it is also applicable to other units for the disabled.

DESIGN AND SECURITY

Because an UNCA encompasses groups of units or properties, it can take primary responsibility for overall design and security decisions. For a single, multi-unit building, the grounds can be organized to foster resident enjoyment and security. In projects which convert detached or row houses, it is possible to combine yards or even streets in a way which markedly increases the sense of community and security of its residents. Large vacant areas such as parking lots, playgrounds, or commons subject to the community association can be designed to be under informal resident control --thus minimizing the threat of outside intruders.

The association's legal authority can be bolstered by designing the property for natural "defensibleness," to use the words of Oscar Newman, a leading design authority. Newman has pioneered in the use of design to enhance security in multi-unit housing and has incorporated his ideas into both conversions and new construction.

His suggestions for generating a sense of owner identification and responsibility include: (1) creating physical and symbolic boundaries (i.e., through landmarks, gateways, an association symbol, and planting schemes); (2) arranging small unit clusters for use by specific residents; and (3) arranging recreational and travel areas so as to be easily surveyed from residential units.

USING AVAILABLE OPEN SPACE

The nature and qualities of the land surrounding the building must also be considered for both the benefits and costs they may add to the project. <u>Vacant lots</u> may be used for open space, tot lots, recreation, or other community association purposes, or may be a location for infill, for new construction dwelling units. Similarly, the size, location, and special features of <u>yards or courtyards</u> may present unique opportunities for affordable and creative design but may be the source of more problems than advantages. In some instances, the developing community association may be able to incorporate parts of adjacent <u>streets or sidewalks</u> into its overall design plan. Finally, alleys may offer special, often low-cost design opportunities. As noted by Grady Clay (1978), alleys may: (1) serve neighbors (as commons) while repelling strangers; (2) facilitate street closings by accommodating rerouted traffic; and (3) serve, in their invisibility, as safer extensions of home, particularly for the elderly whose travel is limited.

ADAPTIVE REUSE OF A PREVIOUSLY NONRESIDENTIAL BUILDING

As cities change, so do the most desirable economic uses of buildings: schools, churches, factories, warehouses, and other non-residential structures thus become candidates for abandonment or sale at low prices. In order to take advantage of these low costs and large space opportunities, UNCA sponsors should consider design as well as financial factors when deciding whether to acquire such a building. These considerations include the following:

- Original drawings. If the original plans for the building are available, an architect or engineer can readily determine essential structure features such as load-bearing capacity in order to assess the costs of significant rearrangement of interior space. In addition, having these originals will save money in the preparation of new working plans for the renovation. Finally, using copies of the originals, the planning team can sketch alternative floor plans and make rough cost evaluations--thus reducing some planning costs.

- Structural soundness. The building's structure may not be able to support the additional weight of facilities required by residential use (such as bathrooms and kitchens).

- Extent of rehabilitation. Planners should determine whether gut rehabilitation is necessary, or merely the addition of interior walls and fixtures.

- Installation of basic systems. If additional plumbing, electrical circuits, or ventilation duct work must be installed, possible damage to existing walls, floors, or ceilings and attendant costs must be assessed.

- Room layouts. The new room design must afford adequate light and ventilation. Also, the sizes and types of units which can be created will affect their desirability; certain features, such as large, open, loft-type rooms, will be acceptable only to some potential owners.

- Unique architectural qualities. Such features may add to attractiveness and desirability but may add development, management and maintenance costs.

HISTORIC PRESERVATION

The sponsor group of an UNCA in an historic area of the city should check on any possible official designation. Increasingly, the historic preservationists are joining efforts with the neighborhood movement to save old areas. Sponsors may benefit from official historic recognition. The design treatment should be sensitive to any historic renovation efforts in the area.

If the property or district is listed or eligible for listing in the National Register of Historic Places, and Federal dollars are being used in the project, the sponsor must contract the State Historic Preservation Office (SHPO). The design plans must pass through an environmental review process with the proper authorities, such as SHPO. There are also special funds available.

Many cities have established their own methods of recognizing historic areas. Designation of local historic districts often creates a mandated architectural review process which the UNCA sponsor must account for.

The literature of historic preservation standards and techniques is large, and should be consulted if a recognized historic building is included in an UNCA. Table V-2 (Appendix) lists specific considerations to be applied to the renovation of any older building.

Chapter 6: REHABILITATION

INTRODUCTION

After a property is acquired, its rehabilitation can represent the largest share of project costs. The nature of the rehabilitation will also directly influence later costs of maintenance and operation. Incomplete planning, or wasteful buying of materials, inadequate supervision of contractors, or tolerance for unnecessary delays can financially doom the project from the beginning.

Sound management guidelines should be observed throughout the rehab process: lines of authority must be clear; sound accounting practices should be followed; and accurate records should be kept. Participation in government assistance programs will involve both extra paperwork and administrative expenses. In addition, lost time will always mean higher costs.

This chapter reviews the physical modernization process briefly, and includes the general observations of noted experts in the field. Specific details on each of the phases described are available in the sources listed in the References and Resources section.

ESTABLISHING A REHABILITATION CAPABILITY

The sponsor and UNCAT must be certain at the outset that staff and managerial talent are available to carry out the property renovation; a sponsor who has never worked in housing rehabilitation will need to establish relationships with lenders, suppliers, contractors, and other necessary actors. Lack of experience may be overcome by hiring experienced managerial personnel or by working with other organizations who have worked in this field.

Many local technical assistance groups capable of assisting the planning or implementing of a rehabilitation project have developed during the last decade. Although few can be expected to provide extensive assistance at no cost to a multi-unit conversion project, they are important resources. Since their capabilities vary, each should closely investigate local groups before making any commitment.

NEIGHBORHOOD AND RESIDENT INVOLVEMENT

As mentioned in Chapter 1, even a thoroughly neighborhood-based organization may need to proceed carefully in order to meet the expectations of its constituents--while at the same time operating on an efficient and productive basis. Planning the UNCA and the property rehabilitation may take longer because of these neighborhood political realities.

Resident involvement, while essential to planning (see chapter on Development Process), also prolongs and complicates it. Getting responses from a large group of tenants and neighborhood residents unfamiliar with the UNCA process will take time. The sponsor and UNCAT can keep any delays to a minimum by dealing with these residents in a thoroughly honest and straightforward fashion. Differences in levels of education and working vocabularies must be kept in mind.

A generous amount of time should be allowed for this part of the planning process so that unexpected lags will be less expensive in this early stage than later on, when loan funds have been received and interest is being paid.

RANGE OF REHABILITATION

A standard set of categories classifying renovations is normally used in government and other program descriptions; these definitions, listed below, are useful for describing the magnitude of the project, determining eligibility for public financial assistance, and identifying general project costs.

- Minimum rehabilitation. Limited remodeling and modernization: it typically includes replacement of specific plumbing or electrical fixtures, patch replastering, and repainting.

- Moderate rehabilitation. Major repairs: replacement of mechanical systems, roofs, doors and windows, significant carpentry and plastering, and extensive repainting.

- Gut rehabilitation. Stripping a building's interior to its structural members, followed by complete interior reconstruction and exterior repairs.

- Substantial rehabilitation. (HUD terminology) Rehabilitation costing at least 20% to 25% of the property's value. (HUD and FHA programs use the term to describe work qualifying for insurance or subsidy programs.)

The extent of rehabilitation and the quality of the work will depend upon the expectations of prospective owners, the quality of rehabilitation desired, and the financial capabilities of both the sponsor and the buyers. If Federal financial assistance is involved, certain Federal (as well as local) standards must be met; see the HUD Minimum Design Standards for Rehabilitation for Residential Properties, listed in HUD Handbook 4940.4. The HUD standards include recommended features which can assist the sponsor in making decisions about level of quality to be achieved.

Level of quality is a question of basics versus the cosmetics--that is, making changes with long-term rather than short-term effects. Home-Tech Systems of Bethesda, Maryland recommends the following rehab basics:

- Correct termite damage or structural defects before closing up the walls.

- Add electrical wiring as necessary before the walls are closed up.

- Run all ductwork for heating and air conditioning before the walls are closed.

- o Fix or replace the roof before installing new drywall or plaster inside, so that roof leaks will not damage the new interior work.
- o Put new drywall over old bad plaster, or fix the plaster, before paper or paint is applied.
- o Do not remodel a bath without changing the piping down to the basement.
- o Fix the subfloor where partitions have been removed, and properly prepare otherwise, before carpeting or a finished tile floor is installed.
- o Replace all rotted exterior wood before the outside of the house is painted.
- o Replace defective gutters and downspouts rather than painting over them.

DETERMINING REHABILITATION OBJECTIVES

Objectives should address the financial limits of the proposed rehabilitation and its beneficiaries. Minor objectives, including employment of self-help or CETA workers, use of minority contractors, or neighborhood considerations, must be considered in light of their impact on the overall project. Each may affect the cost, time required, and quality of the final housing and community association. Initial decisions concerning these goals should be evaluated at regular intervals during the development process.

As with any other construction project, a number of other practical decisions must be made at the outset. Since rehabilitation costs will influence final costs, they will also affect purchase price. The extent and nature of the renovation will also affect subsequent operating costs. For example, if sweat equity is an objective, the UNCA must find contractors who are both amenable and available.

Rehabilitation priorities must be initially determined in light of both the residents' ability to pay and the work necessary to bring the building up to code. These decisions may involve difficult tradeoffs. For example, including extensive energy saving features in the renovated property will increase rehabilitation costs but save operating costs in the long term. It may also be difficult to defer some desired, nonessential improvements such as new kitchen appliances in favor of basic improvements to the building's operating systems. Final acceptance of all such decisions will be enhanced by residents' participation.

How Much Self-Help?

Typically, self-help involves participation by prospective owners in the physical process of renovation. The success of self-help depends on both the skills of the residents and the managerial approach of the developer agency. The UNCAT can broaden the concept to include time and work contributions by the elderly or others who may not have the capability to take part in actual construction activity. The following sections treat the benefits and problems of using self-help labor.

Self-help can be of benefit by:

- helping to select residents truly interested in home ownership;
- developing homeowner skills;
- ensuring that units are tailored to resident desires and needs;
- giving the participant a much greater stake in and appreciation for the results;
- contributing to the overall success of association management;
- creating a commond bond between fellow residents;
- highlighting potential resident leaders; and
- ensuring low-cost labor for simpler rehab tasks (particularly interior finish and carpentry, per a 1978 HUD study).

However, sweat equity does bring certain problems:

- o if the project is not carefully planned and implemented, resident involvement may turn to frustration and anger;

- o sweat equity requires closer supervision and more time than do conventional programs;

- o if not properly managed, sweat equity can be more expensive; and

- o quality of work may be inferior to that of licensed contractors (as long as the work is acceptable and cost savings significant, this tradeoff may be warranted).

Sponsors who decide to use sweat equity must determine whether to require all residents to contribute at least some of their labor. While this requirement may make recruitment difficult, the failure to include it may create two classes in the association: those who do contribute sweat equity, and those who can afford not to.

The HUD publication, Sweat Equity Homesteading of Multifamily Housing in New York City, prepared by the Urban Homesteading Assistance Board, discusses the sweat equity process clearly, succinctly, and practically.

LABOR TRAINING PROGRAMS

Another method of reducing labor costs involves the use of government-supported job trainees, such as those in the Comprehensive Employment Training Act (CETA) program of the U.S. Department of Labor. The chapter on Finance discusses this program in greater detail.

PHASING THE REHABILITATION PROCESS

Phasing of the rehabilitation process can be a useful option. In some urban homesteading programs, city agencies allow occupancy to take place after minimum health and safety (building code) standards are met. Phasing of the rehabilitation work may be adopted out of necessity--such as financial inability to complete all of the desired work at one time. Essential structural or systems work should be first, followed by other improvements (i.e., appliances, interior areas, or cosmetic renovation). Phasing requires the approval of institutions providing financing, as well as municipal building authorities.

Phasing can also serve occupancy needs. For example, to minimize resident displacement or to maximize rental income during the conversion process, rehabilitation can be organized so that only some of the units need be vacant at any one time.

Briefly, phasing can reduce costs by:

- facilitating sweat equity;
- saving money spent on temporary housing for former renters who will become owners;
- producing a stream of rental income from the building during the conversion period; and
- preventing vandalism to a building which would otherwise be vacant.

In addition, it can create the following problems:

- insurance costs may be greater in a partially occupied than a fully occupied building;
- many contractors will simply refuse to work on partially occupied buildings or occupied units; and
- residents may be unwilling to live with disruption which comes with remodeling. (The extent of the disruption and its length of time will determine the feasibility of this sort of phasing. What may be manageable in a cosmetic remodeling will likely be impossible in a substantial rehabilitation project.)

REHABILITATION TASKS

Once a particular structure has been selected as a possible rehabilitation site, the developer and sponsor must evaluate it and make preliminary estimates of rehabilitation costs. A professional engineer or architect should carefully inspect the structure to determine its overall life expectancy as well as the condition and life expectancy of its major systems, foundation, and roof. Estimates of other repairs or design changes should also be made at this time. If a sponsor or developer expects to do more than one building, or if more than one inspector will be used, a standard preliminary estimate form should be developed.

Comprehensive Inspections

The specifics of the actual renovation should be determined on the basis of a final, detailed, and comprehensive inspection report. This report will serve as the basis for actual rehabilitation decisions and work, and aid the development of architectural plans. For an example of such an inspection form, see Appendix VI.1.

Architectural Plans

Architectural plans should be prepared by a professional, preferably with rehabilitation experience, in conjunction with the prospective residents. Costs can be reduced by working with architectural students under professional supervision Architectural model kits have also been developed for helping residents visualize alternative floor plans; (see chapter on Design and Architecture for details).

Bid Specifications

General bid specifications are prepared on the basis of architectural plans. These specifications must include all necessary materials and all work to be carried out. At least 24 work hours may be necessary to prepare specifications for a single-family house about to undergo a significant rehabilitation. "Bid specs" should be based upon a review of all local and national codes, government guidelines, and materials requirements--as they will serve as the basis for all contracts, materials purchased, and the execution of the rehabilitation program.

Actual Costs and the Final Budget

On the basis of these specifications, firm costs of the projected plans can be determined and final rehabilitation decisions made. Standard estimator guides are available to assist in this process. In addition to the cost of materials, labor, and other direct rehabilitation activities, the final budget should include a reserve for contingencies and costs of all fees to government or professionals, of insurance, of interest on all loans, and of interim maintenance.

By this time, final arrangements for construction and other interim financing should have been made and a careful estimate of building income during rehabilitation determined. If the building is to be partially occupied during rehabilitation, steps should be taken to ensure that all rent payments are made throughout the conversion period.

Final Work Timetables

The final work timetable should account for the extent, if any, of self-help to be used. Many groups are now using a "leapfrog" sweat equity model, whereby residents are used for the initial building cleanup and demolition of certain interior features. Use of sweat equity for this labor-intensive process alone may produce cost savings of as much as 25%.

Once the building has been prepared, craftsmen can be obtained for the wiring, plumbing, heating, roofing, and other basic systems work. Contractors can also be hired for plastering, painting, and appliance or fixture installation. Allocation of work will depend upon the budget, skills of residents, desired speed of completion, availability of skilled craft workers, and the organizational ability of the sponsor/developer. In any case, residents can participate in the final work of painting, floor refinishing, and planting.

WORK IN PROCESS

Early in the timetable, the use of a major visible change in the property (such as exterior painting) can create a psychological boost both to the new residents and to the immediate neighborhood. Such changes serve as a symbol of the changes underway in the building.

The Foreman's Role

Regardless of whether the work will be conducted by sweat equity, contractors, or both, rehabilitation work must be under the complete supervision of a competent and experienced foreman. This person could be hired under a CETA arrangement as a regular staff employee or as a general contractor.

Ideally, the foreman should know local building customs, local contractors and craft workers, and the rehabilitation process. The line of authority between the foreman and the developer must be clear. The foreman's most important task is to coordinate all aspects of the rehabilitation process, insure completion of the work on schedule, and supervise all on-site work. If this supervision allows time to be lost in the completion of any task, the entire process may be delayed and careful budgeting ruined.

In many ways, the success of the physical and financial planning will depend upon the effectiveness of the foreman.

Specifically, the foreman will be responsible for ordering and receiving materials, and verifying their quality and quantity. Times of delivery should be coordinated with the stages of the rehabilitation process; records of payment should be carefully recorded in a log, so that cash flow can be properly managed. (An on-site accounting system, directly keyed to the quantity survey and working estimate, was used in one sweat equity project.) The foreman or general contractor should also be responsible for arranging all government permits and inspections. As the renovation takes place, the foreman should inspect the work of all contractors and generally insure the timely and efficient completion of work according to the schedule.

Outside Contractors

Public agencies having rehabilitation programs often maintain lists of experienced and competent contractors and craft workers. Informal, "brother-in-law" recommendations or contracts should be avoided, since personal relationships can be obstacles to making sound and necessary business decisions. Moreover, public programs providing funds for rehabilitation often prohibit conflict of interest and nepotism in hiring.

Open bidding is most desirable for larger projects (as regulated by public funding sources). General bid specifications prepared during the planning process serve as the basis for preparing contractor's bidding kits. Minority contractors are often available for rehabilitation work because it focuses on older, urban areas.

Seasonal factors may also save money. For example, a solicitation for outside work to be done in the spring may be lower if taken in January, when work is slack.

The following criteria are useful for bidder selection (per Home-Tech Systems):

- o financial reliability
- o references;
- o licensing;
- o supervision level and frequency;
- o subcontract or hourly crews;
- o timely completion record;
- o length of time in business;
- o compatibility
- o price versus value; and
- o Better Business Bureau record.

Contract Specifications

The rehab contract should include:

- o plans and general specifications;
- o detailed specifications, including quantity, brand names, styles, and serial numbers;
- o start and completion dates, including intermediate construction schedule;
- o payment schedule;
- o guarantees, liens, and method of cancellation if necessary;
- o signatures;
- o method of handling extras;
- o penalty clause, if appropriate;

- o surety bond, if appropriate;
- o guarantee of all plans and permits by local jurisdiction;
- o contractor's certificate of insurance for workmen's compensation, damage, and liability;
- o waiver of liens form; and
- o architect's role, if appropriate.

Difficulties with contractors can be avoided by carefully structuring the relationship with a contract verified by a lawyer. Construction escrow accounts, established to pay contractors, can avoid mechanic's liens problems later. Performance bonds should always be required (except for very small projects).

Each contract should carefully specify the work to be done and state that "time is of the essence." A schedule of liquidated damages for missed deadlines should be included. Even if not required by local ordinance or government funding, the contract should include warranty provisions guaranteeing the work for at least one year.

Using A Handyman

Some rehabilitation projects will benefit from the inclusion of a handyman on the staff; certain odd jobs (fixing a downspout or repairing a lock, for example) may not require the services of a specialist or be too minor to warrant hiring a subcontractor. Whether a handyman should be on the staff will depend upon the number, location, and condition of property in the conversion project. Resident self-help can be practical for these tasks.

Acquiring Materials

For purposes of cost reduction or historic preservation, the developer may wish to re-use as many existing fixtures and materials as possible. Some materials can be re-used in locations not in view (in walls, for example).

For materials to be purchased, the developer or sponsor must decide whether to buy from suppliers in that particular neighborhood for convenience, or from large-volume, citywide firms which can usually offer lower prices. With the latter, sweat equity groups may be at a disadvantage since they are relatively unknown to suppliers and must establish credit. Groups must also learn what to buy, when to get it, and what to pay. Although a seemingly easy matter, purchasing can mean confronting myriad trade names, varying quality, and cash overruns. For many construction materials, the foreman should ke a major purchasing role.

Task Checklist

Specific tasks should generally include the following (some will be ongoing/concurrent):

- o signing of contracts
- o ordering special items
- o contacting production supervisor
- o establishing quality control inspections
- o monitor payments and confirm changes in writing
- o provide waiver of liens for all work
- o monitor schedule
- o collect guarantees (i.e., appliances)
- o establish and use punch lists for final payments

Sequence of Work

Before work has begun, the developer and the foreman should establish clear policies concerning changes in plans or specifications during the work process. Any proposed changes should be in writing and approved in advance--especially if residents will be directly involved--to ensure successful rehabilitation and budget planning.

Generally, it is wise to keep a standard order of completion in mind once work has begun (although a few items can be postponed or completed out of sequence). The conventional sequence for renovation work is as follows (per Home-Tech Systems):

- Tearing Out. Plaster removal, tearing out of old heating and electrical systems, if appropriate, removal of walls and stripping of walls to studs and brick, removal of debris.

- Framing and Structural Work. Closing off stairways, building new partitions, removing old bearing walls, installing beams as necessary, building closets, changing doorway openings, installing subfloor or new floors.

- Heating. Heating and air conditioning work for new systems; possible relocation of radiators for old hot water systems.

- Plumbing. New waste lines and water piping (while walls and ceilings are open); rough-in work for kitchen and baths. New water pipes should be run above ceilings that will be closed in.

- Electrical. All electrical systems. Take advantage of open walls to do necessary or desirable electrical work. Have leads run to areas that will be finished later to save subsequent extra expense. With separate rental units, have circuits separated so the apartment can have its own meter.

- Windows and Doors. New exterior windows and doors (after or concurrent with the above work). New doorways, bricking up existing doorways, or changes in exterior walls should be completed with the framing and mechanical work.

- Insulation. For walls and ceilings. Complete insulation cannot be done in a partial renovation; however, the ceiling of the upper floor should be insulated thoroughly to cut heating bills.

- Roof. New or repaired roof. New to be installed only after all holes through the roof have been made for plumbing and heating, and before any interior finishing is done. In a partial renovation, the roof should be checked first to prevent further deterioration while interior work is done.

- Finished Walls and Ceilings. Completed after the framing inspection and close-in inspections for all trades.

- Trim. Begins after finished walls are installed. Hardwood flooring is installed (but not finished), doors hung, base and ceiling molding and chair rails installed, bookcases built, stair treads installed and other millwork done. Kitchen cabinets are set and countertops measured and installed: appliances are not put in until the final week before occupancy or settlement to prevent possible theft. In the baths, ceramic tile, recessed bath accessories, and medicine cabinets are put in.

- Completion of Trades. Final plumbing, electrical, and heating work. Completed when the house is trimmed out and the kitchens and baths are basically complete. Plumbing fixtures are set, water lines connected, faucets installed, and the kitchen sink, dishwasher, and disposal hooked up. The ductwork is tied into the furnace, grills installed, and the system balanced. Electric fixtures, plates, and switches are installed, and circuits tied to the main service box and labeled.

- Decorating. Painting and decorating, finishing floors, and installing floor tile and/or carpeting. Usually two coats of paint are applied, then floor tile and carpet are laid, and paint touchups completed. Then carpenters return to install locks and correct minor items.

- Final Punch List. Exhaustive review when job is complete. Punch list of items to be corrected will bring quality up to the desired standard. Some defects are difficult to see until the finish coat of paint is on; it is hard to see nail pops in drywall without at least a prime coat of paint, and the lighting is usually not good enough before the job is done to see minor defects in trim.

- Final Inspections. Electrical, plumbing, heating, and final building inspections by local jurisdiction.

Work Progress Inspections

Regular inspections of rehabilitation work by the foreman or another qualified representative of the developer are essential to ensure that the project is completed as planned and within budget. If a staff foreman is on the site full-time, these inspections can take place daily with minimal friction. In any case, the inspections should take place at least three times a week. After working with a given contractor, the developer will soon learn whether daily inspections are required.

Intermediate inspections are particularly important for those tasks which involve basic systems or a series of steps. For example, rough electrical work should be inspected before being covered by wall or other materials. Similarly, surfaces to be painted should be inspected both before the first coat and before the final coat. Basic specifications should be followed throughout each process; errors should be resolved as soon as possible after the contractor is notified.

At least five days before final inspection is desired, the contractor should notify the developer so that a date can be established. The contractor should be reminded that his final papers must be turned in before final inspection. The contractor should submit his signed lien waivers, certificate and release, warranties, and contractor's payment estimate. The lien waivers should be checked and periodically verified to assure that all suppliers and subcontractors have signed it.

Two or three days before the scheduled final inspection, the contractor should receive a list of items which need attention before the job can be approved.

Final checks can be distributed at the final inspection if work is satisfactory.

All contracts should include a final inspection requirement, with approval to be given by the UNCA sponsor/developer or foreman and the unit resident if he/she has been identified. City building and housing codes may also require a final signoff by a licensed craft worker before certificates of occupancy can be issued.

AFTER REHABILITATION

For a property unoccupied during rehabilitation, it may be desirable to schedule partial move-in as early as possible. In some sweat equity and homesteading programs, "watch person" occupancy takes place as soon as building code standards are met or 60% of the work has been completed. Even if such occupancy does not produce income for the project, it may prevent vandalism in an empty building and encourage sweat equity contributions by early residents. The city housing department may need to give at least tacit approval if this occupancy will take place before a required certificate of occupancy can be secured. The sponsor or UNCAT should encourage municipal officials to be flexible in this regard.

A temporary certificate of occupancy will permit a full move-in before all work is completed. If the remaining finishing work is to be done by sweat equity, the sponsor and UNCAT should act to prevent post-move letdown. Once the urgency of completing work necessary for occupancy has faded, residents may be slow to complete remaining tasks. Some incentive for completion will exist as long as a final certificate of occupancy has not been issued.

Final Move-In

Final stages of rehabilitation work should include major aspects of community association development; new owners will be able to play a more active and organized role in the establishment and operation of the UNCA. As in any other construction project, the final satisfaction of the new residents is the primary concern. Friction between the sponsor-developer and new UNCA members should be minimized; the sponsor and team should plan to visit occupants of a newly rehabilitated property 60 to 90 days after full occupancy. While the sponsor should not solicit complaints or problems, he/she should ensure that rehabilitation work was satisfactorily done and arrange any necessary corrections.

Chapter 7: COMMUNITY ASSOCIATION DOCUMENTS

INTRODUCTION

A community association is created by and operates in accordance with a series of legal documents. While they need not be complex, they must be thorough; once filed, they are difficult to change. It is therefore especially important to understand the underlying concepts, what the documents were designed to do, and how they will dictate the operation of a given UNCA.

The material in this chapter covers three areas: (1) definitions of the various documents required; (2) suggestions regarding the drafting process; and (3) descriptions of specific provisions which may be needed in the completed set.

Most of the legal provisions for an UNCA are no different than those for the more conventional community association. However, distinctions do exist among:

- rule enforcement;
- resale control;
- interior maintenance;
- in-kind contributions of assessments;
- neighborhood interaction;
- renting;
- control and transition;
- insurance; and
- services and management.

The important consideration, in any case, is to make the documents fit the project.

PRIMARY DOCUMENTS

The basic creating document of a community association is the declaration. In a condominium, it might be called either the Declaration of Condominium or the Master Deed, depending upon State law. In the HOA, it is generally referred to as the Declaration of Covenants, Conditions, and Restrictions. In both cases, the declaration is a document containing the plan of development and ownership, the method of operation, and the rights and responsibilities of owners within the association. It is a "covenant running with the land" in that it is recorded in the land records and, like a deed, continues to apply to every person who becomes a property owner in the association. The length of time a declaration will remain in force will depend on State law (for an HOA, it is generally at least 20 years; the law imposes no set time limit for condominiums).

