

# Toward a National Urban Environmental Policy

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Today, Federal housing and community development programs and environmental protection mandates are undergoing intense scrutiny. Long-standing strategies for improving both the built and the natural environments are being questioned. And the U.S. Department of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA) are committed to significant reinvention and reform. This can, and should, be a time for urban and environmental advocates to reexamine the interaction of their respective efforts and rediscover common objectives. Improving urban communities and protecting the natural environment have worked at cross-purposes for too long.

Environmental issues infuse every aspect of housing and community development. Federal, State, and local policies that protect the environment and the health of the Nation's citizens constrain metropolitan growth, central-city revitalization, and housing development. Correspondingly, public policies governing urban growth and development frequently determine the quality of our natural environment and the consumption of natural resources.

Although the interdependence of environmental protection and urban development seems self-evident, it has been widely ignored for the past 25 years. As a result, frictions have built up between urban and environmental constituencies, creating barriers on both sides. Today, a significant share of the political opposition to Federal environmental mandates comes from urban interests that believe these mandates overlook legitimate development goals. In addition, many housing and community development initiatives have been discredited, at least in part, because short-sighted policies ignored sound principles of environmental planning or overlooked potential threats to environmental health.

Both environmental protection and housing and community development would be better served if they were more effectively integrated, but finding common ground will not be easy. Clearly perspectives differ, and fundamental tensions between policy priorities are inevitable. Sustaining an effective dialog will require recognition by both urban and environmental advocates that they share a common policy domain. In the current climate of budget-cutting and antiregulatory fervor, we can no longer afford to pursue these critical national objectives on separate tracks. Issues of side effects, regulatory inefficiencies, and

the identification and distribution of costs can no longer be ignored. Any realistic assessment of the financial and programmatic pressures now facing housing and environmental programs requires an honest recognition that these important national objectives can no longer be addressed independently.

## History

Until 1970 there was no “environmental movement” as we know it today. Rather, there were two parallel strands of advocacy that had their origins in the progressive era at the beginning of the 20th century. One strand was the conservation movement, dedicated to preserving and enhancing America’s open spaces and wildlife. This traditional activity served as a pillar of the modern environmental movement. The second strand was the public health or sanitary movement, dedicated to cleaning up the squalid conditions of urban slums. The “housing reform” movement emerged from this strand and became the progenitor for many of today’s housing and community development advocacy groups. As Frank Braconi points out in his article, “Environmental Regulation and Housing Affordability,” the two movements were “political siblings, born during the late 19th century in reaction to an unbridled industrialization that trampled the natural environment and generated unhealthy urban squalor.”

Until the advent of subsidized housing production programs in the 1930s, most public intervention in housing focussed on issues of public health, now termed *environmental health*. Concerns about overcrowding, open spaces and urban parks, light and air, sanitary facilities, potable water, and housing and building codes were major components of the housing reform movement. As the movement matured, its goals broadened and it adopted tools for improving the urban or “built” environment, such as improvements in community and regional planning, “greenbelts” and new towns, and zoning and other land use regulations for managing growth. This broader urban environmental vision was explicitly reflected in the declaration of national housing policy included in the landmark Housing Act of 1949, which sought “. . . the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family, thus contributing to the development and redevelopment of communities and to the advancement of the growth, wealth, and security of the Nation.”

By the time HUD was created in 1965, a wide range of Federal programs addressed this concern for the built environment. In addition to housing production programs, the newly created Department administered urban renewal grants to cities for land assembly and redevelopment that included requirements for local housing and building code enforcement as a condition of Federal assistance. The Assistant Secretary for Metropolitan and Regional Planning administered planning grants and technical assistance programs that supported local efforts to manage urban growth. HUD assumed a leadership role in national discussions about urban sprawl and rational land use planning. Subsequent legislation mandated the Federal New Communities program as well as an annual urban growth report to Congress.

HUD’s mission originally encompassed other critical dimensions of urban development as well. The urban mass transit program, now in the Department of Transportation, was originally part of HUD, linking transportation planning to regional planning and urban development initiatives. Other HUD programs provided for Model Cities, water and sewer grants, and assistance to localities for open space, neighborhood facilities, and historic preservation. Even the Federal Emergency Management Agency (FEMA) was originally part of this multifaceted Department. Although many of the programs were small, their presence within HUD reflected a broad urban environmental perspective.

The Housing and Urban Development Act of 1968 was intended to usher in a golden age of urban redevelopment during which HUD would take the lead in formulating and implementing a comprehensive urban strategy. However, while reaffirming the original 1949 goal of a decent home and a suitable living environment, the act added a production objective of 26 million housing units for the next decade, with 6 million targeted to low- and moderate-income families. This objective focussed HUD's attention on subsidized housing production, to the detriment of its broader urban development mandate. The newly elected Nixon administration initially committed substantial attention and resources to meeting the goal, finding itself far more comfortable with a "hard" housing production program than with the "softer" issues of urban sprawl, community planning, and growth management. Subsequently, the 1974 Housing and Community Development Act folded almost all of HUD's nonhousing categorical programs into block grants for cities and States. This new legislation was the product of a broad-based consensus between the administration and localities that sought increased flexibility and discretion.

The modern environmental movement emerged at approximately the same time as HUD was expanding its housing production mission and divesting itself of programs that involved broader concerns about the built environment. The first Earth Day in 1970 and the subsequent creation of EPA resulted in an agency whose constituency was specifically focussed on ecological and environmental health concerns. In addition to public health concerns, a paramount goal of the emerging environmental movement was to protect the biosphere by addressing environmental threats globally.

HUD and its constituencies—cities, nonprofit community development organizations, low-income families, and the housing industry—were generally absent from the formulation of the myriad environmental policies and programs that rapidly developed. In Congress, a separate authorizing committee structure was established for environmental issues. The National Environmental