The second legal document essential to the community association is the set of bylaws. The bylaws set out the procedures for the internal government of the association. If the declaration is thought of as the constitution or primary law of the association, the bylaws become the statutes or secondary laws. Generally, provisions dealing with ownership and property rights will be in the declaration; provisions for governance and operation are in the bylaws.

Of the two documents, the declaration is harder to amend, since it is always recorded. Therefore, decisions affecting title and those which should be amended only with a large majority vote should go in the declaration. Because there is no statutory authority for a homeowners association, the declaration for an HOA is more detailed than that of a condominium, (wherein the statute is the source of authority).

The third document is the articles of incorporation or other instrument which, under State law, creates or charters a corporation. This is discussed in more detail in the Legal Framework chapter.

WHAT THE PRIMARY DOCUMENTS ACCOMPLISH

The declaration, bylaws, and the articles of incorporation are the basic legal documents for a community association. The documents serve to:

- define what is owned and by whom by defining (1) the boundaries of units and common elements and (2) the rules for use, enjoyment, and transfer of ownership;
- establish interlocking relationships between owners for the purpose of maintaining and preserving elements owned and used in common;
- establish the necessary protection standards or restrictions on conduct and appearance of the property;
- create an administrative structure to manage the common property and to enforce standards of conduct; and
- establish the fiscal structure of the association and provide for its operation.

RULES OF THUMB FOR GOOD DRAFTING

Often, documents are needlessly complex and expensive to prepare. One obvious solution for developers of multi-units is to find a good form and use it for all projects. However, not all projects are alike; the neighborhoods, buildings, people, and circumstances may change. Standardized "model forms," whether good or bad, do not work unless carefully tailored to fit the individual association. The form itself need only work to satisfy the necessary statutory formalities. The crucial question is, "will the association, and thus the project, work for the duration?"

The UNCAT attorney, in developing a set of documents, should keep in mind the form of the association, the association's function and purpose, and the constituency it will serve. The political and social structure of the association should reflect a sense of community. The geography, types of structures, demographics, desired roles of the association, economic capabilities of owners, and financing sources (including alternatives to cash payments for assessments) are all basic concerns which will vary and which must be reflected.

It is as important to keep the costs down as it is to reduce complexity. This goal is best accomplished by thoroughly understanding the fundamental drafting principles and selecting sample alternative provisions which can be put together like building blocks to create the documentary structure appropriate for the particular UNCA. The UNCAT should make use of professional assistance as necessary.

In selecting provisions, the draftsman must preserve as much flexibility as possible. As a "constitution," the declaration will affect people for years and must anticipate failures as well as successes in the development plan. The documents should also dispense necessary information (e.g., about maintenance, assessments, and uses of the property). The documents run with the land and thus may be the best hope of insuring future purchasers' understanding of what is going on.

In addition to the drafting principles, certain basic guidelines on the way the documents look, read, and are presented will help make the documents more usable and understandable. Drafters should avoid "legalese" and write clear, coherent sentences. Writers should think about each provision and use all necessary information but no more. Use of letter size paper and a table of contents are helpful.

THE DRAFTING PROCESS

The drafting process should truly be a team effort. Just as the sponsor and UNCAT can pool talents and points of view, the draftsman should use input from several sources. The traditional association employs an architect, planner, attorney, marketing specialist, lender, association manager, and insurer to mold the project and its documents. In an UNCA the same substantive areas must be addressed, although specific roles may be fulfilled on a less complex or costly basis. In addition, there should be input from the resident/owners.

It is important not to overemphasize either the team concept or the involvement of the residents: drafting cannot be performed by a committee, and the process does require a certain degree of experience and training. Nevertheless, the drafting of documents is the end of a process--not the process itself. The draftsman should draw on all necessary actors in order to weave the various threads into a final set of documents.

Veterans Administration (VA) and HUD/FHA requirements should be carefully considered where these agencies are involved with the UNCA. Their suggested guidelines, drafting concepts, and provisions should be thoroughly discussed with agency representatives (the provisions suggested in this chapter are merely alternatives to Federal provisions).

If the Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMC) are to be used as a secondary mortgage market, their requirements should also be addressed. This can usually be done without great difficulty.

The relationship of local law to the project and to the documents is explained in the Legal Framework chapter. An appreciation of State law is also necessary--particularly in regard to condominiums. The lack of a specific HOA statute does not mean there is no law available or applicable.

In some instances the documents can simply incorporate provisions of State law by reference. If strategic sections of the documents include references to State law, that law should be readily available to the association and its members.

Substantive areas not covered in the State statute may be treated by addressing other provisions, such as the Uniform Condominium Act (UCA). Such provisions then become the "law of the project."

SECONDARY DOCUMENTS

In addition to the declaration and bylaws, every UNCA must have plats and plans, a purchase and sale agreement, and deeds to the individual units or homes. If the association is incorporated, it will also have the documentation required by State corporate law. The purposes and uses of these documents are set forth in Tables VII.1 and VII.2, following.

The plats and plans are a visual representation of the boundaries of the land, the building(s) on that land, and individual units or lots. In a condominium, the floor plans show the horizontal and vertical boundaries of units. The plat serves this purpose in an HOA by showing the boundaries of the lots. Neither type of drawing has to be complex. The plat, showing the land in the project, is essentially a map. It can be drawn to include scattered sites as well as contiguous pieces of property. An HOA drawing clearly would include noncontiguous property; depending upon the State condominium statute, so might a condominium.

The deed is the document used to transfer fee simple title in the unit or lot. In the condominium, the deed also includes the specified undivided interest in the common elements. It may be appropriate for the UNCAT to arrange for a title company or lender to hold the deed in escrow for a specified period if some of the purchase price is an in-kind contribution of

Table VII.1: CONDOMINIUM ASSOCIATION LEGAL DOCUMENTS

Legal Basis

- Roman Law
- Specific State condominium enabling legislation
- Nonprofit corporate law

Basic Documents

o State enabling statute	State enabling legislation defines the ownership percentage, the obligations of the owners, and the dissolution of the condominium.
o Plats and plans	The condominium plat describes the location of the common elements and the units.
o Condominium declaration	The condominium declaration defines the units, common elements, and limited common elements; the basis for the percentage of interest, and voting rights. It also provides for automatic association membership, the proportional obligation for assess ments, and the limited use of restrictions.
o Individual unit deeds	The unit deeds (individual) assign a percentage of ownership interest in the common elements.
o Articles of incorporation	The articles of incorporation (usually not required for a condominium) contain a legal description of the property, define the association membership and the powers of the association, and create the board and voting procedures.
o Bylaws	The bylaws, with articles of incorporation, delineate the meeting process, election procedures, powers and duties, board meetings, committees, insurance requirements, and most use restrictions. The bylaws without articles of incorporation include the above with the addition of the legal description, association membership, the powers of the association, the creation procedures.
o Rules and regulations	The rules and regulations include operational provisions or use restrictions adopted by the Board upon initiation by the association.

Table VII.2: HOMEOWNERS' ASSOCIATION LEGAL DOCUMENTS

Legal Basis

- English law
- State corporate law or nonprofit corporate law

Basic Documents

o Subdivision plat	The subdivision plat describes the location of the common elements and describes the common elements.
o Property deeds	The property deeds are made up of the individual lot deeds and the common property deeds.
o Declaration of Covenants, Conditions, and Restrictions	The declaration of CC&Rs gives perpetual easement to the common elements. It also provides for automatic association membership, voting rights, and certain use restrictions. It also gives power to the association to own and maintain the common property, and to make and enforce the rules.
o Articles of Incorporation	The Articles of Incorporation designate the powers of the association, create the Board of Directors, and establish the voting procedures.
o Bylaws	The bylaws delineate the meetings, process, election procedures, powers and duties, Board meetings, committee insurance requirements, and limited restrictions.
o Rules and Regulations	The rules and regulations include operational provisions or use restrictions adopted by the Board upon initiation by the association.

work. If such a procedure is to be followed, it must be explained in the sales and purchase agreement (the sales contract). The sales contract in the UNCA should be that commonly used in traditional real estate transactions for community association projects. A common modification concerns the work purchase agreement, which should be for self-help rehabilitation before sale of the unit. (See Appendix VII.1 for a provision Example).

DRAFTING CHECKLIST

The drafting checklist suggested here (Appendix VII.2,) was developed for use with either a condominium or a homeowners association. While limited to the drafting process, it also describes the team and sources of information, and provides a full project overview.

SAMPLE TABLE OF CONTENTS

As a further aid to information gathering and planning, this section presents sample tables of contents for the documents needed in for all UNCA's. A condominium declaration, should include the following items:

(1) Purposes and Uses of the Property
(2) Units and Boundaries
(3) Limited Common Elements
(4) Undivided Interest in Common Elements
(5) Allocation of Votes
(6) Allocation of Liability for Common Expenses
(7) Amendment
(8) Assessments and Compliance
(9) Leasing and Resales

The items below might also be incorporated, depending on the development plan, the nature of the building, and whether property may be added.

(10) Expansion of the Condominium
(11) Convertible Space
(12) Relocation of Boundaries
(13) Alterations of Units
(14) Easements to Facilitate Completion and Sale

This table of contents represents a condominium declaration in a State with a sound, second-generation statute. Consequently, much of the detail is in the bylaws which are recorded in the land records with the declaration. The filing process insures that these important provisions are available to everyone and that there will be an official copy.

The table of contents of the <u>bylaws for a condominium</u> are more complex (see Appendix VII.3, for complete details). Bylaws should address (at minimum):

(1) General Provisions
(2) Definitions (Act; Association; Bond; etc.)
(3) Meetings of Members
(4) Board of Directors
(5) Officers
(6) Association Responsibilities
(7) Assessments
(8) Use Restrictions and Rulemaking
(9) Miscellaneous (notices; severability; etc.)

The <u>Declaration of Covenants, Conditions, and Restrictions</u> applies to the homeowners association. A complete table of contents is listed as Appendix VII.4, Headings should include:

(1) Definitions
(2) Property Rights
(3) Association Membership and Voting Rights
(4) Maintenance
(5) Insurance and Casualty Losses
(6) Condemnation
(7) Rights and Obligations of the Association
(8) Assessments
(9) Architectural Standards
(10) Party Walls
(11) Use Restrictions and Rule Making
(12) General Provisions
(13) Annexation of Additional Property

The contents for the <u>bylaws of an HOA</u> should include (also see Appendix VII.5):

(1) Name, Membership, Definitions
(2) Meetings
(3) Board of Directors
(4) Officers
(5) Committees
(6) Miscellaneous

For alternative document provisions (please see Appendix VII.6)

Chapter 8: INSURANCE

INTRODUCTION

A community association is subject to many kinds of loss or damage which must be covered in some form by insurance. Insurance professionals may call these potential losses "hazards," "exposures," or "perils;" each term refers to risk of loss. Any loss will affect all residents because of their individual interest in the common elements and membership in a common organization. Insurance provides protection against damage to the common facilities and any loss involved in potential law suits, and is also necessary to establish credibility for loans and mortgages.

UNCA insurance--which must be accounted for in the budget--should cover the property and liability risks of the common elements, and liability risks of the UNCA board of directors. Each owner of a unit may be responsible for securing coverage for some or all of the property owned individually; this is usually the case in the HOA.

Insurance coverage should comply with the mandates of State law and the financial regulatory and lending agencies. Association documents, while conforming to these mandates, should also consider the needs of the UNCA in question (see Chapter 7).

The insurance needs of the UNCA sponsor during development are separate from the ongoing insurance requirements of the new association (the sponsor is liable for both). During development, the property must be insured from the first day of acquisition through the completion of construction or rehabilitation work (in accordance with specific insurance policies). After transition, the community association is responsible for securing adequate insurance for the common elements of the property and for covering liability risks of association operations.

WHAT KINDS OF INSURANCE ARE NECESSARY?

Property Insurance

Property insurance covers the real property (structures), built-in equipment (air conditioning, elevators, and utilities), and contents (office and maintenance equipment) the common property. Coverage is normally written in the name of the UNCA and covers all risks except for the personal property and liability of individual owners. Insurance must cover at least part of the replacement of cost which would be incurred by damage from fire, lightning, windstorm, hail, explosion, riot, vandalism, malicious mischief, collapse of building, or overflow of water. Insurance categories include:

- Fire (protects against fire and lightning);
- Fire and extended coverage (protects against fire damage and other "named perils" such as wind, hail, smoke, or explosions);
- All-risk (covers all losses unless specifically excluded from the policy. Limitations such as wear and tear or rain damage will be named);
- Boiler and machinery (may be necessary when all-risk policies do not cover explosion of steam boilers); and
- Flood insurance.

Note that, under the HUD Federal Emergency Flood Insurance Program, property owners in flood or erosion-prone areas receive subsidies. In return, communities must adopt flood plan management regulations.

Liability Insurance

Liability Insurance covers any claims that may be made for bodily and personal injury or property damage that occurs on the association's common property. The basic protection should include slip-and-fall accidents, other bodily injuries, false arrest, libel, slander, invasion of privacy, wrongful eviction, and entry.

A general liability policy is required by most documents and several State statutes. It covers all claims and costs of defense arising from actions that occur on the basic property up to specified dollar amounts.

Comprehensive general liability extends this coverage to any location where association business occurs. Coverage can also be extended for medical payments, non-owned automobiles, or watercraft.

Umbrella liability protection can provide additional protection above the dollar limi of general liability as a supplement in the event of unusual catastrophic loss.

Directors and Officers (D&O) Liability

Directors and Officers (D&O) Liability is standard liability insurance which covers the association's exposure as a result of mismanagement of common funds or policies. The Board administers the financial operations and the set of rules and regulations which govern the residents. D&O insurance will provide funds to (1) defend the Board members against law suits and (2) protect the assets of the association and personal assets of Board members against any claims awarded on the basis of such law suits. Such insurance does not cover discrimination or failure to maintain insurance.

The policy period clause varies generally in two ways. A "claim made basis" form will cover all claims made during the period regardless of when the negligent act occurred. An "occurrence basis" policy will only cover acts committed during the same policy period.

Some policies will not cover claims made against past directors and officers. An UNCA should specify that their insurance be continued against claims made for negligent acts.

Other Liability

The UNCA may also need any of the following:

- <u>Fidelity bond</u> protects the UNCA against any dishonesty on the part of the Board members, employees, or management firm that handles funds.

- <u>Workmen's Compensation</u> provides separate liability insurance for bodily injury suffered by employees or acting Board members (such protection is generally excluded from other policies). Workmen's compensation is not necessary for an UNCA that hires independent contractors.

- <u>Builders Risk</u> protects the property during construction or substantial rehabilitation, including materials and supplies that become part of the structure; it often excludes theft.

- An <u>Installation Floater</u> protects a contractor's material while rehabilitation is underway up to the point of installation. Rates are flexible and generally less expensive than Builders Risk.

- <u>Owners and Contractors Protective Liability</u> provides coverage for the liability of a subcontrctor, and is usually mandatory for extensive rehabilitation.

Post-Development Insurance

At the end of the development phase, the sponsor is responsible for identifying and securing insurance coverages for the new association. Because the development phase policies can be expensive and difficult to obtain in central city areas, the sponsor may want to consider merging the development and operations phases in one insurance policy where possible under State law. Options are explained below.

- Secure <u>only</u> the owners and contractors protective liability policy for rehabilitation phase insurance if there is no new construction and arrange for full coverage from the day of acquisition.

- For large projects, the insurance company may be willing to write only one policy and adjust the premium rates in the beginning when risks of loss may be higher. The sponsor can avoid higher premiums from multiple policies given the prospect of continued coverage.

- If special insurance coverage is necessary during construction or rehabilitation, the sponsor can use an Installation Floater instead of Builders Risk, which will save money and offer greater coverage flexibility.

DEFINING WHAT ELEMENTS OF AN UNCA SHOULD BE INSURED (INSURABLE INTERESTS)

Insurable interests are defined during the development phase; <u>wherever an UNCA can be damaged by loss or is exposed to risk, there is an insurable interest</u>. For liability and D&O insurance, coverage is more easily definable than for property insurance, with its distinctions between common and individual property.

Insurable interests will be dictated by State statutes (for some condominiums), legal documents, and financial regulatory or insuring agencies. (Where the State statute conflicts with legal documents, the former has precedence.)

COMMON PROPERTY INSURANCE NEEDS

In an HOA, the common elements will include common grounds and facilities (owners hold title to the whole unit--including exterior and party walls--and the underlying property). While legal documents need not specify the UNCA's responsibility for insuring units, some may do so.

In a condominium, the UNCA will typically be responsible for insuring the common property and the unit. The sponsor must decide how much of the unit the association master policy will cover. The UNCA insurance policy should match the documented definition of the unit.

Units can be defined by the bare walls or single entity concepts. The "bare walls" concept provides for association insurance only up to the unfinished surface of the inside walls, ceiling, and floors. The "single entity" concept dictates that the UNCA policy covers 11 fixtures and installations attached at sale to the walls, floor, and ceiling, excluding the owner's personal belongings. The master association policy should also establish whether owner's improvements (e.g., paneling) will be covered by the association or the owner.

REPLACEMENT COSTS

The replacement cost of property may not be the same as the market value, especially in urban areas where market value may change rapidly. The Board is responsible for maintaining insurance for the current replacement cost.

Regional or national construction cost guides are useful for determining how much it would cost to construct a similar building at current cost levels. Original construction costs can be updated if the Board has an accurate base of information. (This is impractical for many older urban properties.) Substantial rehab must be considered in any estimates.

The most accurate (and expensive) method of determining replacment costs is to hire a professional appraiser. Lenders will require a professional assessment if the property is being rehabilitated. The replacement cost portion (minus land and foundation) of the professional value appraisal will determine how much insurance should be carried. Some documents specify an annual update with a list of unit types and square footages. A site plan should be provided to the appraiser to save time in measuring dimensions and thus reduce cost.

Coverage can be adjusted in several ways to allow the UNCA to share risk and pay lower premiums. The first adjustment concerns depreciation. Some of the items in a property may not be insurable for replacement value: carpeting and stoves, for example, may only be covered on a depreciated or actual cash value basis. With a cash value policy, an insurance company will account for the depreciation to determine replacement value. If possible, avoid the deduction for depreciation by including the major building components in a replacement cost endorsement.

The second adjustment is coinsurance. A coinsurance clause assumes that the UNCA will purchase and maintain sufficient property insurance for a specified percentage of the replacement cost of a property--usually 80, 90, or 100 percent. In the event of a loss, the insurance company will cover the full amount of the loss up to the amount of coverage purchased. If the UNCA is carrying insurance for less than the stated percentage because it has not annually re-evaluated the replacement cost, then the insurance company will only cover the percentage of the requirement carried. Coinsurance is designed to force the insured to maintain insurance coverage at a given level (80-100%) of replacement cost (see Table VIII-1). The UNCA is responsible for increasing insurance coverage if costs of replacement increase.

Table VIII-1: COINSURANCE CALCULATIONS FOR A 90% COINSURANCE CLAUSE

Replacement Value of Property	Insurance Carried	Portion of 90% Requirement	Loss	Amount Collected	% of Loss
$1,000,000	$900,000	90%	$ 200,000	$200,000	100%
1,000,000	900,000	90%	900,000	900,000	100%
1,000,000	900,000	90%	1,000,000	900,000*	90%
1,000,000	500,000**	55%	200,000	111,111	55%
1,000,000	700,000***	78%	200,000	155,560	78%

* The insurance policy never pays for more than the total coverage purchased.

** Insufficient insurance carried to meet clause requirements. Since only 55% of coverage was in force, the company only pays 55% of the loss.

***See above; since only 78% of the minimum required coverage was in force, the company only pays 78% of the loss.

(Adapted from Community Associations Institute, Community Association Insurance, GAP Report #4, 1979.)

A third method of fixing property insurance amounts to carry is through an agreed or stipulated amount clause. The insurance company and UNCA can agree to a specific value for the property to be paid up to face value in the event of a loss. (For example, if the property is insured for $2,000,000 but has a replacement value of $3,000,000, the insurance company will pay the lower amount.)

All property insurance policies specify a "deductible" amount to be covered by the insured. Documents may specify whether unit owners (rather than the association) will cover the deductible. Deductible amounts may range from $100 to $1,000. The UNCA should determine whether the deductible should apply to each item damaged or to each occurrence of loss.

Finally, a waiver of subrogation against owners is included in most property insurance policies. It prevents the insurance company from collecting its loss directly from owners who caused the loss through negligence.

After the company has paid the UNCA, it cannot collect from its individual owners or officers.

It is important that the UNCA Board of Directors adjust insurance coverage to reflect replacement costs. Annual reviews are desirable, given the current rate of inflation. An UNCA can purchase an inflation guard endorsement which will increase insurance coverage automatically by a percentage amount each year.

DETERMINING THE EXTENT OF LIABILITY COVERAGE NEEDED

Three basic areas of liability exposure which an UNCA should account for include:

- Tort liability occurs when the UNCA is legally responsible for a civil wrong (i.e., "slip-and-fall"). Such liability does not include breach of contract.
- Business liability refers to mismanagement of funds, failure to collect assessments, or failure to enforce rules or regulations.
- Government liability for an UNCA extends to due process and civil rights responsibilities, voting disputes, and resale policies. These may relate to challenges to the rules, enforcement procedures, assessment collection methods, or restrictions on resale policies.

Since the extent of an UNCA's liability is quite broad, insurance coverage must encompass as much of the risk as possible. Each UNCA Board must determine the amount of liability exposure depending on the size of the project and extent of operation of common facilities. Usually general liability protection should be for at least $1,000,000 since the difference in premiums for coverage under $1,000,000 is small. An umbrella liability policy for limits over $1,000,000 usually carries a deductible of $10,000. General liability can then be reduced to $300,000, $500,000, or another amount less than $1,000,000.

DETERMINING THE AMOUNT OF D&O LIABILITY COVERAGE NEEDED

The extent of D&O liability that an UNCA covers can vary. If corporate indemnification is provided in the association's documents, the UNCA is responsible for the costs of any personal legal defense or settlement claims against a member of the Board of Directors. Most Board members are unable to afford legal costs; in any case, the UNCA should purchase coverage that, at minimum, covers any indemnification provision in its documents.

Common exclusions from D&O liability include libel and slander, fraudulent acts, civil rights violations, and personal injuries. Except for civil rights violations or fraud, many of these risks can be covered by the association's basic liability insurance.

Generally, D&O liability policies carry a deductible of $500 (ranging up to $2,500) and cover 95% or 100% of any loss beyond the stated deductible. Suggested amounts of coverage range from $300,000 to $1,000,000.

HOW TO BUY INSURANCE FOR THE UNCA

In many central city areas, insurance is difficult to obtain or prohibitive in cost. A significant number of urban property owners can secure only the most basic forms of property insurance in what has developed as the "residual risk market" or market of last resort. In fact, homeowners policies were developed to serve a select and suburban market. Geographical divisions between the voluntary market in which insurance companies compete for the lowest risk, and the residual risk market has created a very difficult situation for many urban property owners.

There is a close relationship between obtaining credit for mortgages and loans and obtaining property insurance. Without sufficient property insurance, lenders will not extend credit. Because the risk of damage or loss is considered high in certain central city areas, the insurance companies often employ "redlining"--establishing geographical areas for which they will not provide insurance. According to the National Association of Insurance Commissioners, redlining also includes the refusal to renew cancelling insurance, charging a different rate, or limiting coverage for an individual property on the basis of geographical location.

Both the public sector and the insurance industry are re-examining the problems of insurance in urban areas. In the meantime, the UNCA sponsor should take several precautions to be assured of adequate coverage for the project during the development and operations phases. First, the sponsor should account for and control as many of the risks of damage as possible:

- o The property should be occupied for as much of the development phase as possible to avoid the risk of damage or vandalism.
- o Buildings should be secured by fencing the property, boarding up windows and stairwells, and maintaining guards.
- o Unused pipes should be turned off to avoid the possibility of water damage.
- o If the property is not secured from water or broken glass damage, these perils should carry a high deductible or not be carried during development.

The UNCA sponsor should also provide as much information as possible when applying for insurance. Many insurance companies are inexperienced in providing coverage in urban areas. In the absence of underwriting criteria, ample information from the sponsor-applicant will define the risks of and protections for the company. The sponsor can:

- o show how the planned rehabilitation of the UNCA will improve the property and neighborhood;
- o refer to objective standards for rehabilitation (e.g., municipal building code or rehabilitation loan program guidelines) and show how the UNCA will meet these standards;

- provide pictures of existing structures and architectural renderings;
- explain how risks and exposures will be controlled;
- provide plots, plans, and specifications;
- describe clearly the scope of intended changes and rehabilitation, using the Uniform Construction Index;
- provide information on the financial package for the project and sources of funding; and
- describe the background and experience of the development team. (Include newspaper clippings or other displays of past accomplishments.)

Appendix VIII.1 presents a summary of the information which an agent would provide for the company underwriting the policy; the sponsor should include the same type of data with an application for insurance.

Once the information is collected, the UNCA sponsor should identify appropriate insurance agents who provide insurance for community associations. Briefly:

- The agent should have experience in writing community association insurance and understand the needs of associations;
- The agent should request to see a copy of the UNCA's governing documents before suggesting policy components; and
- The agent should suggest professional property value appraisal as the basis for the property insurance requirements.

THE VOLUNTARY MARKET

In the voluntary market, companies assess the risks of insuring a specific property and provide this insurance at premiums which correspond to the level of that risk. The UNCA sponsor should first try the voluntary market and determine the cost of coverages. Both the location and type of development (HOA or condominium) will dictate the availability of insurance.

Voluntary market insurance may be obtained through insurance companies, an independent agent who may represent one or more insurance companies, or an independent broker who will find an insurance company that can satisfy the UNCA's needs.

Steps that a sponsor should follow in seeking insurance are as follows:

- o Contact local housing or trade groups for information on the most competent and available agents in the area. (See References and Resources.)
- o Contact other community groups or technical assistance organizations who may have previously developed housing in the area to get names of agents, brokers, or companies.
- o Develop a list of two or three agents or brokers. Find out the qualifications of each agency and its past experience in dealing with community associations.
- o Insurance companies are rated by the A.M. Best Company, Inc., on financial solvency and overall conduct of business. Find out from the agent which companies will carry the insurance and check their "Best" rating.
- o Submit an information package, including a bid form, to the agencies selected. The bid form should specify what coverages, deductibles, and amounts the sponsor needs for development and ongoing operation of the new association. Use of a 3-year policy term will avoid the costs of annual rebidding.
- o For larger UNCA's, or those in a neighborhood which is part of an overall rehabilitation plan, the prospect of future business can be an agent incentive. A complete presentation describing the UNCA's ongoing insurance needs can help ensure ample coverage at a reasonable cost.

RESIDUAL RISK MARKET

If the UNCA sponsor is unable to obtain adequate insurance coverage in the voluntary market, he/she should consider such options as FAIR (Fair Access to Insurance Requirements) plans, nonstandard or surplus lines in non-FAIR plan states, or Federal Crime Insurance.

FAIR PLANS

FAIR plans have been established in 28 states to meet the gap in availability of essential property insurance for central city areas. FAIR plans have quickly taken over large shares of the residual market; the 900,000 structures insured under FAIR by the end of 1977 represent a considerable portion of the residual market, and will be likely insurance sources for the sponsor in need. Residual market and FAIR plans are analogous to high-risk insurance plans for certain automobile drivers; they formally define a class of high-risk policies.

Under the Riot Reinsurance Program, Federal reinsurance is offered to companies that participate in FAIR plans. FAIR plans are directly supervised by State insurance authorities, but reviewed continuously by the Federal Insurance Administration to assure that they meet Federal standards.

The problems of FAIR and other residual market insurance are similar to those of high risk auto insurance. A primary concern is the high cost of premiums. Because the residual risk market is very clearly defined by a FAIR plan, the risks are generally more closely examined by an underwriter. Extra charges can be attached to the premium to cover these identified risks. (Such scrutiny may also occur in non-FAIR states.) Some of the FAIR plans (e.g., New York) are self-rated. This means that loss rates are figure <u>only</u> for the pool of properties within the FAIR plan, rather than averaged by means of a State-wide loss rate. Consequently, the premiums can cost three to four times the amount paid in the voluntary market.

A secondary concern is the limited choice for coverage options in the residual market. FAIR plans generally offer only the barest fire, extended coverage, and vandalism coverage--with no homeowners multi-peril policies. (Wisconsin, Massachusetts, and Rhode Island do offer such coverage.) It is also more difficult and expensive to obtain multi-peril coverage in non-FAIR plan states, even considering surplus line carriers or nonstandard insurance companies.

Federal Crime Insurance

Federal Crime Insurance provides coverage against burglary in 21 states and the District of Columbia in cases where voluntary market insurance is difficult to find or not affordable. Rates are uniform within a metropolitan area and policies are not cancelled due to losses. This insurance is for the owner of a housing unit and provides only minimum coverage.

INSURANCE COVERAGE FOR INDIVIDUAL OWNERS

In designing an appropriate insurance package, the sponsor will have to account for the specific needs of each individual owner and the collective needs of all owners.

In a condominium or cooperative, the entire building or group of buildings can be written in the name of an insurance trustee (the Board of Directors or managers). Each unit owner should be issued a certificate of insurance listing the name of the trustee. The notice of insurance should include the name of the insurance company, amount of policy, and dates of expiration. These policies are a form of multi-peril insurance and are part of the MLB series.

In a condominium, each unit owner can also carry homeowners insurance for risks not covered in the common policy and for personal property both in the unit and off the premises. A special homeowners policy for condominium unit owners, HO-6, includes broad property liability and coverage for additions and alterations to fixtures and installations made within the unit by the owner. HO-6 insurance can be expanded as needed with special endorsements if the owner wants additional insurance. (Loss assessments coverage--HO-35--cover special assessments made by the UNCA or the owner because of uninsured damage or loss on the common elements.)

A unit policy should insure value of personal property, personal liability, and additional living expenses in case the owner must leave the unit during necessary repairs. The policy should be written for the face value of each owner's personal property. Additional living expenses are covered up to 40% of the face amount. If the master condominium policy only covers the units to the bare walls, the value of personal property must include the fixtures and appliances.

An HOA has property and liability risks similar to those of the condominium. Traditionally, the HOA insures only the common areas with each owner responsible for his or her own unit. This creates several problems:

- There is no uniform coverage of the property; several insurance companies will be involved in the event of loss to more than one unit.

- Each owner is responsible for locating, identifying, and buying insurance--a difficult task for first-time homeowners.

- The cost of multiple policies is higher than that charged for one master policy.

It is possible to write a master policy for the common areas and provide an insurance package for all unit owners by certificate of insurance at common rates for the whole association--similar to the condominium or cooperative MLB forms. (State laws and regulations must be consulted.) This will lower premium costs because of the economies of the collective purchase and provide uniformity.

If this master coverage is not possible, the UNCA can be named as an "additional insured" on each individual policy. Also, the association can require that each owner file a certificate of coverage with the UNCA to ensure payment for repairs on individual units.

The individual policies written under this certificate of insurance (or separately) are full homeowners' policies--Forms HO-1, HO-2, and HO-3. The differences among these policies are in the number and type of perils listed. They are written on a replacement cost basis equivalent to the current cost of rebuilding or on an actual cash value basis which takes depreciation into account.

In some states, policies designed for older 1- and 2-unit dwellings can be used for an UNCA. For example, the actual cash value homeowners policy provides property and liability coverage at lower costs. However, theft and off-premises coverages may be limited. Further, damages are adjusted on actual cash value basis (replacement cost minus depreciation) rather than full replacement cost. The homeowner thus must retain a larger amount of risk.

Two other policies include the variable percentage replacement loss settlement endorsement, which allows a homeowner to secure a policy at 50%, 60%, or 70% of full replacement cost, and the repair cost policy, covering older structures which may not be eligible for traditional homeowners' policies.

EDUCATING RESIDENTS ABOUT INSURANCE

UNCA resident must be adequately informed about their responsibilities to secure insurance for their own unit. Insurance requirements can be presented as part of the homeownership and community association counseling seminars. The agent can assist with presentations and exhibits. In addition, initial information packages should include both a checklist of the necessary personal coverages and a synopsis of the common property insurance.

If each owner is required to identify and secure a homeowners policy, the sponsor should provide the name and address of agents to contact. Necessary supporting documents and data should be provided.

Finally, a copy of the actual UNCA policy should be available for examination on a request basis. Copies of any certificates of insurance for portions of the individual units must be supplied to the unit owners.

Chapter 9: MANAGEMENT AND OPERATIONS

INTRODUCTION

Management in an UNCA--the process of carrying out association programs and activities--is an administrative function implemented by the Board of Directors. As the policy-making body, the Board must design a management process which encourages the widest possible participation of all the owners. This chapter identifies essential elements of such a management plan. However, the application of each element depends on the design and individuals of the individual UNCA.

The experiences of the National Tenant Management Demonstration program can be instructive. NTMD involves low-income tenants in the management of public housing developments in order to improve performance and increase tenant satisfaction. Community association management demands similar involvement from the resident-owners.

Experiences with this demonstration over the past four years show that a key ingredient of successful management is the quality and commitment of the managers involved. In addition, residents must be motivated and understand the aims of the project. The project design must compensate for the inexperience on the part of prospective owners. Training and technical assistance of the UNCA residents is mandatory if they are to have a meaningful and productive role in housing management.

Although the design of the management plan is important, the tactfulness, understanding, and diplomacy of the eventual manager may well determine the success or failure of UNCA management. It is crucial for housing managers and the sponsor group involved in designing a management plan to realize that management, first and foremost, concerns human beings. Each group of residents represents a unique situation that should define the kinds and level of management services.

ROLE AND RESPONSIBILITIES OF THE BOARD OF DIRECTORS

The UNCA Board of Directors has the ultimate responsibility of management. The Board's responsibilities begin with the recordation of the association's governing documents, which formally establish the community association.

As units are sold, more owners are gradually available to be elected to serve on the Board, until all seats consist of elected members. The role and responsibilities of the Board of Directors of the UNCA remain the same regardless of the developmental stage of the association. Basically, the Board must:

- hire the appropriate professionals, including auditors, attorneys, management agent, financial services, independent contractors, and employees;
- oversee the performance of those servicing the UNCA;
- insure that all officers or employees with fiscal responsibilities are properly bonded;
- establish and maintain a sound financial policy regarding the keeping of proper and accurate records;
- propose budgets and set assessment rates;
- send all members adequate notices of assessments;
- enforce provisions found in the legal documents and approve legal actions against owners who fail to pay assessments and other related breaches of the documents;
- establish, publicize, and enforce community rules and penalties;
- procure and maintain adequate insurance coverage as required by the bylaws;
- provide for the physical maintenance of the common properties;

- o appoint committees and cooperate with them in their work;
- o oversee the development of any recreational, social, cultural, and educational programs to meet the needs of the residents; and
- o establish a communication system notifying residents of meetings and other activities.

EDUCATIONAL NEEDS

The NTMD study raised several several points. First, the benefits of self-management must be obvious to a group of residents in order to sustain ongoing interest. Counseling is crucial in order to outline the need for ongoing resident participation in management--particularly for residents who have never participated in managing their own housing.

Training and technical assistance have been major factors in determining the success of tenant management; five years after the establishment of the first Tenant Management Corporation in St. Louis, technical assistance continues in response to perceived need. The need for training and continued participation is well documented.

Educational training sessions for unit owners and residents should address such topics as:

- o pros and cons of the association form of homeownership;
- o association functions (i.e., what it is responsible for and how it meets that responsibility);
- o member responsibilities;
- o managing a household budget; and
- o responsibilities of owning a unit (i.e., what needs regular maintenance and how to accomplish it).

Outside sources can be used to supplement in-house training as described below.

- If the services of a professional management agent are retained, the contract should include provisions for the conduct of regular seminars in any of the above-defined areas.

- Appropriate programs and services are often available through public housing agencies.

- A pool of local "expert" volunteers is useful for ongoing training programs. Possible sources of volunteers include local chapters of the Community Associations Institute, VISTA programs, or community housing groups.

- Conversely, local CAI chapters may allow UNCA representatives to attend and participate in programs free of charge in order to facilitate information exchange.

Continuing education may simply involve devoting a part of each UNCA meeting to some aspect of association operations. The session might consist of an in-depth review of technical reports and bulletins on community association operations or the collective use of taped courses. Topics to be addressed may be subjects from the initial training which need to be further stressed or broken down.

One method of involving residents in the design of their UNCA's management plan is to develop an operational guide during the initial training sessions. The manual should describe, step-by-step:

- procedures for setting up a timetable for UNCA tasks, such as elections procedures, budget formulation, and notification of annual meetings and assessment rates;

- financial management procedures, such as receiving and recording income, regular reporting, establishing and utilizing bank accounts, checks, and creating a budget;

- procedures for assessment collections and regulation violations;

- the conduct of annual meetings;

- establishment of standards as a basis for management evaluation; and

- methods of communicating to association residents.

The manual should include a detailed preventive maintenance program and emergency maintenance procedures. Topics presented in training programs can provide the framework for the initial substance of the manual.

MANAGEMENT DURING CONVERSION

The conversion period is both complicated and hectic -- especially when prospective unit owners and tenants must live in the same building simultaneously. The principal management task during this period will be to create order. Since effective management at this stage is crucial, the sponsor group and UNCAT may wish to perform management functions -- at least temporarily. If so, they should be aware of two areas of concern.

Often, tenants may be paying rent to the building's owner or a development group at the same time that the unit owners are paying assessments to the association. Project residents may regard all parties being paid as the same entity -- which causes confusion over warranty work, UNCA maintenance, and rental maintenance.

A group undertaking conversion frequently needs adequate cash flow in order to meet debt service obligations, sustain rehabilitation, meet its monthly assessment obligations for each unsold unit, and pay for its share of building operation expenses. Cash flow stems in part from the rental income generated by occupied, unsold units. Typically, this rental income source is decreased as units are sold and tenants either become homeowners or vacate. The decrease in rental income must therefore be closely timed with corresponding unit settlements.

Records

It is difficult to make this initial period less confusing. Therefore, there is a crucial need for accurate recordkeeping. The development period should be accompanied by dated records of:

- what units are occupied at all times by renters or owners;
- the date of settlement of each unit by its individual owner;
- the date each tenant is expected to move out;
- the date each tenant actually moves out;
- current assessment rates, including the dates and amounts paid by each unit owner (including the sponsor) during and after settlement;
- current rental rates, including dates and amounts paid; and
- date, amount, and origin of any initial capital contributions paid to the association.

These records will provide information useful to the operation of the property: the sponsor group and new UNCA can thereby forecast move-outs and schedule the rehabilitation work efficiently. In addition, records describing the first homeowner assessments comprise a valuable foundation for effective and accurate assessment collection in the future.

TYPES OF MANAGEMENT

Before the Board can determine what type of management is necessary, its members must establish clear goals and objectives and must understand their basic duties and responsibilities as set forth in the legal documents. In addition, they must have made an objective analysis of the scope of tasks or management functions needed -- since the Board is responsible for implementing all management decisions.

Several factors influence the effectiveness of each management option:

- Size of the association. With a greater number of units there is a corresponding increase in responsibility (and management tasks).

There are also more owners to share costs and provide talents and skills.

- <u>Complexity of the property's operational requirements</u>. Special amenities or unique features of the project may require professional management; for example, special needs groups such as the elderly require social services.

- <u>Ability of the association to pay for services</u>. Restricted resident incomes may narrow the choices and require some degree of self-management.

Volunteer Self-Management

Residents may be able to perform most of the administrative duties of assessment collection, bookkeeping, supervising, maintenance, and letting of contracts. The key to the success of this method lies in the ongoing enthusiasm of the residents for the maintenance of a common property. It does provide certain advantages:

- it can save money, since salaries will not be issued;

- it results in tighter control on service performance through direct board supervision; and

- it creates a greater appreciation of the association's need for maintenance and repair services.

However, there are disadvantages:

- money saved by not using a qualified professional can be lost through the mistakes of inexperience;

- since a considerable time commitment is necessary, community leaders can lose interest and enthusiasm; and

- the Board must settle differences among disputing residents directly instead of through a third party.

Sponsor/Group Management

Through a contract with the Board of Directors, the sponsor/group can continue to manage the UNCA after all the units have been sold. This may prove beneficial in instances where one neighborhood organization may hold a number of properties for low- and moderate-income housing development. The sponsor group can manage the property while running counseling and training sessions for the project owners. Once the owners have completed the initial training sessions, the Board can opt for other management alternatives.

This option enhances the sponsor's familiarity with the project; it also holds the potential for quick repairs or servicing of the property through related construction contacts. On the other hand:

- o the sponsor group will be faced with distinguishing between warranty work and maintenance;
- o there is the potential for comingling construction funds with association funds;
- o owners may confuse management functions with construction efforts and expect more repairs and services; and
- o the sponsor organization may have a difficult time establishing its role as manager because such organizations have traditionally provided free services in their relations with housing projects.

Third Party Management

With third party management, the association employs an outside agency to perform specific management services for a fixed fee. Most appropriate for a complex UNCA, this system offers:

- o an experienced staff;
- o tested operational and management systems;
- o knowledge and capability in diverse areas; and
- o the independent agent's ability to impartially implement and enforce board policy.

Third party management may be too expensive for small associations. In addition, it is difficult to locate local firms that can do the job properly.

Should the association board decide to employ a professional manager or management firm, a detailed management agreement must be executed. The management agreement should spell out terms and conditions, services to be performed, remuneration for those services, and terms for cancellation. To protect all involved parties and to structure their relationship, the agreement should incorporate:

- a clear delineation of lines of responsibility and accountability;
- a clear limitation of the scope of management activity to common elements;
- a statement requiring the UNCA to furnish the manager with the plans, specifications, budgets, records, and other documents needed to carry out management functions;
- a specific description of each activity or function for which the manager is responsible;
- evidence of proper insurance and bonding on employees of the manager and the intent to retain such coverage throughout the contract;
- the terms by which either the association or the management party may terminate the contract;
- the date the contract is subject to renegotiation; and
- a statement of the compensation for the management company, including the basic fee and supplementary charges as necessary.

Association-Paid Staff

The association itself may recruit, hire, and supervise the necessary employees. Such employees will be directly responsible to the Board or to certain officers or committee members.

This policy provides excellent Board control over association-related tasks; it is also more responsive to member needs and less expensive than a management contractor.

The disadvantages of this form of management are as follows:

- o the cost is still prohibitive to the smaller association;
- o the board, officers, and committees must become directly involved in all personnel matters;
- o there may be difficulty in finding experienced people; and
- o any absence of employees will create gaps in the services provided.

Service Contractors

Almost all associations see the need for specialized services such as trash pickup, sidewalk repair, roof repair, or grounds maintenance. These and certain other services are best performed by a third party contractor who also has complete responsibility for paying personnel payroll taxes, insurance, and related matters. All or parts of services may be so delegated.

This system offers these advantages:

- o it relieves the association of hiring, firing, supervising, purchasing, and other such activities;
- o it allows the Board to concentrate its attention on other association matters; and
- o it is extremely helpful when the UNCA lacks the in-house expertise or capability in certain specified areas.

The disadvantages are as follows:

- o service contractors may be more expensive than management performed by staff, volunteers, or an overall management agent;
- o adequate contract preparation and negotiation can be very difficult; and
- o the Board must be closely involved with multiple contract negotiation and supervision.

THE MANAGEMENT PLAN

The UNCA's comprehensive management plan should (1) identify the objectives for which management is responsible; (2) contain a system for accomplishing those objectives for both the short and the long term; and (3) identify when and by whom certain tasks are to be accomplished.

The basic elements of an initial management plan are identified below according to broad categories of operation. Once established, these categories should be re-evaluated annually at an open session involving residents.

Maintenance

Providing adequately for the administration and management of the property's physical aspects not only minimizes long-term costs but helps maintain the value of the property. Proper maintenance also helps generate a positive attitude towards the activities of the association. The maintenance tasks of UNCA management are:

- o to provide a timely, efficient response to those residents who report problems;
- o to establish and maintain the most cost-effective system of maintenance;
- o to keep a record of information on the status and repair of all building equipment; and
- o to develop an accurate system of maintenance cost forecasting for use in budgeting.

The exact definition of the property to be owned and maintained is clearly defined in the legal documents (see Chapter 8).

There are four major areas of property maintenance:

(1) Grounds Maintenance. Grounds include any streets or roads that may be owned by the UNCA as well as sidewalks and lawns. Schedules must be established as necessary for grass cutting, pruning of trees and shrubs, fertilization, or replacement of trees and

shrubs. Also included are street repair, lighting maintenance, trash pickup, pest control, and sign installment.

(2) Exterior Building Maintenance. The exterior building maintenance plan should provide for routine inspections of the roof, gutters and downspouts, windows, and the building structure itself. These inspections should be designed to reflect not only the need for any immediate item repairs, but also to identify what items need regular servicing to prolong their useful life.

(3) Interior Building Maintenance. The interior building maintenance plan should include routine inspection, painting or repair, cleaning of common area plumbing, hallways, walls, lobbies, trash room, elevator cab, or stairwells.

(4) Services, Equipment, and Facilities. The heating, ventilation, and air conditioning systems; trash removal; elevator mechanism; laundry rooms; and any common recreational facilities must be periodically inspected. Heating, ventilation and air conditioning maintenance is of paramount importance; a program of daily, weekly, and monthly inspections should be established.

A preventive maintenance manual covering the items below would be especially useful: well-maintained equipment operates more efficiently, results in fewer interruptions in service, and saves on major repair and ongoing maintenance costs. It should present:

o equipment specifications;

o previous repair work (scope and dates);

o operating instructions;

o troubleshooting data;

o ongoing service contracts;

o emergency repair assistance numbers; and,

o routine preventive service required.

The areas described above may be subjected to any of four specific types of maintenance:

(1) Preventive Maintenance. An overall program is established to perform regular and necessary service on key equipment items such as the boiler, convectors, or air conditioning systems.

(2) Corrective Maintenance. Certain items (e.g., a generator coil) will demand immediate repair to allow the normal operation of the property.

(3) Deferred Maintenance. Certain items will eventually need repair or replacement at some time in the future. Funds should be budgeted to this effect.

(4) Emergency Maintenance. Unfortunately, the best programs cannot always prevent an unforeseen equipment failure. In such instances, an established plan of "who will do what when" will prove invaluable.

To ease daily administrative problems, the Board should establish a stable, central address and number for receiving complaints and service requests. A system of feedback and follow-through on requests for service should be established and evaluated. Finally, emergency maintenance procedures should be reviewed on a regular basis.

Utilities

The management plan should reflect the immediate and long-range impact certain services will have on the effectiveness and efficiency of the utility systems. For example, if a master meter is the preferred system and the monthly electricity bill is part of the association's fee, frequent cost increases should be anticipated.

In a building with a central boiler system, the fuel cost and consumption can be reduced considerably by reworking or replacing the old burners. No. 6 fuel oil, which requires constant heating before it can be used in a system, should be replaced by No. 2, which does not. With any oil burning system, constant price comparisons are needed to ensure that the fuel used is competitively priced.

Association Budget

The first budget established by the sponsor group is most important: accurate predictions of income and expenses will determine the success or failure of the UNCA. The annual assessment for the maintenance and operation of the association is directly established by the Board when it adopts the fiscal year budget. An excessively low initial budget may result in assessment increases which are more than residents can bear. Conversely, a high initial budget may unnecessarily exclude potential residents for which the UNCA project is designed.

One of the best ways to strengthen owner cohesiveness is to involve the residents in the budget process. Each year as the Board is re-evaluating its overall management plan, it should strongly emphasize an open planning session; resident input will help the Board to establish realistic goals on the basis of perceived needs and desire for services. Resident participation should be extended through the use of survey techniques and open budget hearings on the actual drafts before final budget adoption.

The detailed steps by which the Board prepares the budget will vary according to the unique characteristics associated with the association. If the association has a professional manager, he/she can be expected to submit a first draft to the Board for consideration. An alternative is a budget committee of residents who will write the first draft in tandem. It is the Board's duty to clearly establish that responsibility and to provide follow-through. Budget drafting should involve the following tasks:

- o Outline and list all operating cost areas using any historical costs and unit consumption data (e.g., bills for fuel oil, electricity, gas, and water and sewer).

- o Review all necessary or existing contracts in light of planned goals and objectives. Examples of questions to be posed are: Are we getting the service we are paying for, at the time the contract states? Is the contract necessary? How can costs be reduced without sacrificing efficiency of service?

- o Make a line item comparison of current operational expenses to determine if the level is necessary, adequate, and/or reasonably priced.

- o If review determines that certain contract services are needed or old contracts need review, develop a complete list of bid specifications. This will facilitate the comparison of contractor prices and services, and assist in the supervision and evaluation of services.

- o Consult with all public utilities and professionals to find more efficient alternatives. Ask the local electric company office the date of the next proposed rate hikes and the net effect on your association's bills.

- o Review the association's legal documents and construction plans (if available) to ensure that all duties and maintenance responsibilities of the association are being addressed.

- o Review all board meeting minutes for projects, programs, improvements, and reductions of services being contemplated.

- o Review previous audit reports to compare the terminology and format in the association's services and budget preparation systems.

- o Review and update replacement reserve budget.

Once the budget in its final format is submitted to the Board by the manager or committee, with detailed explanations and justification, it should be subjected to public review. This will entail distributing to each unit owner a copy of the proposed budget (with detailed line item explanations) along with notification of the open planning session. As mentioned earlier, resident input is essential. Once adopted, the integrity and fiscal responsibility of the Board is based upon conformity with the adopted budget.

Reserves for Repair and/or Replacement

Reserves for the eventual repair and/or replacement of major depreciable assets are a major element of the association budget: without such funds, the Board may be forced to levy heavy assessments on the residents.

In a condominium, depreciable assets may include the central boiler system, its related pumps and machinery, hallway lights, the roof, common area carpet or tile, elevators, or the parking lot. In a homeowners association, they might include: a community recreation building, streets, roads, alleys, or street and walkway lighting.

Each association should identify the expected life of major depreciable assets. The 100 percent replacement carries this concept further by determining the replacement costs at the current market rate. The replacement cost of the item divided by the number of years of expected useful life determines the annual amount needed to be set aside for the future. For example:

Item	Replacement Cost at Current Market Rate	Useful Life	Amount to be Set Aside Annually
Central Boiler System	$25,000	50 years	$500

This process is complicated by two factors: the first is years of previous use. For example, if a central boiler system has been in use for ten years, where does the $5,000 come from to keep the reserve account current? It may be possible to include this amount in an initial capital contribution made by the sponsor. Another alternative is to amortize the previous year's usage over the remaining years of useful life and add that figure to the annual requirement. For example:

$5,000 ÷ 40 years = $125 per year + $500 = $625 per year

A second complicating factor is inflation. In order to ensure that the amount set aside yearly will be adequate to replace a boiler system at the end of its useful life, the association should update the current replacement cost of the item annually. For example:

Item	Replacement Cost at A Future Date	Useful Life	Amount to be Set Aside Annually
Central Boiler System	$26,000	50 years	$520

The Board should establish separate interest-bearing reserve bank acounts for the receipt of regular deposits. Many associations ensure automatic contributions and avoid the use of account deposits to pay bills in times of poor cash flow by paying monthly disbursements in the following order: (1) utility, insurance, and tax bills; (2) the established reserve fund contribution; and (3) payment of its vendors and remaining operational expenses.

Formulas for establishing the sum to be deposited in the reserve account range from simply levying assessments on owners each time a repair or replacement is necessary to utilizing a percentage of the set-aside method described above. Generally, the 100% method is recommended because it ensures that ample funds will be available when needed.

FINANCIAL MANAGEMENT

A financial management system serves to keep track of the separate funding sources and expenditures of a community association. The basic authority for the association's financial management responsibilities is derived from its legal documents, and the responsibility for financial management rests always with the Board of Directors. The Board should have a knowledge of accounting sufficient to understand the association's finances and accurately interpret the monthly financial report.

Methods of Accounting

There are two basic methods of accounting. Under the <u>cash method</u>, transactions are recorded when the cash actually changes hands. Monthly assessments are therefore recorded in the books as "cash received" when the money or check is actually surrendered to the association. The same principle applies to an expense in that the expense is not put on the association's books until the bill is paid by the association. This method shows cash actually available to meet the current expenses of the association.

Under the <u>accrual method</u>, income is shown when <u>earned</u> against the expenses incurred: members' assessments are recorded as income on the first of the month when the assessment becomes due. Under the accrual method, an expense would be recorded for an item or service when that item or service was contracted for. The benefit of the accrual system is that it shows the amount of money owed to the association as well as what the association owes suppliers.

Elements of the two systems may be combined for use by the UNCA. In any case, the recording of financial transactions must <u>always</u> be consistent in order to support month-to-month and year-to-year comparisons. In addition, it is always wise to utilize the services of a Certified Public accountant to establish not only the accounting system, but also a method of tracking financial transactions.

Accounting Systems

The UNCA's actual system of accounting will depend upon the size, character, complexity, and overall operational structure of the association. The legal documents should provide specific constraints on check signatures, spending limits, depository regulations, and the annual audit report.

Other options such as the use of individual account control cards, billing procedures, purchase order systems, receipt ledgers, disbursement ledgers and general ledgers all have specific accounting functions and should be instituted under the direction of qualified professionals. If volunteers are keeping the books, an audit firm should do a regular (weekly or monthly) review of the transactions to ensure accuracy and consistency.

Special Reports

The Board of Directors monitors the pulse of the association through the formal monthly financial report. These reports provide for the transfer of information contained in the basic records of the association to the association Board and members. They should always compare expense and income for the period to current predictions and those of the annual budget; the Board should determine the reasons for any unanticipated differences as a basis for future decisions.

The annual audit report, usually required by the association's legal documents, is an essential expression of expert opinion on the correctness of the UNCA's financial statement; it should be made available to all owners of the association. The audit and its corresponding opinions also serve as excellent aids in the evaluation of the UNCA's or management agent's accounting procedures and systems.

Assessments

The largest single source of an UNCA's income is the assessment from each owner. Authority and obligation for the assessment is derived from the association's legal documents. Assessment sources can take many forms -- including residential units, unimproved lots, developer sources, commercial space, or multi-family rental units.

Since timely collection of the assessment obligation from the owners is crucial to UNCA success, an appropriate procedure should be established in the management plan, with formal resolution of the Board.

The first step in a sound collection policy is to establish owner obligations, describe assessment purposes, and set due dates. The obligation includes the procedures and consequences in nonpayment. Notification can be accomplished by:

- initial communication at the time of (or prior to) purchase;
- constant reminders in the association's newsletter;
- periodic notices sent to owners; and
- the ongoing educational seminars mentioned previously.

The next step is actual collection -- through invoices, payment or coupon books, or reliance on the owner's understanding of the due date. Should the due date pass without payment, reminder or past due notices should be issued clearly describing late fees and other penalities associated with the delinquent amount. Should the amount remain unpaid, the Board may take action as specified in the legal documents -- beginning with notifying the lender and possibly concluding with the filing of a lien and a court judgment. The services of an attorney or legal advice should be utilized in establishing the collection procedures and should also be utilized during the appropriate time during the collection process.

The Board of Directors should regularly receive or generate delinquency reports listing delinquent parties, the amount owed, the period of time associated with the delinquency, and all action taken to recover the assessment.

An optional collection method is to require that the mortgagee on the property collect the assessment along with the monthly mortgage payment. This system allows the unit owner to make just one monthly housing payment -- a more logical system for the first-time homeowner. The UNCA must be sure that the mortgagee turns over the assessment and notifies the association of any delinquency.

COMMUNICATION

Effective communication -- as the key to the success of any community association -- cannot be overlooked in developing or evaluating any management plan. Concise, timely, accurate, and well thought-out communications must be a major component of UNCA management and operations. And, while it is important for the Board to communicate with the residents, it is just as important that the system allow resident input to the Board. Beyond the specifics already listed, owners and residents need to know:

- how to live in a cooperative housing situation;
- ongoing rules and regulations;
- when and where to get answers to questions and solutions to problems;
- the membership of the Board;
- Board functions;

o specifics of Board meetings; and

o how to become involved in committees.

In turn, the Board needs to learn the following from residents:

o how effective and necessary the current services are;

o concerns that should be addressed by the Board;

o the usefulness of rules and regulations adopted by the Board; and

o which residents might be interested in helping the Board.

Effective communications may include the use of newsletters and other publications, bulletin boards, annual reports, building captains, welcome committees, open Board and committee meetings, budget hearings, and surveys. Many small associations distribute the minutes of the Board meeting to each owner.

Communication with Contractors

Where used, a manager, management firm, or volunteers act much like an advisor to the Board. They should participate in the Board meetings and report constantly on the progress of ongoing programs, policies, and procedures. The manager should issue monthly summaries of activities completed since the last meeting of the Board. This report may also include a description of the work currently underway, problems connected to work performance, analysis of any financial problem or prediction for future expenses, estimate of future repairs or replacement needed, and discussion of rule violations or delinquency collections.

Board Meetings

Effective management of association business greatly rests with the Board's ability to conduct effective, organized, and productive meetings. To this end each Board member should review prior to each Board meeting:

o the meeting agenda;

o the minutes of the previous meeting;

o the financial report;

o any committee reports;

o the manager's or managing agent's report; and

o any relevant correspondence.

The Board meeting should be open to any member of the association that wishes to attend; as previously discussed, the date, place, and agenda for the meeting should be well publicized. The ground rules for the meeting should also be disseminated -- and should be designed to allow the Board to conduct its regularly scheduled business and not become sidetracked on issues outside of the scope of the meeting.

Many associations allow 10-15 minutes at the beginning of each meeting for residents to address the Board on subjects related to the operation of the association. No response from the Board is necessary at that time. It should be made known, however, that the Board will address the issue at the appropriate time and that the concerned resident will be notified of the results.

The president usually sets the agenda and is responsible for adherence to it. While Robert's Rules of Order are a useful guide to the conduct of each meeting, the meeting should only be as formal as needed to retain effective control and assure progress. A typical agenda format is as follows:

o call to order;

o residents' time;

o review and acceptance of the minutes of the previous meeting;

o financial report;

o management agent's report;

o committee reports (if any);

o old business;

o new business, including long-term actions; and

o adjournment.

The Resolution Process for Decisions

In arriving at reasonable decisions on policies, procedures, and rule enforcement, the Board should utilize a deliberate and consistent approach. Proper use of a resolution process by the Board contributes to a collective approach to resolving specific issues. The resolution process should address three basic questions: (1) Does the Board have the legal authority to act in the matter? (2) Is the action proposed appropriate to the response needed? and (3) Has the Board adequately evaluated the entire situation?

Resolving these questions will ensure that the Board has provided for the protection of individual rights, equal participation, and the orderly written history of the UNCA's decision process.

In utilizing the resolution process, the Board must address the basic components of any resolution: the authority question previously cited, the proposed resolution, the persons affected by the proposed resolution, and the specific methods available to effect the desired end.

Resolutions addressed by community associations can be classified into four basic types:

o Policy resolutions address subjects which affect the members' obligations or rights of enjoyment and include the establishment of rules for use of common areas, establishment of assessments, and property use restrictions.

- <u>Administrative resolutions</u> provide the means by which the Board carries out its policies, including the "how to" details of policies and procedures.

- <u>Special resolutions</u> deal with individual cases involving a rule or covenant violation -- such as defaults or assessments.

- <u>General resolutions</u> are general, one-time decisions the Board must make to carry out routine administrative duties.

COMMITTEES

Committees contribute to a well-run community by assisting and advising the Board in specific subjects; they also promote resident interest and involvement. Common committees include those on covenants, maintenance, finances, communication, nominations, social/recreational activities, security, and other specialized needs of the association.

Merely establishing these committees and assigning residents to serve on them accomplishes little. The Board must also establish clearly written guidelines on the committee's tasks, scope of authority, and a timetable for task completion and reports to the Board. Many Boards also assign a Board member as a liaison to insure communication with the Board and adherence to deadlines.

In order to execute its responsibilities in the most expeditious and efficient manner, each committee should:

- elect a chairman who is responsible for motivating committee members;
- adhere to the guidelines and scope of purpose adopted by the Board;
- hold regular meetings;
- keep written records of meetings and actions taken;
- communicate to the Board on actions taken through written reports;
- request Board approval and action on specified task items; and
- obtain approval for any financial expenditures.

Chapter 10: THE UNCA IN A NEIGHBORHOOD

INTRODUCTION

As a grass roots organization, an established community association provides many possibilities for improving the quality of life in a neighborhood. Residents in a community association are already organized to meet their own housing needs. From this base, members can mobilize to make their block a more safe and pleasant place to live. Collective energy can go a long way towards addressing the serious problems facing city neighborhoods such as crime or physical decay.

The basic elements of a neighborhood are the geographical space defined in some way through custom, social or physical boundaries, and the people who live in that space. Housing therefore cannot be described without describing the characteristics of its location and surroundings and the people who live there.

Rehabilitation of property in a deteriorating neighborhood or, alternatively, the provision of lower cost housing in a revitalized neighborhood are short-term goals in themselves. Since neither guarantees that improved, affordable housing will be maintained at a decent level--and remain available--the UNCA must look to the future for long-term solutions.

DECENT HOUSING AND DISPLACEMENT

Decent housing opportunities for lower-income residents are limited through the natural operations of the housing market. As a result of rising rents and other factors, lower income families who are forced to move from their housing are frequently not able to find shelter which satisfies their needs at the same cost. Solutions by Federal and local policymakers--though desirable--often fall short of guaranteeing many residents protection in these situations.

Involuntary displacement may be caused by:

- o government programs such as urban renewal or highway construction, which destroy existing housing;
- o disinvestment in housing by its owners so that necessary maintenance and services are no longer provided and the physical structure deteriorates; or
- o renovation of urban housing fostered by publicly or privately funded rehabilitation efforts, which contributes to housing costs beyond the means of existing residents.

Developing an UNCA is one way of controlling the displacement of an identified group of people at a specific location. As a neighborhood-based effort to rehabilitate housing, the UNCAP concept is designed for the community group that wants to develop more control over neighborhood events. One of the most important contributions of UNCAP is that it describes a process for direct action by residents--rather than a set program or project. According to Carl Westmoreland (Mount Auburn Good Housing Foundation):

> If there's a lesson in the foundation's work, it's that the housing industry is "one of the few places where poor people and minorities can get a piece of the rock. Black people in this country can't start another General Motors but there's no reason we can't own individually and collectively the houses we live in."*

Several aspects of an UNCA are useful in attempts to avoid the negative results of displacement. First, the UNCA is a common interest ownership form of housing. UNCA owners retain greater control because they cannot be arbitrarily evicted, and they can make their own decisions on how

* American Preservation, Vol. 2, No. 4.

much to invest. The common organization of owners extends this control over more than one unit and provides a larger support structure.

Secondly, the UNCA's governing documents can be written to ensure the existence of lower cost units. If the sponsor, UNCAT or original group of residents are interested in insuring a supply of moderate cost units over time, restrictions on resales can developed, as noted in the Community Association Documents chapter. (These restrictions can curtail the potential value and profit increase that initial residents can realize at sale time by granting the sponsor rights to buy back the unit.) Restrictions can also be written to control speculative buying and selling by penalizing sales made within specified time periods.

The objectives of the UNCA sponsor and first group of residents should be reflected in a careful examination of controls of resales. Although there is no reason why moderate income owners should be denied the full benefits of ownership, including the right to profit from value appreciation, the critical issue in a particular neighborhood may be the lack of moderate-cost units. Each neighborhood situation must be assessed individually to determine if controls on speculation and resales are necessary. In addition, if these controls are documented, prospective owners must be thoroughly informed about the purpose and impact of such provisions.

A third UNCA tool for stemming displacement is the establishment of an ongoing and mandatory membership organization. An organization group of residents can undertake many activities to strengthen relationships among neighbors and establish contacts with those lenders, builders, and city government agencies that control the course of development in the neighborhood.

Given that neighborhoods are fluid and ownership will change hands, the UNCA provides an ongoing framework for existing residents to use in protecting their investments--and can serve as an advocate for the lower income families or elderly residents who may be adversely affected by market activities.

Several notable examples of local groups include the following:

- The City of Alexandria, Virginia and the Alexandria Redevelopment and Housing Authority have designed a program of financial assistance for low and moderate income home owners in Potomac East, an area undergoing rapid renovation: moderate-income residents are provided, 6%, 10-year home improvement loans, while low-income owners receive a zero interest loan on a 99-year term.

- The Mount Auburn Good Housing Foundation, Cincinnati, was founded to provide decent housing in an area where absentee landlords had allowed deterioration to reach slum conditions. The Foundation's Board of Trustees is controlled by residents who pay close attention to management and tenant selection. Their current commitment is to develop single-family homes and provide low interest loans to lower income residents.

- Olde Towne East Development Association, Inc., Columbus, Ohio, has resolved to arrest displacement by monitoring zoning laws to provide a balance of residential and commercial uses, encouraging long-term residency by informing residents about home improvement and value increases, working with realtors to oppose price increases without property improvements, and other means.

- Bernal Heights, San Francisco, has supported a community study team developing guidelines for the review of building permit and zoning applications of the area; a neighborhood board has review power over such plans.

UNCA's have the capacity to enact similar measures. The National Urban Coalition publication, Displacement: City Neighborhoods in Transition, provides further information on neighborhood-based strategies.

SERVICE TO THE NEIGHBORHOOD

Beyond the issue of decent housing, organization of residents is crucial for improved neighborhoods. Block associations, tenant associations, community organizations, and technical assistance groups can all work towards that end: however, the community association has an advantage in that it can serve as an anchor organization over the long term.

Normally a community association will not undertake neighborhoodwide services and activities. It is possible, however, for the group of leaders in one community association to become the core of a wider neighborhood organization which has a larger mission than the operations and upkeep of one property. This is especially true where there are no other organizations and the need for organizing is evident. However, the scope of the UNCA should only be expanded under the following conditions:

- the UNCA itself is well established and running smoothly;
- residents are extremely interested in contributing their time and efforts to neighborhood activities; and
- residents recognize that such a move has the potential for problems--such as rivalries with existing organizations and the neglect of ongoing UNCA activities.

In order to undertake any neighborhood activities or services, a group of residents must build their capacity to act collectively. Residents must acquire skills in:

- managing, participating in, and running meetings;
- communicating with and organizing other residents;
- managing a budget and knowing how to deal with revenue constraints;
- identifying issues to be addressed and projects to undertake; and
- making decisions through group consensus.

Where few organizations currently exist, these skills will prove invaluable in efforts to organize and improve a neighborhood. In a sense, the mandatory community association will provide on-the-job training for neighborhood activism.

Meetings

The regular meetings of the Board of Directors and committees are a natural training ground for board members in agenda development, public relations, and efficient meeting management. Once such skills have been mastered, members may expand the scope of UNCA meetings, soliciting community response to larger issues such as a proposed road widening or park improvements.

Howard L. Oleck, in Non-Profit Corporations, Organizations and Associations, suggests that groups keep their organizing documents and minutes from meetings in one notebook. For an UNCA holding meetings for a neighborhood audience, such a book could serve as an excellent reference for the neighborhood on the structure and operation of the association.

Committees

Many of the activities and services of the association will be carried out through small volunteer committees. Experience on standing committees (e.g., communications or budget review) can serve as a basis for committees on neighborhood activities. The same types of skills gained in regular committee work can be used for special events. A standing committee could be set up to establish and maintain UNCA relationships with other community organizations--for feedback of information to the membership at large.

Training and Counseling Sessions

A community association may sponsor homeownership training, personal financial management counseling, or housing management training and open such sessions to interested neighborhood residents. An association which does not sponsor such sessions may refer other neighborhood residents to any available assistance which the association members have encountered.

ACTIVITIES OF NEIGHBORHOOD ASSOCIATIONS

A New York City survey of non-profit community-based organizations (Robert Schur and Virginia Sherry, described in Neighborhood Housing Movement) documents that numerous residents have been affected by the activities of community housing organizations. Organization activities cover a wide range of housing services such as:

- advice and referrals on homeownership counseling;
- tenant organizing;
- acquisition, rehabilitation, and ownership of properties;
- contracts with the city for repairs, sealing, and demolition of unsafe city-owned properties; and
- site improvements on city-owned vacant lots.

Most of the groups surveyed built up the scope of their services using such government programs as CETA, Law Enforcement Assistance Administration funds, and CDBG funds in one year. Usually private funding money covers part of the administrative and overhead costs; operating expenses are usually curtailed by using donated space, equipment, and professional services.

Suggestions regarding pro-neighborhood activities are available from ACORN, a network of voluntary community associations that provides technical assistance to neighborhood groups, and the Association of Neighborhood Housing Developers, a coalition of community housing groups developing needed housing programs (see References and Resources).

BUILDING A NETWORK OF NEIGHBORHOOD ORGANIZATIONS

Through the different roles of a community association (small business, mini-government, housing assistance group, and property maintenance entity) members of the association will establish relationships with other organizations in the neighborhood. These ties can be developed for the benefit of the residents and neighborhood.

Contacts with Neighborhood Groups

The possibilities for establishing connections with existing community groups during and after development are numerous:

- A citywide technical assistance group which provides free development and management counseling can direct UNCA members to local resources.

- Any nonprofit housing organization may be the sponsor of the UNCA; it can therefore be a ready source of assistance as well as a focal point for exchanges among persons interested in urban housing.

- The UNCA can asist a neighborhood civic organization in neighborhood activities. Since UNCA members will be already organized for collective action, they can appropriately take stands on any current neighborhood issues.

Coalitions are extremely important on a citywide or national level for preserving the neighborhood as a viable residential resource. Increasing numbers of city coalition groups are creating networks of all neighborhood organizations. An UNCA can benefit from any written handbooks, meetings, workshops, and contacts that these coalitions can provide. Such coalitions have been highly instrumental in getting Federal dollars and programs for low- and moderate-income urban residents.

Several national member organizations which can provide helpful information are National Neighborhoods, which sponsors an annual conference to promote interracial neighborhoods; National Association of Neighborhoods, which promotes neighborhood rights; and National People's Action, a coalition of grass roots organizations seeking to halt neighborhood deterioration. (See References and Resources section.) The National Trust for Historic Preservation (listed in References and Resources) also publishes written materials useful to neighborhood groups.

Contacts with the Lending Institutions

An UNCA will already have a working relationship with at least one lender or mortgage banker through the development and sale process. Because those lenders hold the mortgages on the UNCA units, they already have a vested interest in the neighborhood and maintaining its stability. UNCA members should encourage this relationship to promote the neighborhood's credit needs and investment value. Where possible, lenders should serve on the boards of neighborhood civic organizations to increase their familiarity with the issues and people involved. (For examples of joint lending institution-resident programs, see the Finance chapter.)

Contacts with the City Agencies

Municipal services such as fire and police protection, garbage collection, sewer systems, and water systems are all essential to the maintenance of a decent and safe physical environment. UNCA members--either alone or in connection with other community residents--are in a position to demand these base level services as an organized group.

A community association can organize block meetings to plan for the future of the neighborhood. By investing in the neighborhood and promoting investment by others, the UNCA can demand that the city respond to informed and organized citizen opinion. If a structure for citizen participation already exists in the city (the Office of Neighborhood Associations in Portland is an excellent example), UNCA members should use those resources to plan for future developments.

PARTICIPATING IN COMMUNITY DEVELOPMENT PROGRAMS

Municipal funds for neighborhood assistance are limited: therefore, partnerships with community groups are essential for securing necessary assistance. Neighborhood programs can go farther by matching public dollars (often available to the UNCA) with private investment. The UNCA, then, provides a vital function in both organizing residents and in becoming a focus for programs which may be in short supply.

Community Development Block Grant

Community Development Block Grant (CDBG) funds are the principal HUD support for municipal neighborhood improvement activities; since 1977, community-based non-profit corporations have been eligible for CDBG monies and contracts for revitalization programs. CDBG funds are currently being spread among an increasingly larger number of projects, many of which apply to an UNCA (alone or in conjunction with other groups).

Major rehabilitation or public investment projects which a city funds with CDBG monies may very likely be in the neighborhood where an UNCA is located. In addition, the UNCA framework allows members to lobby for CDBG programs such as rehabilitation loan pools, community center renovations, playground equipment, landscaping, or other projects.

Non-profit community groups which have successfully used CDBG for neighborhood improvements include San Francisco's Housing Conservation Institute, the Linwood-Oxford Association of Buffalo, New York, and the Department of Community Development of Lynn, Massachusetts.

Neighborhood Strategy Areas

The Neighborhood Strategy Areas (NSA) program provides HUD Section 8 rental assistance payments for sponsors of substantial rehabilitation projects in a designated neighborhood. Under NSA, a city must:

- o identify an NSA target area;
- o prepare a detailed plan for housing improvement in the area over five years;
- o identify and evaluate sponsors who will undertake substantial rehabilitation projects; and
- o provide CDBG and other local resources for total revitalization of the target area.

The development of an UNCA within an NSA area or the targeting of an NSA in an UNCA neighborhood will support the objectives of both projects. The NSA program will provide rental assistance monies allowing low and moderate income families to remain in a neighborhood. In sum, substantial rehabilitation of rental properties around an UNCA enhances UNCA efforts to create a decent living environment. Targeting various rental and ownership housing assistance programs in one neighborhood insures that a wider range of income groups can live in rehabilitation housing and contributes to greater stabilization.

The Urban Development Action Grants

The HUD Urban Development Action Grants (UDAG) are awarded to commercial or residential redevelopment projects which involve private investment in cities meeting certain criteria of distress (measured by employment, poverty, and population loss). UDAG projects must be designed to leverage private money for Federal funds. A UDAG program can be combined with the development of an UNCA; a mix of commercial and residential redevelopment could be in a severely deteriorated area, providing jobs and housing for lower income residents. Grants are awarded separately for large and small cities at 6-month intervals.

In an effort to encourage more grant submissions, the UDAG office is preparing a technical assistance program for local community groups aimed at (1) determining their ideas for potential UDAG projects, and (2) identifying obstacles to grant submissions. UDAG applications, which require a sophisticated response, must include a demonstration of commitment from lenders, professional market studies, and evidence of the developer's competency to carry through the project. The HUD technical assistance project, beginning in June 1979, is designed to find out how the community groups can build their capacity to apply for these grants.

Community UDAG projects include the Mexican American Unity Community Organization of San Antonio, Texas (which used UDAG to become an equity partner in a downtown hotel) and the Upper Albany Community Organization in Hartford, Connecticut (which has combined UDAG money with State funds and a municipal bond issue to construct a neighborhood shopping center).

New Neighborhood Programs

The Federal programs described below were authorized by 1978 Housing and Community Development legislation and attempt to increase the capacity of neighborhood groups to serve community needs. UNCA members should check with local planning agencies or HUD area offices on the status of these programs.

- The Livable Cities Act provides $5 million to State and local governments for projects which expand the cultural opportunities of low and moderate income neighborhoods (e.g., festival, urban design projects, or traveling theater).
- The Neighborhood Self-Help Development Act provides $14 million for grants and aid to establish neighborhood groups for development activities in low and moderate income neighborhoods.
- Youth Demonstration Projects, a joint HUD and Department of Labor program, provides funds for housing and commercial development projects. Although it thus far has supported only demonstration projects, it does recognize the link between jobs and housing.

NEIGHBORHOOD RELATED ACTIVITIES

Fund Raising

If funds are necessary for neighborhood projects, foundations may be approached by (1) defining project goals and objectives; (2) checking the Foundation Directory or other likely resources for foundation names; (3) sending letters of inquiry; and (4) submitting a formal proposal. (The Grantsmanship Center, listed in References and Resources, has useful materials.) For most of the projects listed below, resources will be available right in the neighborhood.

Using Community Association Space

The indoor or outdoor common space of a community association can easily be utilized for block or neighborhood wide interests. For example, informal recreational activities could be sponsored in an UNCA community room; outdoor grounds can be used for children's games. Conversely, services sponsored by other organizations can be instituted in UNCA common property of a community association.

Shared space requires that formal maintenance procedures be established for the property in question. The UNCA should also check with an attorney or accountant before charging any fees to find out how these charges will affect the income tax status of the UNCA.

Neighborhood Promotion

For a number of reasons--economics, necessity, common sense, and even nostalgia--deteriorating urban neighborhoods have inspired increasing numbers of residents and municipal governments to promote city living. UNCA members should take advantage of this interest to improve the quality of their neighborhood through the image-building activities that follow.

Local public agencies, storeowners, institutions, and newspapers will likely lend their support.

A Sunday street fair provides a great opportunity for neighborhood residents to get together and display their talents and crafts. A fair is also an ideal place for community groups to hand out brochures and advertise their services. Neighborfair, in Portland, Oregon, is a good example: sponsored annually, it raised up to $2,000 in 1978 for each of the neighborhood groups that participated.

A block party or picnic for residents is another good way for people to meet and share information on individual projects.

A logo or slogan can be designed and chosen for the neighborhood through a contest sponsored by an UNCA. Having the logo printed on T-shirts or hats is an inexpensive way to promote the association. The West End Association in Winston-Salem, North Carolina, and the Historic Boston-Edison Association in Detroit successfully sponsored such contests.

As rehabilitation is completed on UNCA and other neighborhood units, a tour can be arranged for community and other interested groups. Printed guides will enhance these efforts. The city housing or planning office may want to fund a sophisticated version. The Evanston, Illinois, Planning Department developed a combination of three walking tours; in Boston, a poster designed to promote an old city neighborhood was so successful that a "Living in Boston" program was created to market other neighborhoods. A variation on walking tours is a bikerace (used by the West End Neighborhood Association of Winston-Salem, North Carolina).

If an UNCA is located in an architecturally or historically significant area, association members should investigate the process for designating the area as a local historic district or listing it in the National

Register of Historic Places. Matching grants are available for restoration of properties in National Register districts. The Historic Preservation Office of each State and the U.S. Department of the Interior (see References and Resources) can provide more information.

Communications Center

An UNCA can spearhead or participate in any activities which will help make a community more responsive to events that affect their residential environment. Information on several levels can and should be conveyed to local residents: the suggestions below provide the means for communication.

A neighborhood newsletter is an inexpensive tool for keeping residents informed. Advertisements by local businesses can provide revenue for printing and paper costs; classified sections can advertise jobs available and times for sale. Volunteers can assist with such tasks as editing, production, graphics, advertising and distribution. UNCA newletters already in place may either be expanded or supplemented with a neighborhood newsletter.

Attractive posters can be produced cheaply and placed in laundromats, grocery stores, libraries, churches and other community gathering spots.

Handbooks describing rent control laws, tenants' rights, building code regulations, and other practical matters should be collected from municipal offices and distributed among residents. This kind of knowledge is necessary to make residents aware of their rights and obligations. If no such information is available, an UNCA could consider gathering such data and printing it for use by neighborhood residents.

Announcing neighborhood events through the media will create a wider audience. Radio stations often provide free time for community announcements.

For major events, television stations can be notified.

Canvassing the neighborhood or going door-to-door is useful for meeting residents and notifying them of important issues.

In many cities, local agencies have established citizen participation plans. The community association should establish contacts with the neighborhood planners or other staff members in charge of the participation programs and encourage UNCA residents to attend the meetings.

Finally, public hearings are required for most publicly funded projects. UNCA members should always be aware of what programs are being developed in their area and attend these hearings as a group of informed citizens.

Self-Help Services

An UNCA can help make life better and easier both for resident members and their neighbors by setting up cooperative self-help services or supporting the operations of others. The sections that follow describe these services; also see the New York Self-Help Handbook (listed in References and Sources).

Services for Children and Youth

Cooperative child care programs can be set up within the association on a shared-work basis. Parents can take turns taking care of children as their schedule permits, possibly using UNCA community rooms. These cooperative arrangements may be expanded to the neighborhood.

A day care center is a much more ambitious venture, and is difficult to organize and set up due to funding problems and the requirements of local health ordinances. Once the planning process has begun, however, churches and other non-profit groups are likely co-sponsors. Day-Care

Council (New York City) provides assistance in applying for funding, and the Child Welfare League of America (New York City) publishes a directory of possible sources of funding. Bank St. College of Education (New York City) publishes a useful guide called On the Block Day Care.

UNCA community rooms and grounds can also be used as after-school recreation centers. Local sporting goods stores or manufacturers may be interested in donating equipment.

Organized trips to museums, parks, or monuments can be arranged through the UNCA's recreation committee. Other neighborhood children can also be invited to participate. Transit authorities may be asked to provide free passes, and parent volunteers can supervise.

Making the Neighborhood Safe

A community association will usually provide security services for its members. These services can be amplified by organizing neighborhood-wide security watch procedures through UNCA-directed meetings. Local police can attend to show residents how to secure buildings, report crimes, and watch over the area.

Volunteer foot patrols can be organized to walk through the neighborhood on a regular basis and to report any suspicious activities to police. These groups will require CB radio equipment and a central station (e.g., the lobby or community room of an UNCA). Blockwatchers or block parents may also be trained by police to report crimes. Escort services for the elderly can be set up with volunteers.

The Law Enforcement Assistance Administration (LEAA) of the Department of Justice, Washington, D.C., provides grants to nonprofit corporations to increase neighborhood security and citizen participation in safety programs. The National Sheriff's Association provides technical assistance and materials through local governments for self-help citizens patrols, escort services, and security inspections. Finally, the National Retired Teachers Association and the American Association of Retired Persons offers free films and discussion packages which focus on crime against the elderly. (These groups are all based in Washington, D.C.)

Neighborhood Clean-up/Spruceup

A project like cleaning an alley or an empty lot represents a good day's work for neighborhood volunteers. The UNCA could sponsor the day's activity, recruit participants, and organize the workers into teams.

On a more regular basis, sanitation patrols can be organized by the UNCA to keep streets, sidewalks, and alleys clean of rubbish. These patrols can work with residents to sweep and pick up litter on a regular schedule. The Concerned Citizens of Jamaica, Queens, for example, meets every Wednesday morning to sweep a 16-block area.

An UNCA can sponsor a fund raising in order to landscape a block. Planters of flowers, bushes, or trees can improve the appearance of a block immensely. Municipal park departments can provide information on the kinds of trees which would survive and the various regulations governing any vegetation. The UNCA can organize a group of neighbors to keep refuse clear, water, weed, and cultivate the soil, and keep fencing around the trees or shrubs. The Old Towne West Society of Newark, Ohio, raised $300 for their group's beautification project by means of a 50-block yard sale.

Home Improvement

There are a number of self-help home improvement services that an association could set up for its members or sponsor for a neighborhood. A tool lending library can provide tools at no cost to homeowners doing repair work; each homeowner can provide funds for the initial purchase of tools. A non-profit neighborhood organization might be able to secure funding for the initial capital investment if tools were to be lent to residents within a low or moderate income area.

Tools will be much more effective in promoting and facilitating renovation if a home repair class program is also set up. With proper training and the right tools, almost any able-bodied homeowner can learn to make basic repairs and undertake long-term maintenance. These classes could be co-sponsored with a local library or community center program or with another non-profit group. Neighborhood Housing Services, Inc. (see References and Resources) sponsors both a tool lending library and a Do-It-Yourself Home Repair Workshop.

NEIGHBORHOOD ECONOMIC DEVELOPMENT

In many poor neighborhoods, the quality and range of food, and clothing facilities, health care services, and recreational services have declined as prices have increased. However, as a neighborhood gets organized, residents become more capable of forming community-based organizations to deliver these goods and services. Members of an UNCA should support the formation of neighborhood stores, banks, and clinics. The UNCA framework provides a collective means for initiating and supporting any of these enterprises.

In Partnership with Other Community Associations

Establishing ties with another community association is useful for the group buying of supplies to reduce costs. (The legal implications of such unions of associations must be explored with an attorney before beginning any joint purchases.)

In Partnership with a Community Development Corporation

While UNCA's are not designed to promote neighborhood economic development, the UNCA objective of improving housing can be enhanced by developing the economic environment of that housing. Working in tandem with a Community Development Corporation (CDC), UNCA residents can assist in developing new services and industries in the neighborhood.

A CDC is a private corporation set up and controlled by the residents of a specific area. Capital is raised by the sale of two types of stocks: one allows shareholders (who are usually neighborhood residents) voting power, and the other does not. A CDC undertakes community improvement activities such as housing rehabilitation, social services, or commercial revitalization. It also assists self-help groups, provides jobs and job training for residents, and returns profits back to the community.

Funding is available to a CDC through several Federal programs: CDC's can receive administrative monies from local Community Development Block Grants, and financing and technical assistance from the Small Business Administration (SBA). The SBA Section 7(a) Business Loan Guarantee program can help a community group in financing acquisition of property and capital investment. The Section 502 Local Development Company program, which is seen as the key to SBA's commercial revitalization program, provides financing so that CDC's can make below-market-rate loans to various community ventures.

In addition, the Community Services Administration (CSA) provides technical assistance and venture capital to CDC's to acquire or develop businesses within their service area.

A formal working partnership between an UNCA and local CDC may be established in the following ways:

- o CDC's may sponsor the development of an UNCA in keeping with its goals of housing development. In this situation, the interrelationhip is automatic.
- o A CDC may fund services which an UNCA provides to a neighborhood, such as gardens, recycling centers, or day care centers.
- o UNCA members can secure positions on the community boards that manage CDC's. UNCA's and CDC's have similar frameworks and methods for reaching a consensus; experience with one organization will help the successful operation of the other.

Growing and Buying Food

A community association is a good place to set up a cooperative system providing better sources of food. An association can incorporate useful information on nutrition and food preparation into any cooperative food venture.

Where feasible, unused common land on an UNCA can be used for a garden. Many cities provide vacant land for vegetable gardens which the association could reserve as plots for members. The UNCA can also create a neighborhood vegetable garden to develop community awareness and cooperation as well as to lower food costs. Capital District Community Gardens (Troy, New York), which organizes and operates garden sites citywide, suggests that sites be donated by the city, topsoil and leaves be obtained from the parks department, and rotary cultivators be rented from local nurseries. (See References and Resources for sources of information on gardening.)

Vacant lots may also be put to good use as open-air farmers' markets; the Pennsylvania Agriculture Department (References and Resources) has information on organizing and operating them.

An UNCA with more than ten members can set itself up as a food buying club to obtain lower prices. Volunteers working on a rotating basis can compile advance orders and transport food from a central delivery point to the community association. Where the city already has a network of cooperative food buyers, the UNCA should establish ties with the existing system. The New York City Department of Consumer Affairs provides information on establishing food clubs.

A cooperative grocery, providing low-cost food, may already exist in a community association's neighborhood. Membership in the co-op includes the power to vote, and any profit is distributed to members as a dividend or used for store improvements. The UNCA Board can encourage residents to participate in a food co-op or establish one (where the time and expertise are available). Usually 300 to 500 members are necessary; the store may also sell to the general public.

Finally, a community association can work with existing commercial food merchants to request any special supplies that are not available and discuss hours of business, or any other means of serving neighborhood needs.

Making Money from Refuse

Recycling solid waste can improve the environmental quality of a neighborhood and produce cash for other projects. Waste items can be separated into paper, glass and aluminum products. Local environmental organizations can supply information on potential purchases.

UNCA members can set up a center for use on a neighborhood wide basis. A site accessible for trucks must be located and containers, such as dumpsters or trailers, must be available (buyer companies may be willing to donate them). The center must be publicized, and volunteers must be available to receive the products on a regular schedule.

Other Consumer Services

A community association may also get involved with other community-based retail activities. Direct involvement will have tax consequences associated with the collection of revenue above and beyond the UNCA assessments; accountants and attorneys should be consulted before these activities are planned.

- A laundromat provides a good source of revenue as well as a community gathering spot. The capital investment required is large, but loans can be paid back quickly because profits are quickly accumulated. Leasing machines will avoid part of the initial investment.

- In a area with considerable self-help rehabilitation activity, material from demolition bulk hardware supplies can be gathered to create a rehabilitation supply center, serving all families in the area. Any scrap materials from UNCA development could be brought and stored for use in other jobs. The center could expand into a cooperative hardware store if the need and personnel were available.

- A non-profit credit union, implemented by and for a neighborhood group, can provide services similar to those of mutual savings banks (pooling savings; insuring deposits). Generally, credit unions provide higher interest rates for savings and good rates for mortgages and other loans. While a credit union is very difficult to set up, the neighborhood can use it to exercise ultimate control over its environment by controlling the supply of available capital with collective savings deposits.

An UNCA carries greater weight with existing lending institutions than individuals--and therefore is better equipped to express resident needs. The collective deposits of neighborhood residents as well as the support of the regulatory agencies for the provision of community credit needs provide clout for any group working with a lender. Organizations aimed at increasing the economic capacity of community-based groups include Alternative Economics, the Center for Community Change, Center for Community Economic Development, the Center for Neighborhood Technology, Community

Ownership Organizing Project, and Institute for Self-Reliance (check Rederences and Resources for the areas served). The National Center for Urban Ethnic Affairs publishes Neighborhood Reinvestment: A Citizen's Compendium for Programs and Strategies and New Approaches for Economic Revitalization of Urban Neighborhoods, including ideas on equity insurance and neighborhood trusts (see References).

Also, the National Consumer Cooperative Bank, recently established by act of Congress, is designed to provide $100 million for loans and $10 million for technical assistance in FY 1979, plus $265 million over the next two years. The bank will serve non-profit cooperative organizations which produce goods, services, or provide facilities for their members, including housing cooperatives.

COMMUNITY CONTROLLED NEIGHBORHOODS

A community association begins as a mandatory membership organization tied to the common interest ownership of a particular property. In urban neighborhoods which are experiencing rapid change as a result of decline or increasing demand, the UNCA can serve as a control mechanism for the greater benefit of the community.

Viable neighborhoods are created not only through housing renovation, but also through the dedication and energy of community residents. The UNCAP concept is therefore an open-ended process--and this manual only the beginning of a process for achieving better city housing. Only a complete demonstration of the concept will provide the necessary answers and solutions to many of the issues raised by this publication. In the long term, it is expected that each UNCA will be shaped according to each neighborhood's characteristics and needs.

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*Note: Full addresses are listed throughout for hard-to-obtain publications.

Resources

Jubilee Housing Inc.
1630 Fuller Street, N.W.
Washington, D.C. 20009
(202) 332-4020
Provides technical assistance in housing rehabilitation of multifamily apartments.

National Association of Housing and Redevelopment Officials (NAHRO)
2500 Virginia Avenue, N.W., Suite 404
Washington, D.C. 20037
(202) 333-2020
Holds numerous training workshops and has a relevant publications list.

National Association of Housing Specialists (NAHS)
3212 Georgia Avenue, N.W.
Washington, D.C. 20027
(202) 882-6887
Provides information and technical assistance to minority groups on housing programs and development opportunities.

National Association of Neighborhoods (NAN)
1612 20th Street, N.W.
Washington, D.C. 20009
(202) 332-7766
Provides technical assistance through conferences, workshops, and publications on housing, community development, crime, and energy.

National Center for Urban Ethnic Affairs (NCUEA)
1521 16th Street, N.W.
Washington, D.C. 20036
(202) 232-3600
Provides technical assistance in loan packaging, credit analysis, and other economic development techniques.

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FLORIDA
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HAWAII
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Resources

Grantsmanship Center
1015 West Olympic Boulevard
Los Angeles, CA 90015

Publishes information on fundraising, proposal writing, and program planning; issues bimonthly newsletter, "The Grantsmanship Center News;" holds training workshops.

National Association of Housing Partnerships
1133 15th Street, N.W., Suite 720
Washington, D.C. 20005

Provides technical assistance, equity capital, and joint venture funds to developers, builders, or community organizations for lower-income housing development.

Woodstock Institute
410 N. Michigan Avenue
Chicago, IL 60611
(312) 644-4469

Provides technical assistance to community groups for identifying and securing credit from financial institutions; has publications covering many community development topics.

State Housing Finance Agencies

Alaska Housing Finance Corporation
P.O. Box 1020
Anchorage, Alaska 99510
(907) 274-4621

California Housing Finance Agency
301 Capitol Mall, Suite 403
Sacramento, California 95814
(916) 322-3991

Colorado Housing Finance Authority
1115 Grant Street
Denver, Colorado 80203
(303) 861-8962

Connecticut Housing Finance Authority
190 Trumbull Street
Hartford, Connecticut 06103
(203) 525-9311

Delaware State Housing Authority
55 The Green
Dover, Delaware 19901
(302) 678-4264

Georgia Residential Finance Authority
La Vista Perimeter Office Park
Building 1, Suite 101
2163 Northlake Parkway
Tucker, Georgia 30084
(404) 393-7347

Hawaii Housing Authority
P.O. Box 17901
Honolulu, Hawaii 96817
(808) 848-3211

Idaho Housing Agency
P.O. Box 894
Boise, Idaho 83701
(208) 336-0161

Illinois Housing Dvlpmnt. Authority
201 North Wells Street
Chicago, Illinois 60606
(312) 435-6330

Iowa Housing Finance Authority
Liberty Building, 418 Sixth Avenue
Des Moines, Iowa 50309
(515) 281-4058

Kentucky Housing Corporation
1231 Louisville Road
Frankfort, Kentucky 40601
(502) 564-7630

Maine State Housing Authority
State House Complex, 320 Water Street
Augusta, Maine 04333
(207) 623-2981

Maryland Community Development
Administration, Department of
Economic and Community Dvlpmnt.
2525 Riva Road
Annapolis, Maryland 21401
(301) 267-3176

Massachusetts Housing Finance Agency
Old City Hall
45 School Street
Boston, Massachusetts 02108
(617) 723-9770

Michigan State Housing Development
Authority, Plaza One Building
401 South Washington, P.O. Box 30044
Lansing, Michigan 48909
(517) 373-8370

Minnesota Housing Finance Agency
Hanover Building, Room 100
480 Cedar Street
St. Paul, Minnesota 55101
(612) 296-5738

Montana Board of Housing
Capitol Station
Helena, Montana 59601
(406) 449-3040

Nevada Housing Division
Department of Commerce
Room 300, Nye Building
Carson City, Nevada 89710
(702) 885-4258

New Hampshire Housing Finance Agency
27 Bay Street
Manchester, New Hampshire 03101
(603) 669-8250

New Jersey Housing Finance Agency
P.O. Box 417
Trenton, New Jersey 08603
(609) 890-8900

New Jersey Mortgage Finance Agency
Suite 3700, 1180 Raymond Boulevard
Newark, New Jersey 07102
(201) 648-2774

New Mexico Mortgage Finance Authority
5200 Copper N.E.
Albuquerque, New Mexico 87108
(505) 255-5549

New York City Housing Development Corporation
42 Broadway, 10th Floor
New York, New York 10004
(212) 480-1203

New York State Housing Finance Agency
1250 Broadway, 26th Floor
New York, New York 10001
(212) 736-4949

New York State Division of Housing and Community Renewal
2 World Trade center
New York, New York 10047
(212) 488-7126

New York State Urban Development Corporation
1345 Avenue of the Americas
New York, New York 10019
(212) 974-7000

North Carolina Hsg. Finance Agency
P.O. Box 27687
Raleigh, North Carolina 27611
(919) 733-4550

Ohio Housing Development Board
34 North High Street, Room 408
Columbus, Ohio 43215
(614) 466-7970

Oregon Housing Division
Department of Commerce
Labor and Industries Building
Salem, Oregon 97310
(503) 378-4343

Pennsylvania Housing Finance Agency
3211 North Front Street
Harrisburg, Pennsylvania 17110
(717) 787-1450

Rhode Island Housing and Mortgage Finance Corporation
40 Westminster Street
Providence, Rhode Island 02903
(401) 751-5566

South Carolina State Housing Authority
2221 Devine Street, Suite 540
Columbia, South Carolina 29205
(803) 758-2844

South Dakota Housing Dvlpmnt. Auth.
105 South Euclid, P.O. Box 1052
Pierre, South Dakota 57501
(605) 224-3181

Tennessee Housing Development Agency
200 Fourth Avenue, Suite 500
Nashville, Tennessee 37219
(615) 741-2400

Vermont Housing Finance Agency
P.O. Box 408
Burlington, Vermont 05401
(802) 864-5743

Virginia Housing Development Authority
Richmond Plaza, 111 South Sixth Street
Richmond, Virginia 23219
(804) 782-1986

West Virginia Housing Dvlpmnt. Fund
900 Charleston National Plaza
Charleston, West Virginia 25301
(304) 348-3732

Wisconsin Housing Finance Authority
James Wilson Plaza, Suite 300
131 West Wilson Street, P.O. Box 1728
Madison, Wisconsin 53701
(608) 266-7884

Wyoming Community Dvlpmnt. Authority
139 West Second Street
P.O. Box 634
Casper, Wyoming 82602
(307) 265-0603

Puerto Rico Urban Renewal and Housing Corporation
P.O. Box W
Rio Piedras, Puerto Rico 00928
(809) 767-0010

DESIGN AND ARCHITECTURE

References

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U.S. Department of Housing and Urban Development. *Minimum Design Standards for Rehabilitation for Residential Properties*. HUD Handbook #4940.4. Washington, D.C.

Resources

Community Design Centers
c/o The American Institute of Architects, William D. Street
Office of Minority Resources
1735 New York Avenue, N.W.
Washington, D.C. 20006
(202) 785-7235

Located in about 60 cities across the country. Staffed by architects and others offering services and assistance at little or no cost to low-income communities involved with housing rehabilitation or neighborhood improvement projects.

National Solar Heating and Cooling Information Center
P.O. Box 1607
Rockville, MD 10850
(800) 523-2929 - toll free - In Pennsylvania, call (800) 462-4983

Provides publications and information on the rapidly developing solar systems. Under the National Energy Act of 1978, funds have been allocated for loan programs.

REHABILITATION

References

Anderson, Leroy O. Handbook of Home Remodeling and Improvement. VanNostrand Reinhold Company, 1978.

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Kaplan, H. and Prentice, B. Rehab Right: How to Rehabilitate Your Oakland House without Sacrificing Architectural Assets, Oakland, Ca.: Oakland Planning Department, 1970.

Kinaga, Patty. Housing Rehabilitation Manual: A Step-by-Step Guide. Sacramento, CA: Department of Housing and Community Development, 1978.

Thompson, Elizabeth Kendall. Recycling Buildings: Renovations, Remodelings, Restorations, and Reuses. New York, N.Y.: McGraw-Hill, 1977.

Resources

Community Rehabilitation Training Center
5520 Wisconsin Avenue, N.W., Suite 1600
Washington, D.C. 20015
(202) 654-8338
Under contract to HUD, develops and administers training courses in rehabilitation construction, finance, program design, and administration.

F. W. Dodge Division
McGraw Hill Information Systems
1121 Avenue of the Americas
New York, N.Y. 10020
Produces the Dodge Manual for Building Construction, Pricing and Scheduling (annually), which has average unit costs calculated for separate items of work.

Heritage Conservation and Recreation Service
U.S. Department of the Interior
440 G Street, N.W.
Washington, D.C.

Home-Tech Systems
7315 Wisconsin Avenue
Bethesda, Maryland 20014
Has many publications related to rehabilitation and housing.

"Rehab Notes"
P.O. Box 5067
Tampa, Florida 33675
Is a newsletter with information on current rehabilitation programs.

R. S. Means Co.
508 Construction Plaza
Duxbury, Massachusetts 02332
Produces "Building Construction Cost Data" (annually) and "Construction Cost Indexes" (quarterly).

COMMUNITY ASSOCIATION DOCUMENTS

Publications

"Condominium Operations: Legal, Financial, and Practical Considerations." New York Law Journal, 1974.

Hyatt, Wayne S. "Community Associations: How to Draft Documents that Work." Real Estate Law Journal, Vol. 7, No. 1, Summer 1978.

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MANAGEMENT

References

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References

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Santa Clara Valley Chapter of the Society of CPCU. The Insuring of Condominiums and Cooperatives. Indianapolis: Rough Notes, Inc., 1976.

State Farm Public Relations Department. A Report to the People: A Response to the Insurance Bureau's Proposal to Disrupt the Regular Insurance Market in Michigan. Bloomington, IL: State Farm Insurance Co.

Resources

Public interest organizations:

National Center for Urban Ethnic Affairs (NCUEA)
Community Reinvestment Division
1521 - 15th Street, N.W.
Washington, D.C. 20036
(202) 232-3600

National Training and Information Center (NTIC)
Helen Murray
1123 West Washington
Chicago, IL 60607
(312) 243-3035

Woodstock Institute
Lawrence B. Rosser
410 N. Michigan Avenue, Suite 948
Chicago, IL 60611
(312) 644-4469

Public agencies:

Federal Insurance Administration
U.S. Department of Housing and Urban Development
451 - 7th Street, S.W.
Washington, D.C. 20410
(202) 755-6770

Works with other agencies and the private insurance industry on studies and recommendations of alternative programs for insurance and financial assistance. FIA administers the National Flood Insurance Program, Riot Reinsurance Program, and Federal Crime Insurance Program.

National Association of Insurance Commissioners
633 W. Wisconsin Avenue, Suite 101
Milwaukee, WI 53203
(414) 271-4464

Insurance industry and producer trade associations:

National Association of Independent Insurers (NAII)
2600 River Road
Des Plaines, IL 60018
(312) 297-7800

Alliance of American Insurers
Chicago, IL
(312) 346-5190

American Insurance Association
85 John Street
New York, NY 10038

Professional Insurance Agents
400 N. Washington Street
Alexandria, VA 22314

Local programs:

Community Insurance Information Center
Milwaukee, WI
(414) 447-1100

Established to offer professional assistance for consumers in Milwaukee who have problems in obtaining affordable insurance, or problems with their current policy; sponsored by several insurance companies in Wisconsin who provide underwriters to staff the center. Assists consumers with information, guidance, and monitors each situation.

District of Columbia Property
Insurance Facility
1750 Pennsylvania Avenue, N.W., Room 1120
Washington, D.C. 20006
(202) 393-4640

Administers the D.C. FAIR plan.

Greater Philadelphia Partnership
900 Western Savings Building
Broad and Chestnut
Philadelphia, PA 19107
(215) 545-4858

Promotes development within the City of Philadelphia. Supports an insurance plan for property owners who are involved in the Philadelphia Mortgage Plan, through which low/moderate income families may receive mortgages.

Ohio Insurance Institute
P.O. Box 632
Columbus, OH 42216
(614) 228-1593

Provides technical assistance to consumers who are having problems with finding available insurance. Three action committees have been established in Youngstown, Dayton, and Cleveland where enough problems have arisen to call for an office and staff.

NEIGHBORHOOD

References

Carlson, Karin. New York Self Help Hand Book, A Step-by-Step Guide to Neighborhood Improvement Projects. New York, N.Y.: Citizens Committee for New York City, Inc., 1978.

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Gardens for All. Guide to Community Garden Organization. 180 Flynn Avenue, Burlington, Vermont 05401.

Goetz, Rolf. Stabilizing Neighborhoods: A Fresh Approach to Housing Dynamics and Perceptions. Boston, Mass.: Boston Redevelopment Authority, 1977.

Hewes, Jeremy Joan. Build Your Own Playground. Boston: Houghton, Mifflin Company, 1974.

Levatino, Adrienne. Neighborhood Commercial Revitalization. Washington, D.C.: National Association of Neighborhood and Redevelopment Officials, 1978.

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National Center for Urban and Ethnic Affairs. Neighborhood Reinvestment: A Citizens Compendium for Programs and Strategies. Washington, D.C.

National Urban Coalition. Displacement: City Neighborhoods in Transition. Washington, D.C.

Real Estate Research Corporation. Neighborhood Preservation: A Catalog of Local Programs. Washington, D.C.: Government Printing Office.

Rozran, Andrea R. Community Development Credit Unions as Instruments of Reinvestment. Chicago, IL: Woodstock Institute, 1977.

Shur, Robert and Sherry, Virginia. The Neighborhood Housing Movement. New York, N.Y.: Association of Neighborhood Housing Developers, 1977.

Trust for Public Land. Citizen's Action Manual. Washington, D.C.: U.S. Department of the Interior, 1979.

Ziegler, Arthur P., Jr. Historic Preservation in Inner City Areas. Pittsburgh, Pa.: Allegheny Press, 1977.

Resources

Recurring publications:

American Preservation
The Magazine for Historic and Neighborhood Preservation
P.O. Box 2451
Little Rock Arkansas
A bi-monthly magazine with articles on neighborhood organizations and preservation activities.

"Conserve Neighborhoods"
National Trust for Historic Preservation
740-48 Jackson Place, N.W.
Washington, D.C. 20006
A bi-monthly newsletter full of ideas on neighborhood preservation activities and references to groups.

"Neighborhood, The Journal for City Preservation"
New York Urban Coalition, Inc.
1270 Avenue of the Americas
New York, NY 10021
A magazine which concentrates on neighborhood developments in New York but also follows the neighborhood movement nationally.

Major neighborhood organizations:

Arkansas Community Organization for Reform Now (ACORN)
523 West 15th Street
Little Rock, Arkansas 72202
(501) 376-7151

Alternative Economics, Inc.
Box 29146
Washington, D.C. 20017
(202) 832-5200

Association of Neighborhood Housing Developers
29 East 22nd Street
New York, NY 10010

Center for Community Change
1000 Wisconsin Avenue, N.W.
Washington, D.C. 20005
(202) 338-6310

Center for Community Economic Development
639 Massachusetts Avenue
Cambridge, Massachusetts 02139
(617) 547-9695

Center for Neighborhood Technology
570 W. Randolph Street
Chicago, Illinois 60606
(312) 454-0126

Community Ownership Organizing Project
349 62nd Street
Oakland, California 94613
(415) 653-6555

Institute for Local Self-Reliance
1717 18th Street, N.W.
Washington, D.C. 20009
(202) 232-4108

National Association of Neighborhoods
1612 - 20th Street, N.W.
Washington, D.C. 20009
(202) 332-7766

National Neighborhoods
815 - 15th Street, N.W., Suite 611
Washington, D.C. 20005
(202) 347-6501

National People's Action
115 West Washington Street
Chicago, Illinois 60607
(312) 243-3038

National Trust for Historic Preservation
740-748 Jackson Place, N.W.
Washington, D.C. 20006

Neighborhood Housing Services, Inc.
1308 V Street, S.E.
Washington, D.C. 20020
(202) 889-0091

New York City Department of Consumer Affairs
80 Lafayette Street
New York, New York 10013

Pennsylvania Department of Agriculture
2301 North Cameron Street
Harrisburg, Pennsylvania 17120

Other Organizations

National Center for Appropriate Technology
P.O. Box 3838
Butte, Montana 59701
(406) 723-6533

Provides funding for small scale technology projects which are organized or will affect lower-income communities.

National Hispanic Coalition for Better Housing, Inc.
810 18th Street, N.W.
Washington, D.C. 20006
(202) 783-1478

Develops projects to stimulate the increased involvement and participation of Hispanics in housing and community development: has an information clearinghouse.

National Self-Help Resource Center
2000 S Street, N.W.
Washington, D.C. 20005
(202) 338-5704

Works with neighborhood groups to provide assistance and circulate information on grassroots citizen participation efforts.

National Urban Coalition
1201 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 331-2400

Provides assistance for neighborhood economic development and neighborhood reinvestment projects to citizen groups and local governments.

Trust for Public Land
82 2nd Street
San Francisco, California 94105
(415) 495-4014

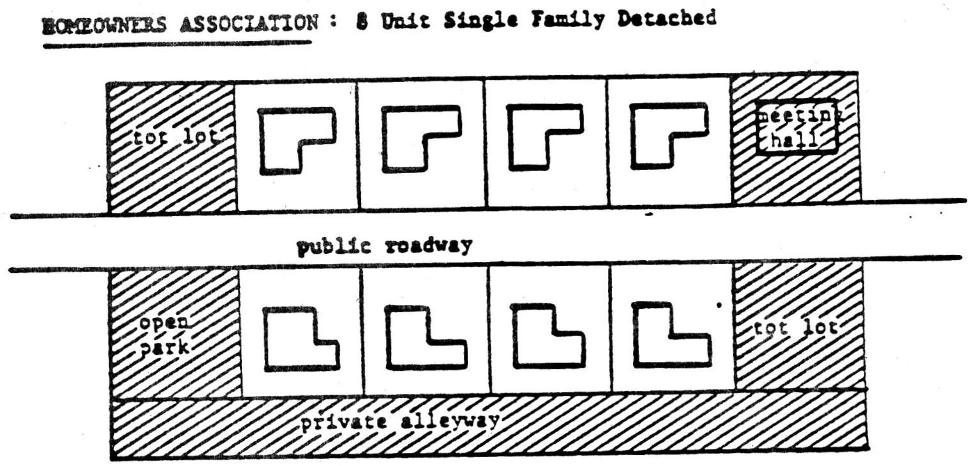
TPL's National Urban Land Program assists community groups with acquiring, developing, and maintaining vacant lots as community land trusts.

Note: Documents published by the Government Printing Office (GPO) are available from GPO, Washington, D.C. 20402.

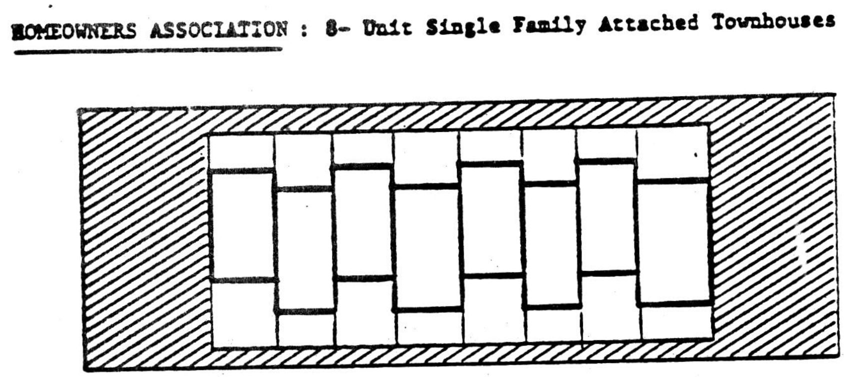
Documents published by the U.S. Department of Housing and Urban Development are available from local HUD area offices, or HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

Home Owners Association - Single Family and Townhouse (Overviews)

Example 1.



Example 2.



Key:
Homeowners Association Owned Property

In the first example of the homeowner's association a total of 10 lots have been acquired of which 8 lots are improved with a single family detached residence. In this example the residences and the lots on which they sit are wholly owned by the individual owner. The shaded area, including the four end lots and the private alleyway behind one set of the units, is owned by the homeowner's association and maintained by it. In this case, one lot is an open park, two are improved with recreational equipment as tot lots, and one has a meeting structure or community center on it.

In the second example, the same homeowner association form is used but the housing configuration is composed of eight attached townhouse or rowhouse units. In this instance, the individual unit owner owns a structure to the side wall of a neighbor and the entire front and rear yards to the shaded area. The shaded area is common property owned by the association, in the front and rear of the block of rowhouses. It includes a sidewalk and landscaped area plus two end lots available for use as open park, tot lot, or other common interest improvement.

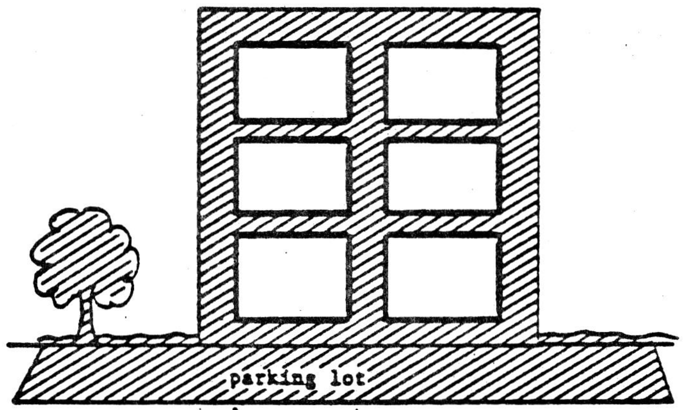
In both examples the draftsman of the legal documents for the association would determine whether or not the association was responsible for maintenance of the individually-owned lots and the individually-owned residences, even though those portions are not actually owned by the association.

Appendix I.2 - The Condominium

Condominium - Multi Story and Townhouse

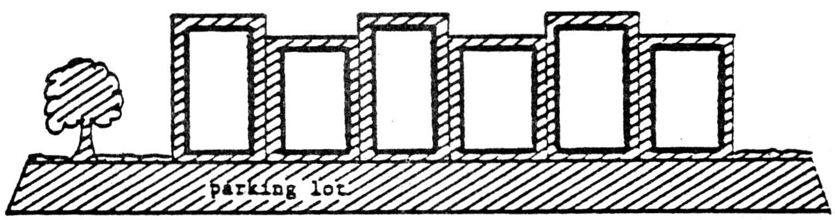
Example 1.

CONDOMINIUM - Multi Story - 6 Units



Example 2.

CONDOMINIUM - Townhouses - 6 Units

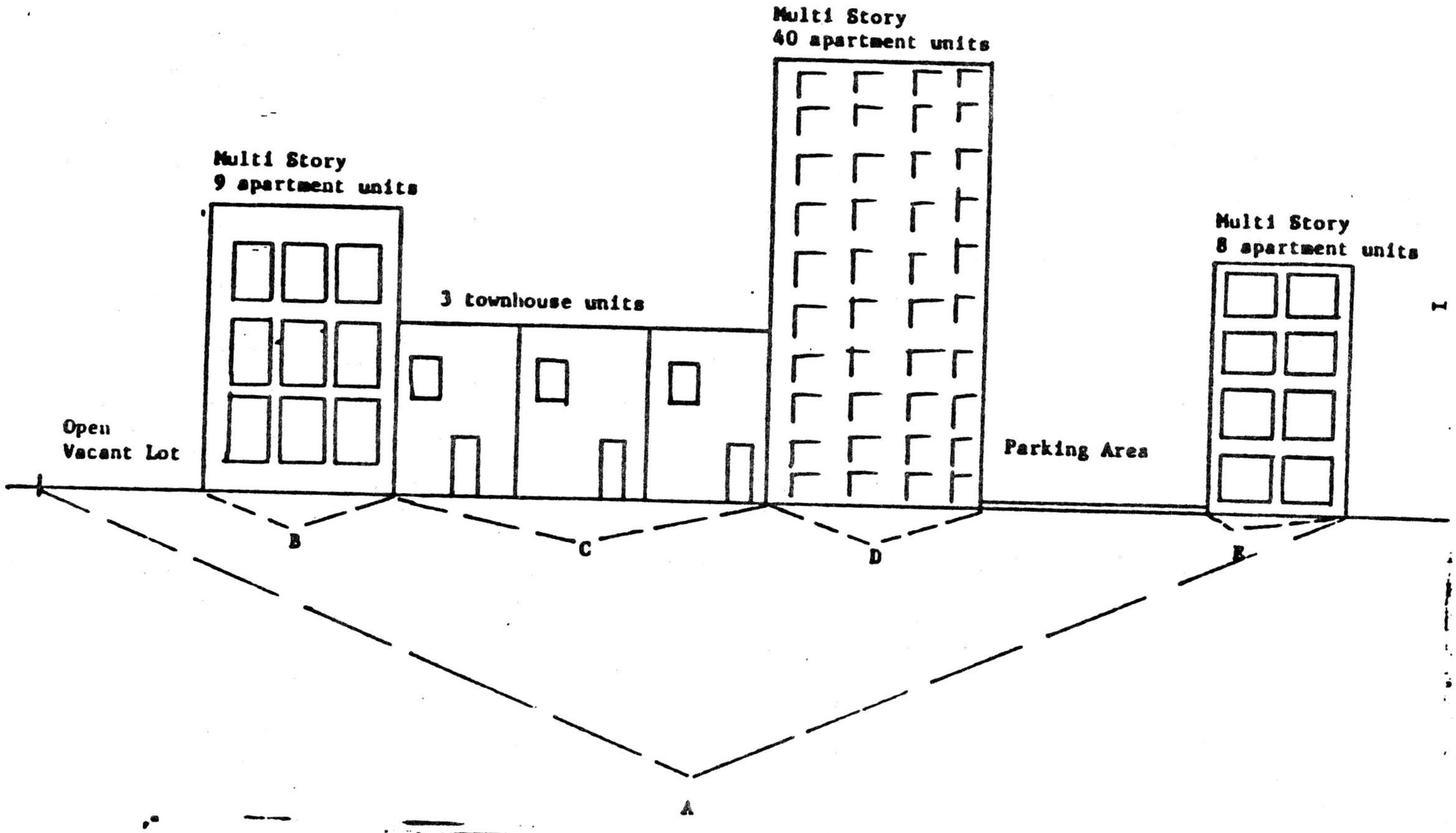


Key:
Condominium Association — ed property

The first example of the condominium is a single multi-story building involving six residential units. In the condominium, the unit owner owns exclusively his or her unit shown as the white, unshaded squares within the building, and an undivided interest in all of the common property within the condominium parcel, shown as the shaded area. The unit owner is responsible for maintenance of that portion within the white area only, which he or she owns exclusively. The condominium association, funded by assessments on all owners, is responsible for maintenance of the common property which is used by or benefits all of the owners. These common elements include the exterior of the structure, major interior utility lines, stairways, hallways, doorways and parking areas.

The condominium can also be used in a townhouse configuration as shown in the second example. Again, the white square area within each of the six townhouses is that portion owned by the individual owners exclusively and each owner owns an undivided interest in the balance of the shaded area. Even though the townhouse type structure appears to be exactly like that used for the homeowner association example in Figure 1.1, the crutical difference is what is owned by whom. In the condominium townhouse example, the condominium association is responsible for maintenance of the entire lot or lots, all landscape maintenance, and all exterior maintenance of buildings and structures. In all other respects the condominium townhouse projects looks the same and basically operates as it would in a homeowner association configuration.

Appendix I.3 - Possible UNCAP Applications in a City Block of Mixed Housing Types



In this figure is an example of a small city block and the various types of housing that might be found in such a situation. There are a variety of options for the sponsor.

- Any of the multi-story buildings can be developed as an individual condominium or cooperative (B, D, E). Depending upon existing lot lines and ownership, the adjacent vacant lot and the parking lot could be allocated to one of the buildings nearby as part of the common area of the particular condominium to which it is assigned.

- The three townhouse units (C) can be developed as a condominium or as a homeowner association. Given the nature of the ownership and existing zoning and site configurations, these units can also be incorporated into the condominium conversion of the 40-unit or 9-unit apartment. The more practical approach is to combine the townhouse units with the 9-unit apartment to minimize the differences between the types of housing structures.

With a multi-association strategy, a sponsor can develop an entire block of mixed housing types creating an individual association in a building or combination of buildings. For the new owners within those buildings, there is a self-governance framework by which they can manage their own affairs within their own building. In this example, up to four separate UNCAs can be created. The vacant lots and the parking area can also be included in the renovation scheme.

The umbrella association can be the most appropriate way to link all of the residents of this block under one association structure. If an umbrella association were created, it would encompass the total area indicated by the letter A and would likely be responsible for administering and maintaining the common area used by all of the families in all of the units including whatever development takes place on the vacant lot and shared use of the parking area. The umbrella association could set standards for maintenance of exterior portions of the buildings and could conduct a variety of activities and services necessary for all of the families throughout the block.

Meanwhile, the individual associations in the separate buildings would continue to maintain their own structures and residences and provide services internal to their structures only. The umbrella approach for an UNCAP provides a formal, organized structure for the residents through which they can have a voice in an area larger than their immediate building and services not available from their individual association.

Appendix II.1 CASE EXAMPLES FOR SELECTING SITES

The following hypothetical case examples illustrate how approaches and judgments may vary from group to group.

Case 1: A citywide community organization selects properties to rehabilitate for sale or lease to existing neighborhood residents.

Methods: The process of finding out about the feasibility of an UNCAP in a particular property and neighborhood may have to be done anonymously and unobtrusively. Landlords or owners who find out someone is interested in buying may raise the selling price. Tenants as well will become very concerned if they suspect that a rehabilitation organization is investigating acquisition of their building.

Risk Analysis: The feasibility test will be affected by the organization's ability and desire to take on risks which may be considered too high by other developers.

Perspective: The objectives of the group to target their efforts in one area, or conversely, to serve many neighborhoods, will define general locations for an UNCAP. Objectives and methods of initiating neighborhood improvements will also dictate in part what sites would be considered usable.

Case 2: A public housing authority or other redevelopment agency is planning effective means of disposing of publicly-owned properties.

Methods: The sales price of the property will be set by a procedure defined by law or by the design of a property disposition program. The process of uncovering information about publicly-owned properties will not have to be anonymous. The agency's records should contain much of the necessary data about the property.

Appendix II.1 Continued

Risk Analysis: A feasibility analysis will consist of testing various properties against criteria which arise from the agency's disposition programs. A higher level of risk will most likely be tolerated. Risk sharing with the private sector (through mortgage insurance, housing subsidies, etc.) is very probable for a project that does not meet the standards of conventional developers.

Perspective: The objectives of the agency in selling property it owns will affect their decision on site selection. If the agency is interested in concentrating efforts in a transitional neighborhood, the location will in part be identified. If the agency is exploring various alternative forms of community management or ownership, the residents may be pre-defined. If the agency merely wants to dispose of a number of properties because it does not have the capacity to own them, the following kinds of locational and building considerations will be handled differently.

Case 3: A neighborhood-based group only develops housing within a specifically defined area as part of a neighborhood-wide redevelopment strategy.

Methods: If this neighborhood group is well established in an area and there is essentially no competition, the sponsor will not have to use circumspect methods of uncovering data about the property. However, if there is not already an established procedure for notifying tenants and possibly working with neighborhood residents on this process, the neighborhood group must devise one. Otherwise, tensions and opposition from the people who live in the area are likely once knowledge of the group's plans are publicized.

Risk Analysis: The needs and capacities of the residents in a particular property may have more of an impact on site selection than a standard risk feasibility analysis. The group is probably already

Appendix II.1 Continued

committed to taking on higher risk projects (or there would be no need for its existence).

Perspective: If the eventual goals of the neighborhood group are to preserve a decent residential environment for existing residents in the entire area, site selection considerations will be defined more narrowly. In other words, the area is already chosen. The task is to select a group of people for whom (or a building in which) common interest ownership would be most effective.

Case 4: A group of tenants wish to purchase the building in which they live and convert it to a common interest form of ownership.

Methods: The site is already selected. In many cases another individual or group may be considering acquisition. Methods of uncovering data will not affect selling price of property. Because tenants will have to organize, it will not be possible to investigate the site anonymously.

Risk Analysis: The range of incomes will be given. Feasibility analysis will involve estimating the costs of conversion. Each prospective unit owner will undertake his or her own risk analysis.

Perspective: The principal objective of the group is clear: to buy the building. Site selection considerations will not comprise a preliminary test but instead can be the framework for determining the scope of work and how much they can undertake themselves.

Appendix IV.1: SAMPLE BREAKDOWN OF DEVELOPMENT COST FOR A 20-UNIT BUILDING

*NOTE: These figures are only estimates of the possible range of costs for a hypothetical 20 unit conversion.

Pre-Commitment (before loan)

Option fee for property[1]	$600 to $2,000
Market analysis	$600 to $1,000, unless market is identified
Economic feasibility study	$400 to $2,000, depending on whether done in-house or with professional assistance
Value Appraisal[2]	$20/unit or $400--can be done in conjunction with a market analysis

Post-Commitment

Acquisition	$200,000 to $450,000
Rehabilitation	$300,000 to $500,000
Insurance on property during development	$4,500
Maintenance of property during conversion, 1 year - utilities, payroll[3]	$15,000
Taxes on property ($20.00 per $1,000 of $200,000 to $450,000 value)	$4,000 to $9,000
Indirect Costs (Fees):	
Architectural fees (5% of project cost)	$25,000 to $47,500, depending on amount of donated/in-house work
Legal fees (for documents, etc.)	$4,000 to $10,000, depending on complexities of local legal requirements
Financing fees: (see explanations of FHA, GNMA and FNMA programs in following sections)	
FHA processing and commitment fees (if used)	$1,300 to $4,000
o not previously insured: $8,/$1,000 of project mortgage or $65/unit whichever is greater	
o insured as rental: $50/unit	$1,000
Project mortgage/bridge loan	$5,000

End loan/Permanent loans	
o commitment fees: 1% or 20 x $350	$7,000
o FNMA or GNMA commitment fees 1/2% or 20 x $175 (if used)	$3,500
o GNMA Discount 2 1/2% or 20 x $875	$7,500
Title and recording (if used)	$1,000
Marketing, if necessary: advertising/brokerage: 3% to 5% of sales	$1,125 to $1,875
Contingency (3%)	$15,000 to $28,500
Interest on Loan:	
$500,00 to $950,00 at 14% for 12 months (as a rule of thumb, on average, half the loan is out during the year)	$35,000 to $66,500
Developer's overhead (5%)	$25,000 to $47,500
Developer's profit (10%)[4]	$50,000 to $95,000

1 Is necessary to hold an option on the structure for a specified period of time. The amount is negotiable depending on the cost of the property and the relationship between the sponsor and property owner. The option will normally include rights of entry for estimating project costs and undertaking feasibility analyses.

2 Per most financial institutions, must include present market value and projected value after conversion. The amount of financing for acquisition costs will most likely be based on the appraised value regardless of the actual cost of property acquisition to the sponsor.

3 Will vary widely depending on number of units occupied and presence of rental income to offset maintenance costs.

4 Includes margin of error.

In summary, return on equity can be determined as follows:

<u>Monthly Totals</u>

Sales of units in dollars
+ Rental on units

Gross income
- Expenses

Net income less interest
- Interest

Profit sponsor's overhead

$\frac{\text{Net profit}}{\text{equity}}$ = Return on Equity

Appendix IV.2: CONVENTIONAL, S. 234(c), S. 235(i)

An UNCAP sponsor chooses to acquire and rehabilitate a small multi-family structure with a loan insured under 234(d). The various options for selling the units are shown below. If the project is approved prior to rehabilitation, the units can be sold and financed under 234(c) or 235(i), with a Veterans Administration (VA) loan, Federal National Mortgage Association (FNMA) conventional loan, or standard conventional loan.

20-unit building acquired and rehabilitated under S. 234(d):

Purchased for:	$450,000	
Rehabilitation cost:	$300,000	($15,000/unit)
	$750,000	

UNCAP sponsor downpayment 10% or $75,000

Units Sold for $37,500

	Conventional		234(c)		235(i)	
Downpayment:	20%	$7,500	3% of 1st $25,000 + 5% of $12,500	$1,375	3%	$1,125
Monthly Debt Service:	11% 30 yrs. $30,000:	286	10% + 1/2% 30 yrs. $36,125:	330	as low as 30 yrs. $36,375:	$ 174
Downpayment:	10%:	$3,750				
Monthly Debt Service:	11+1/4% MIP 30 yrs. $33,750:	328				
Association Fee (insurance, maintenance, reserve):		$ 80		80		80
Other: (utilities, taxes)		$ 80		$ 80		$ 80
Total monthly housing cost:	20%DP 10%DP	$ 446 $ 448		$ 490		$ 334

Appendix V.1: HOW TO SAVE ENERGY IN AN OLD HOUSE

Item	When to Apply This Measure	Percent Reduction in Total Heating/ Cooling Bill*	Expected Payback**	Possible Detriment to the Structure
MECHANICAL IMPROVEMENTS WITHOUT STRUCTURAL MODIFICATION				
A. Furnace related improvements:				
Install flame retention burner (oil burners)	when burner efficiency cannot be raised above 70% by adjustments to furnace or burner replacement	medium	high	none
Automatic flue damper(either oil or gas)	all large water or steam units, especially coal conversion units	low	medium	none, but needs correct installation
Barometric draft regulator (oil)	when one is not present or present one sticks	low	high	none
Water tempering devices (oil or gas)	on forced hot water systems	low	high	none
Stack heat recovery units (oil or gas)	when stack temperature of system is at least 550°F after nozzle adjustment and there is a heated space where recovered heat can be ducted	low	medium	none
B. Ducts and pipes:				
Insulate hot water heating pipes or cooling pipes	all pipes in unconditioned space - use closed cell foam tubing.	medium	high	none
Insulate steam pipes	anytime/everywhere except in heated rooms - use fiberglass tubing only	medium	high	none

MECHANICAL IMPROVEMENTS WITHOUT STRUCTURAL MODIFICATION

Insulate warm air or cooling ducts	anytime duct runs through an unconditioned space - use vinyl covered fiberglass	medium	high	none
C. Windows:				
Weatherstrip all contact edges	all windows not painted shut or or airtight	medium to high, depending on condition	high	none with careful carpentry
Install clamshell locks	install on all windows	low	high	none with careful carpentry
D. Hot water heater:				
Insulate jacket of hot water heater	insulate if tank feels warm to the touch	low	medium	none
Lower temperature setting	set as low as will satisfy needs	low	no cost - only savings	none
E. Other:				
Caulking around doors and window frames	caulk where parts of house converge - window to wall, door to wall	medium	high	none, helps stop wood deterioration
Water saving devices for showers, sinks, toilets	anytime, anywhere	low	very high	none
Tempered glass fireplace screen	fireplace without damper or ill-fitting damper	medium	high	none

*Represents probable impact on the present bill: low=less than 5%, medium= 5%-10%, high=over 10%, depending on the climate zone, the temperature maintained in the living space, and whether it is only heating or heating and cooling combined.

**Represents the amount of time necessary to pay back the cost of the investment with energy savings: low=6-9 years, medium=3-5 years, high=1-3 years, depending on the cost of the item, the climate zone and temperatures maintained in the house.

Source: Historic Preservation, Vol. 31, No. 1, pp. 46-47.

Appendix V.2: REHABILITATING OLDER BUILDINGS

CONSIDER	AVOID
The Environment	
In new construction, retaining distinctive features of the neighborhood's existing architecture, such as the distinguishing size, scale mass, color, materials, and details, including roofs, porches, and stairways, that give a neighborhood its special character.	Introducing new construction into neighborhoods that is incompatible with the character of the district's architecture because of obvious differences in size, scale, color, and detailing.
Using new plant materials, fencing, walkways, and street lights, signs, and benches that are compatible with the character of the neighborhood in size, scale, material, and color.	Introducing signs, street lighting, street furniture, new plant materials, fencing, walkways, and paving materials which are out of scale or inappropriate to the neighborhood.
Retaining existing landscape features such as parks, gardens, street lights, signs, benches walkways, streets, alleys, and building setbacks that have traditionally linked buildings to their environment.	Destroying the relationship of buildings and their environment by widening existing streets, changing paving material, introducing poorly designed and located streets and parking lots, or introducing construction incompatible with the neighborhood.
Existing Buildings: Exterior Features	
Masonry Buildings Retaining original masonry and mortar, whenever possible, without the application of any surface treatement.	Applying waterproof or water repellent coatings or other treatments unless required to solve a specific technical problem. Coatings are frequently unnecessary, costly, and accelerate deterioration of the masonry.
Duplicating old mortar in composition, color, and textures.	Repointing with mortar of high Portland cement content which can create a bond that is often stronger than the building material. This can cause deterioration through expansion and porosity problems.
Cleaning masonry only when necessary to halt deterioration and always with the gentlest method possible, such as low pressure water and soft natural bristle brushes.	Sandblasting brick or stone surfaces; this method of cleaning erodes the surface of the material and accelerates deterioration.

	Using chemical cleaning products which could have an adverse chemical reaction with the masonry materials, i.e., acid on limestone or marble.
Frame Buildings	
Retaining original material, whenever possible.	Removing architectural features such as siding, cornices, brackets, window architraves, and doorway pediments. These are, in most cases, an essential part of a building's character and appearance.
Repairing or replacing, where necessary, deteriorated material with new material that duplicates the old as closely as possible.	Resurfacing frame buildings with new material which is inappropriate or was unavailable when the building was constructed such as artifical stone, brick veneer, asbestos or asphalt shingles, plastic or aluminum siding. Such material also can contribute to the deterioration of the structure from moisture and insect attack.
Replacing deteriorated roof coverings with new material that matches the old in composition, size, shape, color, and texture.	Replacing deteriorated roof coverings with new materials which differ to such an extent from the old in composition, size, shape, color and texture that the appearance of the building is altered.
Windows and Doors Retaining existing window and door openings including window sash, glass, lintels, sills architraves, shutters, doors, pediments, hoods, steps and all hardware.	Introducing new window and door openings into the principal elevations, or enlarging or reducing window or door openings to fit new stock window sash or new stock door sizes. Altering the size of window panes or sash. Such changes destroy the scale and proportion of the building. Discarding original doors and door hardware when they can be repaired and reused in place.

Source: "Guidelines for Rehabilitating Older Buildings," prepared by HUD in conjunction with the Department of Interior (HUD 465-F, April 1977).

Appendix VI.1: SAMPLE INSPECTION SHEET

INTERIOR NOTES:

STRUCTURE: ______________________________ DATE: ______________________

BASEMENT:

areaway inner door ______
rem. wood clg./walls ______
parge ______
stairs ______
support posts ______

CELLAR:

range ______
refrig. ______
disp. ______
dishwash. ___
kit. cab:
base ______
wall ______
+ bulkhd. ___
island ______
furnace ______
air cond. ___
closets:
____ ____
____ ____
____ ____
close mantels ___
handrail ____

GENERAL STRUCTURE: (Interior)

insulation: door/jambs
doors ______
refin. doors ______
tub doors ______
close door ______
open up door ______

open up wall ______
based. TME ______
based. rem. ______
basebd. new ______
handrl. dowel ______
handrl. mill ______
spindles ______
stairs: ______
______
demo part. ______

GENERAL (ELECTRIC):

entries ______
fuse dis. ______
demo elec. ______
rewire cellar ____

rewire D.U. ______
rewire D.U. ______
rewire D.U. ______
rewire D.U. ______
rewire hall ______
range hood ______
G.F.I. ______
smoke detec. ______
intercom ______
alarm sys. ______
med. cab. ______
both fan light fix ____
heat lamp ______
DR fix. ______
kit fix ______
exit. CO ______
extra CO ______
accent fix ______

GENERAL (PLUMBING):

demo plumb ______
main gas line ___
main water line _
main house drain ______
int. gas line ___
int. water line ___
floor drain ______
laundry tray ______
hwh ______
clean sewer ______
plumb. for D.U. __
bath fix. ______
bath access ______
shower rod ______
diverter ______
ext. bib. ______
demo bath ______
demo sink ______
stack ______
waste line ______
vent ______
sump pump ______

GENERAL (WINDOWS):

thermo acctg. ______
brick in wind. ______
frame in wind ______

prim. wind. ______
cellar wind. ______
close cel.wind. _____

elec.htr.____________	GENERAL (FLOORS):	
220 line_____________	rep. broken floor	Kit.fin.fl.____
GENERAL (PAINTING):	nail loose floor__	carpet:_________
masonry:	bsmt. excavate____	________________
front______________	curb______________	________________
rear_______________	concrete floor____	________________
side_______________	patch floor_______	________________
rooms comp.__________	T & G floor_______	________________
bath_________________	3/4" sub-floor____	tear up/rem._____
kitchen______________	5/8" sub-floor____	bath cove base___
kitchen________________	underlayment__________	kit. cove base____
	bath fin. floor_______	

*Developed by the Manchester Citizens Corporation, Pittsburgh, Pennsylvania.

Completion of Work

(a) Buyer agrees to complete the work of rehabilitation of Unit No. (the Unit) in a good and workmanlike manner and in accordance with the plans, specifications, and time schedule attached hereto as Schedule A (the Work) not later than , 197_. All labor necessary for the Work shall be performed at the sole expense of Buyer. Seller will reimburse the Buyer for materials used in the Work in accordance with the amounts set forth in Schedule A and will supply all tools necessary for the Work. All tools will remain the property of the Seller and will be returned to Seller in good condition upon completion of the Work or earlier termination of this Agreement. Buyer shall properly maintain and care for the tools while in the Buyer's possession.

(b) Changes in the Work. Seller will cooperate with Buyer to the fullest extent possible to incorporate Buyer's personal choices into the Work; however, final decisions as to scheduling, materials, and design changes must rest with Seller since Seller has agreed to sell the Unit at a fixed cost. Any additional costs incurred by Seller as a result of changes in the Work (including any additional material or tools) shall be borne by Buyer and shall be paid to Seller in advance.

(c) Supervision of the Work. The Work shall be supervised and approved by Seller. No Work shall commence without prior notice to Seller and Seller's approval of the arrangements for the Work. Seller shall provide, upon Buyer's request and at reasonable times determined by Seller, instructions in necessary techniques. Seller and Buyer will cooperate in order to provide proper supervision and support by Seller.

(d) Excusable Delay. If Buyer shall be delayed, hindered in, or prevented from the completion of the Work by reason of strikes, inability to procure materials, restrictive governmental regulations, riots, war, flood, or other reason beyond Buyer's control, then the time for such completion set forth in Section 1 shall be extended for a period equivalent to the period of such delay but not longer than ________________.

(e) Completion and Termination. When the Buyer has, in his opinion, satisfactorily completed the Work, he shall notify Seller in writing. Seller will, within 15 days, either issue a certificate of completion, in form suitable for recording, or furnish to Buyer a list of defects. Any dispute arising as to whether the Work has been completed will be subject to arbitration pursuant to Section (f) and the decision of such arbitrators shall be final. If the Work is not completed within the time specified by Section 1(a) (as extended by Section 1(d)), Seller shall have the right to terminate this Agreement upon notice to Buyer and upon the giving of such notice this Agreement shall be void and without recourse to the parties. Seller shall be entitled to retain the Deposit as liquidated damages and shall have no obligation to reimburse Buyer for any labor performed for the Work.

(f) Arbitration. In the event that Owner and Seller cannot agree if the Work has been satisfactorily completed, such a determination (including a list of any defects) shall be made by a licensed architect selected by the parties hereto, and, if they are unable to agree upon an architect, each party shall select an architect and the two architects so selected shall select a third architect. The determination (including a list of any defects) shall be that made by any two of the architects. If any two of the architects are unable to agree upon such a determination, the determination shall be that of the third architect so selected. The cost of such determination shall be borne equally by the parties.

This provision is borrowed from a condominium project developed by Homeowners' Rehab Inc. in Cambridge, Massachusetts. It is not necessarily appropriate for every work-purchase situation.

Appendix VII.2: DOCUMENT DRAFTING CHECKLIST

A. Parties

1. The Developer
   (a) Developer's name
   (b) Type of organization
   (c) When organized
   (d) Principals and their qualifications
      (1) Residence address
      (2) Business address
      (3) Business experience
   (e) Principal place of business
   (f) Who will be the declarant

2. The Association
   (a) Name
   (b) Form of organization
   (c) Names of proposed officers and directors (identify position)
      (1) Residence address
      (2) Business address
      (3) Business experience
   (d) Principal place of business
   (e) Registered agent and address

3. Mortgagee
   (a) Contact data (name, address, telephone)
   (b) Person to contact
   (c) Willing to collect assessments?
   (d) Secondary market institution

4. Selling Agent
   (a) Contact data (name, address, telephone)
   (b) Person to contact

5. Managing Agent
   (a) Contact data (name, address, telephone)
   (b) Person to contact

6. Architect
   (a) Contact data (name, address, telephone)
   (b) Person to contact

7. Insurance Agent
   (a) Contact data (name, address, telephone)
   (b) Person to contact

8. Title Insurance Company
   (a) Contact data (name, address, telephone)
   (b) Person to contact

B. Site Inspection

1. Observations
   (a) Nature of project
   (b) Nature of amenities
   (c) Types of units, number, size differences
   (d) Any ground in lot or unit
      (1) Enclosed or unenclosed
      (2) Maintenance responsibility
      (3) Permitted uses and changes
   (e) Unit boundaries; heating, pipes, plumbing, etc.
   (f) Easements
   (g) Maintenance/construction problems anticipated
      (1) By developer
      (2) By association
      (3) By individual owners
   (h) What is the access? What problems may arise?
   (i) Sales prices proposed

2. Plat
   (a) Obtain metes and bounds description
   (b) Plat and plans (if required) - explain requirement
   (c) Are there any easements? If so, are they shown on the plat?
   (d) Are there amenities, if so are they shown?
   (e) What about expansion and phases?
   (f) Who owns streets? Is anything to be dedicated?
   (g) Who is the surveyor; who will sign plat and plans?
   (h) City, county in which located
   (i) Zoning
   (j) Utilities - What will be common?

C. Finance

(What is the financing plan? Any particular problems or requirements?)

D. What government involvement, if any?

E. Realistically, what could go wrong?

1. In development
2. In transition
3. In association operation

F. The Developer's Role

1. What control is needed and why?

2. Assessments
   (a) Pay full
   (b) Fund deficit
   (c) Use of percentage built

3. Retained rights?

4. Will units be leased?

5. How/who regarding sales/marketing; how to be done?

G. The Documents

1. Name of project

2. Common area/common elements
   (a) What will it be; is there a deed?
   (b) Is it free of encumbrances?

3. Any restrictions on use and enjoyment of common elements?
   (a) User fees?
   (b) Suspension
   (c) Collateral, if so, what controls on borrowing?
   (d) Power to grant easements (will this be necessary during the construction phase?)
   (e) Signs
   (f) Parking
      (1) Number and assignment of spaces
      (2) Limitations upon vehicles

4. Any variations on membership rights? All equal?

5. Control - How will the votes be divided: Classes A and B
   (a) Length of control - years
   (b) Phase in: 1/3 & 50%
   (c) Veto

6. Maintenance
   (a) Who does what - when?
   (b) Unit - is anything not owner's responsibility?
   (c) Association's responsibility extent, especially limited common elements
      (1) Buildings
      (2) Grounds: Inside and outside limited common elements
   (d) Management: how, who, what system, costs

7. Insurance
   (a) If there is an agent, how has project been evaluated?
   (b) Does association insure it all - if not, why not?
      (1) Is there insurance
      (2) What type of policy is available?
   (c) If owners insure unit, how protect association?
   (d) Insurance trustee?
   (e) Insurance review? Biannually? Qualifications?
   (f) What mortgage problems might this present?

8. Rules and regulations; enforcement

9. Assessments
   (a) Developer responsibility and options computation and personal obligation

(b) Initial budget: Who will do; help needed?
(c) Reserves
(d) Method of association budget preparation and adoption
(e) Lien rights; acceleration; priority; successor
(f) Special assessments; any limit on use?

10. Architectural and environmental standards
    (a) Is adequate provision made for encroachment or shifting of unit and common area boundaries to accommodate construction variances from plans and settling?
    (b) Are there to be any restrictions on leasing, resale, or use of units? Any right of first refusal in the association or in the Developer during the control period?

11. Will there by party walls? If so, nature, extent, maintenance

12. Sales and lease restrictions

13. Amendments

14. Who will execute the declaration? In what capacity?

15. General
    (a) Will anything be dedicated to municipal government; street maintenance?
    (b) Will there be sidewalks? If so, who is responsible?
    (c) Practical side of amenity construction - front end load? Can it be afforded?
    (d) Initial management questions
    (e) Will developer do the building?
    (f) Antennas; master antenna, etc.?
    (g) Pets

H. <u>Bylaws</u>

1. Quorum

2. Voting - one unit, one vote; cumulative

3. Annual meeting

4. Board
    (a) Number
    (b) Meetings
    (c) Powers
    (d) Any desired limitations?
    (e) Compensation

5. Officers

6. Committees

7. Fiscal Year

8. Amendment

VII.3: TABLE OF CONTENTS FOR CONDOMINIUM BYLAWS OF THE URBAN NEIGHBORHOOD CONDOMINIUM ASSOCIATION, INC.

Appendix VII.4: TABLE OF CONTENTS FOR THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE URBAN NEIGHBORHOOD HOMEOWNERS ASSOCIATION

IX. ARCHITECTURAL STANDARDS (Approval Required for Changes)

X. PARTY WALLS
   1. General Rules of Law to Apply
   2. Sharing of Repair and Maintenance
   3. Weatherproofing
   4. Right to Contribution Runs with Land

XI. USE RESTRICTIONS AND RULE MAKING
   1. Authority and Enforcement
   2. Procedure

XII. GENERAL PROVISIONS
   1. Enforcement
   2. Severability
   3. Perpetuities
   4. Notice of Sale, Lease, or Mortgage
   5. Amendments
   6. Indemnification
   7. Mortgage Provisions

XIII. ANNEXATION OF ADDITIONAL PROPERTY
   1. Annexation without Approval of Class A Membership
   2. Annexation with Approval

Appendix VII.5: TABLE OF CONTENTS TO THE BYLAWS OF THE URBAN NEIGHBORHOOD HOMEOWNERS ASSOCIATION

Appendix VII.6

ALTERNATIVE PROVISIONS

This section presents general descriptions of optional provisions (i.e., the selective "building blocks" discussed earlier). Where applicable, variations for condominiums and HOAs are discussed.

7.901 Purposes and Use

1. Purposes and Uses

> The condominium is formed for residential purposes, and units shall be occupied and used only as private residences for the owner, the owner's family, tenants, and guests; units shall be used for no other purpose, and no business shall be permitted by the terms of this Declaration or the Bylaws of ______________ Condominium Association, Inc. (hereinafter referred to as the Bylaws) which may provide that units may be used as sales offices, models, leased property, or for other specified purposes. All owners shall comply strictly with any use restriction, rule, or regulation contained in or promulgated in accordance with the By laws; provided, however, that this provision shall not be construed to impair the right of any owner to sell, rent, or lease units so long as such sale, rental, or lease is in accordance with the applicable provisions of the Bylaws. Any tenant or lessee of a unit shall be in all respect subject to the Declaration, Bylaws, and any and all rules and regulations as may, from time to time, be promulgated by the Association or the Board of Directors.

An important early provision is one establishing the purposes and uses, what the association's purpose is and how the property may be used. In the HOA there may not be as explicit a statement as this. Various provisions deal with the issue. In an UNCA it would be wise to spell out the purposes and uses in the declaration of both condominium and HOA. The UNCAT may feel it's appropriate to permit some home occupations, e.g., babysitting, clothing alterations, tax work, outside sales, tutoring, etc. This will depend on the nature of the UNCA and its residents' needs and desires.

The UNCA will, moreover, become involved in activities within the neighborhood and should be authorized broader powers than traditionally is done. The following provision then might be used.

> The condominium property may be used as the Board of Directors reasonably shall determine and the Association may engage in community activities and support, and the Association can as a common expense, incur costs for such activities as are reasonably necessary and appropriate. Expenses incurred which do not directly affect the Association's specified duties and which are not offset by use fees shall require the affirmative vote of two-thirds of the membership.

The draftsman may wish to define "community in this section or insert the name and boundaries of a specific neighborhood.

<u>7.902 Units and Boundaries</u>

> The condominium consists of a multistory brick and frame construction building containing fifty units. The structure is depicted on and has been constructed in accordance with the plat attached hereto as Exhibit B and specifically incorporated herein by reference. The location of the units within the structures is depicted on the plans attached hereto as Exhibit C and specifically incorporated herein by reference.
>
> Each unit shall in all respects constitute a separate parcel of real property which may be owned in fee simple and shall include that part of the structure which lies within the following boundaries:
>
> (1) Horizontal (Upper and Lower): The horizontal boundaries shall be the upper unfinished surface o- the foundation slab or of the subflooring and the lower unfinished surface of the material that comprises the ceiling of the unit.
>
> (2) Vertical (Perimetric): The vertical boundaries of the units shall be the unfinished outer surface facing the interior of the plaster, plaster board, dry wall, or other building materials comprising the wall bounding the unit extended to intersections with each other and with the upper and lower boundaries.

This boundary definition creates the "airspace" owned in a condominium. In the HOA, the land or property individually owned is generally called a "lot" and defined as follows:

Section 5. "Lot" shall mean a portion of the Properties intended for any type of indidivual ownership and use as may be set out in this Declaration, and as shall be shown on the plats of survey filed with this Declaration or amendments thereto.

Property is either a unit or a lot individually owned, or it is owned by everyone in a condominium or the association in an HOA. The latter is called "common area" or "elements" in an HOA and in a condominium, respectively.

For an HOA:

Section 4. "Common Area" shall mean all real and personal property now or hereinafter owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of conveyance of the first Lot is that tract or parcel of land shown on that plat recorded in Book___, at Page___, of Fulton County, Georgia Records, less and except the individual Lots shown thereon.

For a condominium:

The common elements shall include all portions of the property not within the boundaries of a unit.

In a condominium, some portions of the common elements may be reserved for the use of a specified unit or units. This might include, for example, parking spaces, storage areas, balconies, landings, and stairs. Such property is called a limited commong element. The following provision defines limited common elements.

7.903 Limited Common Elements

Certain units may have limited common elements assigned to and reserved for their exclusive use. Such limited common elements, if any, other than those covered by Section 206 of the (District of Columbia) Act are depicted upon the plans attached as Exhibit C. The limited common elements as may be assigned on the plans or by operation of law in accordance with Section 206 shall not be reassigned and no other common elements shall be assigned as limited common elements.

7.904 Undivided Interest in Common Elements

> Pursuant to Section 211 of the Act and in accordance with the allocation shown in Exhibit D attached hereto and specifically incorporated by reference, each unit is allocated an undivided interest in the common elements. Each unit owner shall own his or her interest in the common elements as tenants in common with all other owners.

In an HOA, the Association, not the individual owners, owns all of the common property. The members "own" only through their membership just as stockholders or club members "own" the corporation's or club's property.

In the condominium, all owners have an undivided interest in common with all other owners in the common elements. It is necessary to set out what this interest is and how it is computed. State condominium law will deal with this issue and may require a specific method of computation. The choices are:

o equality - all units assigned an equal percentage interest;

o value - either a "par value" which is created by the draftsman or a percentage regarding the initial sale or market value of the unit; and,

o size - a percentage representing the square or cubic footage of the unit in relation to the project as a whole.

7.905 Easements

There are several different types of easements or rights of access and use which need to be set forth in the documents. This is particularly important in the HOA in which the members do not own the property. The following is from an HOA. Easements are required in both, however.

Owner's Easement of Enjoyment

Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any facility now or hereafter situated or constructed upon the Common Area and to impose reasonable limits on the number of guests who may use the facilities;

(b) The right of the Association to suspend the voting rights and right to use of the facilities of an Owner for any period during which any assessment of the Association against said Owner's Lot remains unpaid, and for any infraction by an Owner of the Association's rules and regulations for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days;

(c) The right of the Declarant with regard to the Properties which may be owned for the purpose of development to grant easements in and to the Common Area contained within the respective Properties to any public agency, authority, or utility for such purposes as benefit only the Properties or portions thereof and Owners or Lots contained therein;

(d) The right of the Association to borrow money for the purpose of improving the Common Area, or any portion thereof, for acquiring additional Common Area, or for constructing, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the Common Area; provided, however, that the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements, and privileges herein reserved or established for the benefit of Declarant or any Owner, or the holder of any mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within (   ).

(e) The right of the Association to dedicate or transfer all or any portion of the Common Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the

> of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been signed (i) by at least a majority of the votes which the Class "A" members (owners other than developer) of the Association present or represented by proxy are entitled to cast at a meeting duly called for such purpose, and (ii) by the Class "B" members (the developer) of the Association, so long as such membership shall exist.

This provision is almost always found in HOA documents, particularly if the units are attached, and sometimes in the condominium:

> Easements of Encroachment
>
> There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Lots due to the unwillful placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of the restrictions) to a distance of not more than (five (5) feet), as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Area or as between said adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, that in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant, or the Association. There shall be reciprocal appurtenant easements for the maintenance and repair of a party wall or walls, if any.

The following could be modified to include management and other functions in addition to sales:

> Easements to Facilitate Sales
>
> All units shall be subject to an easement in favor of Declarant pursuant to Section 222 of the Act. Declarant reserves the right to use any units it owns as models, management offices, or sales offices until Declarant conveys title thereto to another owner. Declarant reserves the right to relocate such models of offices from time to time within the property. Declarant further reserves the right to maintain on the property a reasonable number of signs, not to exceed xix (the number should obviously fit the particular project) of reasonable size as may comply with

> applicable government regulation. Declarant may place signs in any location on the property other than a unit owned by another owner and may remove or relocate signs, all at the sole discretion of Declarant.

The provision should be modified by adding language permitting the association to use the common elements in support of neighborhood and community activities. The right should be reserved to use, to grant permission to use, and to charge a fee for use of meeting rooms, laundry rooms, or other facilities that are a part of the UNCA. The draftsman should consider what facilities are available and what the activities might be -- preserving as much flexibility as possible. Then this provision can be modified to fit those needs.

7.906 Rule Making and Enforcement

Both the condominium and the HOA need well-drafted provisions concerning the adoption and enforcement of rules and regulations. The fewer the rules the better, but it is important that there be standards of conduct established for both units and common elements. Enforcement that works is important. Each sponsor and UNCAT will have to consider what will work in a particular UNCA.

One approach often seen in the HOA is for the declaration to provide basic rules for the use of lots and common areas and then, as in the condominium, follow with a general provision. The following HOA provision illustrates this. Note that the enforcement provision includes a hearing process.

Use of Lots

Except as provided herein below, each Lot shall be used for residential purposes only, and no trade or business of any kind may be carried on therein. Lease or rental of a Lot or any building thereon for residential purposes shall not be considered to be a violation of this convenant so long as the lease is in compliance with reasonable rules and regulations as may be promulgated by the Board of Directors. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the Bylaws, and the rules and regulations adopted hereunder. Without the prior written consent of the Association's Board of Directors, nothing shall be done or kept in any Lot or in the Common Area or any part thereof to increase the rate of insurance on the Properties or any part thereof over what the Association, but for such activity, would pay. Noxious, destructive, or offensive activity, or any activity, constituting a nuisance shall not be carried on in any Lot or in the Common Area or any part thereof, and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot which could cause unreasonable embarrassment, discomfort, or annoyance to other Owners, and the Board of Directors shall have the power to make and to enforce reasonable rules and regulations in furtherance of this provision.

Use of Common Area

Except on the individual Lot, no planting or gardening shall be done; no fenses, hedges, or walls shall be erected or maintained upon the common area or any Lot except as are installed in accordance with the initial construction of the improvements located thereon, or as approved by the Association's Board of Directors or their designated representatives. No antennas may be erected upon the Property except the Association may erect a master antenna serving the members. Except for the right of ingress and egress, the owners of the Lots are hereby prohibited and restricted from using any of the Property outside their respective Lots except as may be allowed by the Association's Board of Directors as expressly provided herein. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all owners and is necessary for the protection of said owners.

This provision might be followed with specific use restrictions dealing with such matters as signs, pets, storage and repair of vehicles, and other such matters. The tables of contents contain an example of the type of restrictions which might be imposed. The following from a condominium is illustrated for both:

Authority and Enforcement

The condominium shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make and to enforce reasonable rules and regulations governing the conduct, use, and enjoyment of units and the common elements, provided that copies of all such rules and regulations be furnished to all owners. The Board shall have the power to impose reasonable fines which shall constitute a lien upon the property and to suspend an owner's right to use the common elements and to vote for violation of any duty imposed under the Declaration, these Bylaws, or any rules and regulations duly adopted hereunder.

Procedure

The Board shall not impose a fine, suspend voting, or infringe upon any other rights of a member or other occupant for violation of rules unless and until the following procedure is followed:

(A) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: (i) the alleged violation; (ii) the action required to abate the violation; and (iii) a time period, not less than ten (10) days, during which the violation is a continuing one, or (iv) a statement that any further violation of the same rule may result in the imposition of sanction after notice and hearing if the violation is not continuing.

(B) Notice. Within one month of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Board shall serve the violator with written notice of a hearing to be held by the Board in executive session. The notice shall contain: (i) the nature of the alleged violation; (ii) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice; (iii) an invitation to attend the hearing and produce any statement, evidence, and witnesses on his or her behalf; and (iv) the proposed sanction to be imposed.

(C) Hearing. The hearing shall be held in executive session pursuant to this notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered into the minutes by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

7.907 Assessments

In any community association it is crucial that there be sound, workable provisions for assessments. This should include:

o making the assessment the personal obligation of the unit owner as well as a charge against the lot or unit;

o providing a workable method of collection including, if the lender is willing, having the assessment collected as a part of the mortgage payment process and promptly disbursed to the association;

o providing a reserve process which could include a separate fund for emergency use of association members;

o a workable method of setting and increasing the assessment which reflects the realities of the association. Cost-of-living formulas and other artificial controls do not provide the needed business flexibility and in practice often lead to undesirable results; and,

o a provision to permit some payment of the assessment through work rather than cash, caution must be exercised - cash flow must meet cash demands.

Purpose of Assessment. The assessments for common expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the owners and occupants of units in the Condominium as may be more specifically authorized from time to time by the Board. Common expenses should be broadly defined to reinforce this latitude. Assessments may be used to compensate officers and directors only if approved by a majority vote of the Association.

Creation of the Lien and Personal Obligation of Assessments.

(a) Each owner of any unit by acceptance of a Deed therefore, whether or not it shall be so expressed in such Deed, is deemed to convenant and agree to pay the Association: (1) annual assessments or charges, and (2) special assessments to be established and collected as hereinafter provided, and (3) specific assessments against any particular unit which are established pursuant to the terms of these Bylaws. All such assessments, together with charges, interest, costs, and reasonable attorney's fees, in the maximum amount permitted by law, shall be a charge on the unit and shall be a lien upon the unit against which each assessment is made. Such amounts shall also be the personal obligation of the person who was the owner of such unit at the time when the assessment fell due. Each owner shall be liable for his or her portion of each assessment coming due while he or she is the owner of a unit and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors; unless otherwise provided, the assessments shall be paid in monthly installments.

(b) Each owner is allocated a liability for common expenses in a percentage amount equal to the percentage of undivided interest set out in Exhibit D to the Declaration.

(c) Upon written request to the Board by an owner or prospective purchaser, the Board or the duly designated agent shall furnish, within a reasonable time as prescribed by the Act, a recordable statement setting forth the amount of unpaid assessments levied against the unit. The Board may impose a reasonable fee not to exceed twenty-five ($25.00) dollars for such statements and payment of the fee shall be a prerequisite to the issuance of any statement.

Acceleration. If a owner shall be in default in payment of an installment of an assessment, including but not limited to the monthly installments based on the annual budget, the Board of Directors may accelerate the remaining installments upon ten days written notice to such residence owner, whereupon the entire unpaid balance of such assessment shall become due upon the date stated in such notice.

Computation of Operating Budget and Assessment. It shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated costs of operating the condominium during the coming year. The Board shall cause the budget and the assessments to be levied against each unit for the following year to be delivered to each member at least twenty-one (21) days prior to the meeting. The budget and the assessment shall become effective unless disapproved at the annual meeting by a vote of a majority of the total association membership. Notwithstanding the foregoing, however, in the event that the membership disapproves the proposed budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year.

Special Assessments. If the assessment proves inadequate for any year, the Board may at any time levy a special assessment against all owners; provided, however, that prior to becoming effective, any special assessment shall be approved by the affirmative vote of two-thirds (2/3) of those present, in person or by proxy, at a special or annual meeting of the members, notice of which shall specify that purpose.

Notice of Meetings. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or Section 5 of this Article VII shall be sent to all members not less than twenty-one (21) days in advance of the meeting. Upon written request of any institutional holder of a first mortgage, that holder shall be entitled to written ntoice of any such meeting and shall be permitted to designate a representative to attend and observe the meeting.

Effect of Nonpayment of Assessments. Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may determine from time to time. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien as herein provided for shall attach and in addition the lien shall include the late charge, interest on the principal amount due plus the late charge at the maximum allowable rate from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may as the Board shall determine institute suit to collect such amounts and to foreclose its lien. Each Owner, by his or her acceptance of a deed to a Lot, vests in the Association or its agents the right and power to bring all actions against him or her personally for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The association, acting on behalf of the Owners, shall have the power to bid on the residence at any foreclosure sale or to acquire, hold, lease mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein, including by way of illustration but not limitation, abandonment of his or her unit.

Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and assessment as provided in Section 4 of this Article. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

A modification which can be made to permit sweat equity would be as follows:

The Board of Directors may establish a schedule of necessary work at (name of association) and a monetary equivalent for the satisfactory performance of this work. Consistent with the fiscal needs and the cash flow of the association, the Board may authorize through the adoption of reasonable regulations individuals to make payment of all or part of their assessments through in-kind contributions.

7.908 Joint Operations, Contracts, and Operations

The UNCA will want to have the right to work with other organizations. In order to insure maximum flexibility the declaration or bylaws should protect this right.

Rights of Association. With respect to the common elements or other association responsibilities owned, and in accordance with the Certificate of Incorporation and Bylaws of the Association, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational or other agreements with trusts, condominiums, cooperatives, or neighborhood and other homeowner's or resident's associations, both within and without the property. Such agreements shall require the consent of two-thirds (2/3) of the total votes of all Directors of the Association.

Right of Association to Transfer Functions. Unless otherwise specifically prohibited herein or within the Certificate of Incorporation or Bylaws of the Association, any and all functions, responsibilities, authorities, duties, powers, and obligations of the Association shall be fully transferable in whole or in part to any other homeowners' or residents' association, condominium, public body, or similar entity. Any instrument effecting such a transfer shall specify the duration thereof and the means of revocation.

7.909 Merger and Expansion

The ability of a condominium to merge with another or to expand, that is add property and units, is severely limited by states' laws. In the absence of a second generation (condominium) statute, the right does not exist and the drafting problem is acute. It does not lend itself to a sample form. Moreover, the typical UNCA condominium will probably be a single multi-family building. The HOA will normally be used for scattered sites, and it is much easier to expand as the following provision shows:

Annexation of Additional Property

Annexation without Approval of Class "A" Membership. As the owner thereof, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option, from time to time at any time until January 1, 1986, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property (adjacent or not adjacent but previously specified) described in Exhibit "B" attached hereto and by reference made a part hereof including residences as may be constructed thereon, by filing in the (   ) County, Records an amendment annexing such property. Such amendment to this Declaration shall not require the vote of Class "A" members. Any such annexation shall be effective upon the filing for record of such amendment unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of said real property described in said Exhibit "B" attached hereto which at the time of such transfer and assignment (or contemporaneously therewith) is subjected to the provisions of this Declaration and the jurisdiction of the Association shall not exceed fifty (50) unless the Class "A" members of the Association agree thereto. (This figure should reflect the reasonable expected size of the project. It provides some certainty to early buyers.)

Annexation with Approval of Class "A" Membership. Subject to the consent of the owner thereof, upon the affirmative vote of a majority (or larger percentage) of the Class "A" members of the Association present or represented by proxy at a meeting duly called for such purpose, the Association may annex real property other than that shown on Exhibit "B" to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the County Records a supplementary amendment in respect to the property being annexed. Any such supplementary amendment shall be signed by the President and the Secretary of the Association, and any such annexation shall be effective upon filing unless otherwise provided therein. The time within which and the manner in which notice of any such meeting of the Class "A" members of the Association (all members except the developer) called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the Bylaws of the Association.

7.910 TRANSITION AND CONTROL

The substantive discussion concerning control and transition are set out in the chapter on Development Process. The following provisions are for an HOA except as in California where state law may require a different result. These provisions effectuate the principles discussed in that chapter. Subject to the flexibility and requirements of state law, this approach to transition will work in a condominium. The condominium does not, however, usually have two classes of members.

Voting. The Association shall have two classes of membership, Class "A" and Class "B" as follows:

(a) Class "A". Class "A" members shall be all Owners with the exception of the Declarant, any successor of Declarant who takes title for the purpose of development and sale, and anyone holding one or more Lots for the purpose of development or sale. Class "A" members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1 hereof. When more than one person holds such interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one person seeks to exercise it.

(b) Class "B". Class "B" members shall be the Declarant, any successor of Declarant who takes title for the purpose of development and sale and any participating builder or developer owning one or more Lots for the purpose of development and sale or for resale, if any.

> The Class "B" members shall originally be entitled to forty (40) votes (one for each lot); this number shall be decreased by one vote for each Class "A" member existing at any one time. The Class "B" membership shall terminate and become converted to Class "A" membership upon the happening of the earlier of the following: (i) when the total outstanding Class "A" votes equal or exceed the total outstanding Class "B" votes; (ii) January 1, 1986; or (iii) when, in its discretion, the Declarant so determines. From and after the happening of these events, whichever occurs earlier, the Class "B" members shall be deemed to be Class "A" members entitled to one vote for each Lot in which it holds the interest required for membership under Section 1 hereof. At such time, the Declarant shall call a meeting as provided in the Bylaws for special meetings to advise the membership of the termination of Class "B" status.

That sets out the ultimate voting structure. In the example, the developer had one vote for each lot and thus a transfer of power occurred at a 50% sell out. The following procedure deals with representation on the Board and a longer term method of both protecting the developer's interest and permitting the individual owners to be in control.

> Election and Term of Office. Until such time as one-third of the units are sold to Class "A" members, the Declarant shall appoint all Directors, who shall serve at the pleasure of the Declarant. Directors appointed by the members need not be owners or residents in the Community. When one-third of the units are sold, however, it shall be mandatory for the Declarant to permit the election by and from the Class "A" members of (25%) of the directors which shall be at least one. When the fifty percent of the units (lots) are sold, the Class "A" members shall elect (one-third) of the directors. (This if the transfer of full control is at a point greater than 50%.)
>
> At the first annual meeting of the membership after the termination of such Class "B" membership, and at each annual meeting of the membership thereafter, Directors shall be elected. The initial terms of the Directors shall be fixed at the time of their election. (The following would be adjusted according to the number of directors.) The term of one Director shall be fixed at one year; the term of one Director shall be fixed at two years; and the term of one Director

shall be fixed at three years. At the expiration of the initial term of office of each respective member of the Board of Directors, a successor shall be elected to serve for a term of three years. (This permits staggered terms.) The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and as provided by law, and may do all acts and things as are not by the Declaration, Articles, and these Bylaws directed to be done and exercised exclusively by the members. The Board shall have the power to adopt rules and regulations deemed necessary and to impose sanctions for violation thereof, including, without limitation, fines which may be collected as provided in the Declaration for assessments. From the termination of the Class "B" membership, the Declarant shall have a veto power over all actions of the Board as is more fully provided below. This power shall expire when the number of Class "A" votes other than those Owners formerly owning Class "B" votes is equal to (percentage of sales) or (time period appropriate for project) whichever occurs first. This veto power shall be exercisable only by Declarant, its successors, and assigns. The veto shall be as follows: No action authorized by the Board of Directors shall become effective, nor shall any action, policy or program be implemented until and unless (a) Declarant shall have been given written notice of all meetings by certified mail, return receipt requested or by personal delivery, at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies with Article III, Sections 9 and 10 of the Bylaws as to regular and special meetings of the Directors, and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and (b) Declarant shall be given the opportunity, at any such meeting if Declarant so desires, to join in, or to have its representatives or agents join in, discussion from the floor of any prospective action, policy, or program to be implemented by the Board. Declarant and its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the Association and/or Board. At such meeting, Declarant shall have, and is hereby granted, a veto power over any such action, policy, or program authorized by the Board of Directors and to be taken by said Board, the Association, or any individual member of the Association if Board approval is necessary for said member's action. Said veto may be exercised by Declarant, its representatives, or agents at the meeting held pursuant to the terms and provisions hereof. Any veto power shall not extend to the requiring of any action or counter-action on behalf of the Board of Association.

7.911 RENTALS AND RESALES

The substantive problems and issues inherent in the rentals and resales are discussed in the Legal Framework and UNCA in the Neighborhood chapters. The concern is controlling speculation and continuing to maintain available housing for moderate income persons. At the same time, an owner may seek the full benefits of home ownership including equity appreciation. The sponsor and UNCAT will have to make a policy decision on whether to control resales and if so, how.

HUD-FHA and VA standard policy do not permit resale controls. They too must make policy decisions if involved in an UNCAP requiring these controls. "Standard policy" can be and often is waived.

There are two basic approaches. First, the original sponsor can recapture some of the profit from a sale and use the funds for furthering the UNCAP concept. Second, the original sponsor can purchase the unit or lot on a price schedule set out in the documents. The particular approach requires careful thought and drafting.

Renting or Leasing of Units. In order (i) to protect the equity of the individual property owners at UNCA Condominium, (ii) to carry out the purpose for which the Condominium was formed by preserving the character of the Condominium as a homogeneous residential community of predominantly owner-occupied homes and by preventing the Condominium from assuming the character of an apartment, renter-occupied complex, and (iii) to comply with the eligibility requirements for financing of the Federal National Mortgage Association insofar as such criteria provide that the project be substantially owner-occupied, leasing of units shall be prohibited except in accordance with the restrictions imposed by this Section. Leasing shall not be allowed as a regular practice for business, speculative investment, or other purposes. The Board of Directors shall be empowered to allow reasonable leasing of units upon application made in accordance with Section 12 to avoid undue hardship on an owner, his or her heirs, or mortgagee, including, but not limited to, those instances in which an owner must relocate his or her residence and has difficulty selling the unit. However, in no event shall any leasing be allowed except pursuant to written agreement approved by the Board of Directors that affirmatively obligates all tenants and other residents of the unit to abide by the Declaration, Bylaws, and rules and regulations of the Association.

Resales. Prior to any sale of a unit, the owner shall notify the UNCA sponsor (the Purpose Notice). The UNCA sponsor shall then have the option to purchase the unit exercisably by notice given to the owners within 30 days of the receipt of the purchase notice at a price equal to the sum of:

(i) the original purchase price of the unit ($);

(ii) the labor value set forth in Schedule A to the Purchase and Work Agreement, dated , 197 (the Work Agreement) ($);

(iii) 5% (this should be high enough to reflect market condition and could be indexed) per year from the date of original conveyance of the unit on the sum of (i) and (ii) above;

(iv) the agreed value of any capital improvements (as defined in Schedule B hereto) made by the owners subsequent to the conveyance of the unit; and,

(v) (5%) per year from the date of completion by the previous owner of such improvements on the agreed value of such improvements. "Agreed value" as the term is used in this Agreement shall mean the value of such improvements agreed to in writing by the declarant or UNCAT prior to the commencement of work thereon. No value shall be assigned to any such improvements if the prior written agreement is not obtained.

The notification by the UNCA sponsor of the exercise of its option shall state the date for closing which shall be no later than 60 days after receipt of the offer unless a later date is agreed to by the parties. If the UNCA sponsor elects not to exercise its option or fails to notify the owner of the exercise its option or fails to notify the owner of the exercise of its option within 30 days after receipt of the notice, the owner shall have the right to convey within 120 days of the receipt by the UNCA sponsor of the purchase notice unless extended by mutual agreement. This option to purchase pursuant to this paragraph shall not apply to any sale occurring more than (5) years after the date of the original conveyance to the owners, provided that the offer by buyer or seller occurred more than 54 months from the date of original conveyance.

Service Charge. If the UNCA sponsor does not exercise its option to purchase, the UNCA sponsor shall be entitled to receive, at the time of the conveyance of the unit to the third party, a service charge for participation in the UNCA in an amount equal to the percentage of the profit on the sale of the unit as set forth below opposite the period during which such conveyance takes place. For the purposes of this paragraph, "profit" shall mean the sales price to the third party less the sums computed pursuant to clauses (i) through (v) of paragraph 1 above, less closing costs and costs of sale.

Period	Percentage
1st year from date of conveyance	80
2nd year from date of conveyance	60
3rd year from date of conveyance	40
4th year from date of conveyance	20
5th year from date of conveyance	0

7.912 Maintenance

There are a number of maintenance options. One of the primary concerns as discussed in the Management and Operations chapter are how to define what is maintenance versus what is property rehabilitation when there is phased rehabilitation, and whether the association should assume any responsibility for interior maintenance. The following provisions, first for HOA and next for a condominium, provide a basic format. Each UNCAT and sponsor should fine tune to fit its particular needs.

"Area of Responsibility" shall mean and refer to the Common Area together with those areas, if any, within or upon a Lot the maintenance, repair, or replacement of which is the responsibility of the Association.

Owners' Responsibility. All maintenance of the Lot and all parts of the residence thereon unless specifically identified as being the responsibility of the Association shall be the responsibility of the Owner. No Owner shall (i) decorate or change the appearance of any portion of the exterior of a residence or the exterior appearance of a Lot unless such decoration or change is first approved, in writing, by the Association's Board of Directors or its designated representative, as is more fully provided for herein; or (ii) do any work or fail to do any work which, in the reasonable opinion of said Board of Directors or its designated representatives would to a material extent jeopardize the soundness and safety of the Properties, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case the unanimous, prior written consent of all the other Owners.

Association's Responsibility. (a) The Association shall maintain and keep in good repair the Area of Common Responsibility, which responsibility shall be deemed to include (1) the maintenance and repair of such utility lines, pipes, wires, glass, conduits, and systems which are a part of the Common Area and (2) the providing of exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, stain, repair, replace and care for roof surfaces and roof systems, gutters, downspouts, and with the exception of hardware and glass, all exterior building surfaces and such yards or grass areas comprising a part of the Lot so long as it is not enclosed. The maintenance of the Common Area shall be deemed to include, but not be limited to, maintenance, repair, and replacement, subject to the insurance and casualty loss provisions contained herein, at the Association's sole cost and expense, of all trees, fences, shrubs, grass, streets, parking spaces, walks and other improvements situated upon the Common Area.

(b) In the event that the Board of Directors of the Association determines that: (i) any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or (ii) that the need for maintenance, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his or her family, guests, lessees or invitees, and is not covered or paid for by insurance in whole or in part, then, in that event, the Association, except in the event of an emergency situation, shall give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement, at Owner's sole cost and expense; the notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have fifteen (15) days within which to complete said maintenance, repair or replacement, or in the event that such maintenance, repair or replacement is not capable of completion within said fifteen (15) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at Owner's sole cost and expense; and said cost shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

Maintenance Responsibility in a Condominium. (a) By the Owner. Each unit owner shall have the obligations to maintain and to keep in good repair all portions of the unit and all glass surfaces and all doors, doorways, frames, and hardware that is part of the entry system of the unit.

(b) By the Association. The Association shall maintain and keep in good repair as a common expense all of the condominium property not required to be maintained and kept in good order by an Owner. Except to the extent that insurance required to be maintained or maintained by the Association covers any damage or loss, the Association shall not be responsible for any maintenance or repair to the interior of any unit. The Association shall be responsible for all exterior surfaces except those listed in Section 5(a) of this Article VI whether or not included within the boundaries of a unit and shall also be responsible for the repair and repainting of limited common elements unless the defect is the result of the Owner's own conduct. The Association shall be authorized to perform, after notice, any maintenance upon a unit for which a unit owner is responsible and to charge, as provided for assessments herein, the owner with the actual costs of maintenance.

7.913 Architectural and Environmental Standards

It is important the Board appoint a committee to regulate the work that may be done on the grounds and exterior of the building.

> Architectural Standards. No owner, occupant, lessee or lessor, or any other person may make any exterior change, alteration, or construction, nor erect, place, or post any sign, object, light, or thing on the exterior of the buildings or any other common element without first obtaining the written approval of the Board or its delegate. Application shall be in writing and shall provide such information as the Board may reasonably require. The Board or its delegate shall publish written architectural standards for exterior alterations or additions and any request in substantial compliance therewith shall be approved. In the event that the Board or its delegate fails to approve or to disapprove such application within sixty (60) days after it shall have been submitted, its approval will not be required and this Section will be deemed complied with.

Although this provision is for a condominium, it will work equally well with an HOA so long as it is clear that it applies to the privately-owned lot and residence.

7.914 Insurance

> Insurance. The Association shall obtain and maintain at all times as a common expense insurance including a casualty insurance policy or policies affording fire and extended coverage for and in an amount consonent with the full replacement cost of all structures within the condominium and a liability insurance policy or policies in amounts not less than $500,000 for injury, including death, to a single person, $1,000,000 per injury or injuries, including death, arising out of a single occurrence, and $50,000 property damage, covering the Association, the Board of Directors, officers, and all agents and employees of the Association, and all unit owners and other persons entitled to occupy any unit or other portion of the condominium property. The Association shall obtain and keep in force boiler explosion insurance in an amount of at least $50,000. All such insurance shall be written in the name of the Association as trustee for each of the owners. It shall be the duty of the Board of Directors annually to conduct an insurance review to determine if the policy in force is adequate to meet the needs of the Association and to satisfy the requirements of this Section. Such insurance shall run to the benefit of the Association, the respective unit owners and their respective mortgagees, as their interests may appear. The

improvements and betterments made by the individual unit owners shall be excluded from this required coverage, but each owner shall have the right to obtain additional coverage for such improvements, betterments, or personal property at his or her own expense. The "structure" as insured by the master policy shall be the building and units therein as depicted on the plats and plans filed and recorded in accordance with the Act.

(A) The Board of Directors shall utilize every reasonable effort to secure a master policy covering physical damage that will provide the following: (1) That the insurer waives its rights of subrogation of any claims against directors, officers, the managing agent, the individual owners and their respective household members. (2) That the master policy on the condominium cannot be cancelled, invalidated, or suspended on account of the conduct of any director, officer, or employee of the Association or the managing agent without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured. (3) That any "no other insurance" clause contained in the master policy shall expressly exclude individual unit owner's policies from its operation. (4) That the master policy may not be cancelled or substantially modified without at least thirty (30) days' prior notice in writing to the Board of Directors. (5) An agreed value or amount endorsement and waiver of coinsurance. (6) That the deductible amount per occurrence shall not exceed one thousand ($1,000) dollars.

(B) All policies of insurance shall be written with a company licensed to do business in the (UNCA state) and holding a rating of XI or better in the financial category as established by A.N. Best Company, Inc., if available and if not available, the best rating available. The company shall provide insurance certificates to each owner and each mortgagee.

(C) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual unit owners or their mortgagees.

(D) Each unit owner shall notify the Board of Directors of all structural improvements made by the unit owner to his unit.

(E) Any unit owner who obtains an individual insurance policy covering any portion of the condominium, other than improvements and betterments made by such owner at his expense and personal property belonging to such owner, shall file a copy of such individual policy or policies with the Board of Directors within thirty (30) days after the purchase of such insurance. Such owner shall also promptly notify, in writing, the Board of Directors in the event such policy is cancelled.

(F) All public liability and officers' and directors' liability insurance shall contain a cross liability endorsement.

(G) In addition to the insurance required herein above, the Board shall obtain as a common expense: (1) Workmen's Compensation insurance if and to the extent necessary to meet the requirements of law. (2) Fidelity bonds covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such bonds shall be in an amount equal to at least one hundred fifty (150%) percent of three months operating expense and the amount in reserve as of the end of each fiscal year of the Association and shall contain waivers of any defense based upon the exclusion of persons serving without compensation. (3) Such other insurance as the Board of Directors may determine to be necessary including officers' and directors' liability insurance.

(H) Insurance carried by the Association as a common expense shall not include any part of a unit neither depicted on the original plats and plans nor included in the original purchase nor shall the Association include public liability insurance for individual owners for liability arising within the unit.

Repair and Reconstruction. In the event of damage to or destruction of all or any part of the condominium as a result of fire or other casualty, unless eighty (80%) percent of the unit owners vote not to proceed with the reconstruction and repair of the structure, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the sturcture in accordance with the original plats and plans. In the event of substantial damage or destruction, each institutional holder of a first mortgage shall be entitled to written notice of the damage, and nothing in these documents shall be construed to afford a priority to any unit owner with respect to the distribution of proceeds to any such unit.

The procedure for repair and reconstruction shall be: (a) Cost Estimates. Immediately after a fire or other casualty causing damage to the condominium the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged unit) to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

(b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the said estimated costs of reconstruction and repair as determined by the Board of Directors, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, assessments shall be made against all of the unit owners. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board of Directors. (c) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the condominium was originally constructed. (d) Encroachments. Encroachments upon or in favor of units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the unit owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the condominium was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand. (e) Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against unit owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Section. (f) Method of Disbursement. The construction fund shall be paid by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board of Directors. (g) Insurance Deductibles. (This provision should be carefully drafted to reflect the economic circumstances of the particular UNCA.) If maintenance is required as a result of an insured loss, the amount of the deductible shall be considered a maintenance expense to be paid by the person or persons who would be responsible for such repair in the absence of insurance. If the loss affects more than one unit or a unit and the common area, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in accordance with the total cost of repair.

The above provisions are for a condominium but will work for an HOA with one addition. In the HOA, the houses may be detached from one another. If so, there is a question of whether the association can or should insure them. The following provisions deal with that issue in an HOA:

> In addition to casualty insurance on the Common Area, the Association may obtain and continue in effect adequate blanket all-risk casualty insurance in such form as the Board of Directors deems appropriate for the full replacement cost of all structures on all Lots. Costs of such coverage shall be a common expense to the Association. In the event such insurance is obtained, the provisions of this Article shall apply to policy provisions, loss adjustment, and all other subjects to which this Article applies to insurance on the Common Area. All such insurance shall be for the full replacement cost. All such policies shall provide for a certificate of insurance for each member to be furnished to the Association and shall further provide that the policy may not be cancelled or terminated except upon at least thirty (30) days' written notice to the Association except 10 days' written notice for nonpayment of policy premium. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the Owners.

If the association does not insure the houses, then:

> Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other owners and with the Association that in the event such Association does not carry blanket all-risk casualty insurance on the Lots and structures constructed thereon as provided for in Section 1 of this Article V, each individual Owner shall carry such insurance. Each individual Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the individual unit Owner shall proceed promptly to repair or reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed, and the individual Owner determines not to rebuild or to reconstruct, the individual Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction.

7.915 Services and Management

There should be authorization and standards for the use of managers and other third parties to provide services to the UNCA.

Services. The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Properties, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. If the Association enters into a management agreement, it shall be by written contract cancellable upon no more than (30, 60, 90 or whatever is appropriate or required) days written notice. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Properties or the enforcement of this Declaration. The Association may but shall not be required to arrange as an Association expense with others to furnish water, trash collection, sewer service, and other common services to each Lot. It is the intent of the development scheme that such contracts be entered when economically feasible and acceptable to all parties.

Management Agent.

(A) The Board of Directors may employ for the condominium a professional management agent or agents, at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize. Moreover, any management contract shall contain a termination clause permitting termination, for cause or without cause, upon (30, 60, 90 or whatever is appropriate or required) days written notice. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these Bylaws other than ( ). The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

(B) If a manager or agent is hired, the following management standards of performance will be followed unless the Board, by resolution, determines otherwise: (1) the accrual method of accounting shall be employed; (2) two or more persons shall be responsible for handling cash to maintain adequate financial control procedures; (3) cash accounts of the Association shall not be commingled with any other accounts; (4) no remuneration shall be accepted by the managing agent from vendors, independent contractors or others providing goods or services to the Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Association; (5) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors; and (6) a monthly financial report shall be prepared for the Association containing: (a) an Income Statement reflecting all income and expense activity for the preceding month on an accrual basis; (b) an Account Activity Statement reflecting all receipt and disbursement activity for the preceding month on a cash basis; (c) an Account Status Report reflecting the status of all accounts in an "actual" versus "projected" (budget) format; (d) a Balance Sheet reflecting the financial condition of the Association on an unaudited basis; (e) a Budget Report reflecting any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and (f) a Delinquency Report listing all Unit Owners who are delinquent in paying condominium assessments and describing the status of any actions to collect such assessments.

7.916 Party Walls

Last, but not least, the HOA document in a row house or townhouse must set out the party wall rules.

Party Walls. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Residences upon the Properties and placed on the dividing line between two or more Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Sharing of Repair and Maintenance. The reasonable repair and maintenance of a party wall not covered by insurance shall be shared by the Owners who make use of the wall in proportion to such use.

Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his or her negligence or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Appendix VIII.1: SAMPLE UNDERWRITING ANALYSIS

Property of: Auburn Community Development Corporation
Location : Hoosier Street, Indianapolis, Indiana

INTRODUCTION

The subject property is located in the city limits of Indianapolis approximately two miles from the downtown area. This risk is located in a neighborhood, which is currently undergoing renovation. The neighborhood is primarily black, ranging from low to middle income. Many buildings in this section of Indianapolis were built during the 1950's. The subject property was built in 1959.

The buildings are in good repair, with fair care and cleanliness throughout the premises.

Photographs of the 3 buildings (front and rear) are attached.

OCCUPANCY AND ACTIVITY

Each of the three apartment buildings contain 10 one-bedroom and 25 two-bedroom apartments, 35 units per building. Minor activities include a small management and maintenance staff.

CONSTRUCTION

Each of the three buildings are essentially identical. The buildings are 3 story, brick; interior walls are 1 1/2" sheetrock on both sides of steel studs and concrete block. Floors are lightweight reinforced concrete, with carpeting or vinyl asbestos and ceramic tiles in kitchens and bathrooms. Each building is provided with 3 sets of stairways. There are no swimming pools. Emergency exiting is provided by a semi-exterior smoke tower on each floor.

FIRE DIVISIONS

Because each building is separated by approximately 100 yards, each of the three structures is considered a separate fire division. Because each building is fire resistive, the likelihood of a total loss of any structure is considered remote.

EXPOSURES

Exposures are light in all directions, with apartment automobile parking areas in public streets in all directions. Ninety percent of the housing units in the block are occupied.

COMMON HAZARDS

Electric power is provided by public utility through underground transmission lines. Electric wiring is in metal conduit and appears to be in compliance with applicable codes. Branch circuits are protected by appropriate overload equipment.

Heat is provided through centrally located equipment in each building, located in roof penthouses. Heat for the building is provided by a 125 p.s.i. Rite steam boiler with the input rated at 2,500,000/ B.T.U. per hour.

Generally, good housekeeping was noted throughout the areas. Trash chutes are not provided. Trash is collected in dumpsters and removed regularly.

SPECIAL HAZARDS

Special hazards are normal to those encountered in residential apartment buildings and are considered light. There is a small equipment maintenance shop on the floor of one building. There are no paints and welding is not performed. Major maintenance work is contracted to outside firms.

SCOPE OF WORK

The buildings will be rehabilitated to City of Indianapolis Building Code standards.

1) Kitchen and bathroom fixtures will be replaced as needed.
2) Walls and ceilings will be repainted; floors will be retiled as necessary.
3) New insulation will be provided in the 3 buildings.
4) Door handles and locks will be replaced in all 3 buildings. The first floor windows will be secured with special locks. A new buzzer system will be installed at the front entrance of each building. The rear entrances will remain locked at all times.
5) At no point during rehabilitation will the buildings be totally unoccupied.
6) Plans and specifications for contracted work are attached.

PUBLIC PROTECTION

The property is located in Indianapolis, Indiana, Public Protection Class 2 under the protection of a fully-paid fire department.

There are two public stations located at Hoosier and 17th Streets, and Madison and 10th Streets. Both are approximately two miles from the property. There are hydrants placed every 200 feet with pumper connections, supplied by a 10" circulating main.

PRIVATE PROTECTION

Each floor has a centrally located fire hose cabinet. New 9 1/2" cotton jacketed fire hoses and fixed nozzles will be installed. For fire department use, there are dry standpipes with 2 1/2" connection located at smoke towers on each floor.

EXTENDED COVERAGE PERILS

Hazardous explosion is inherent in the use of natural gas as fuel. Open breezeway-type stairways between each of the three apartments in each fire division may be subject to wind damage. Exterior flood lights will be installed at the front and rear entrances of each building.

BUSINESS INTERRUPTION

In the event of total destruction of one of the buildings, reconstruction is estimated to take up to 18 months. There is no alternate power source or private generator.

RECOMMENDATIONS

1 - Provide a 10#ABC type fire extinguisher within every laundry and within each store-away area of every structure.
2 - Provide a smoke and fire alarm in each apartment: including the office, recreation, laundry, and maintenance shop.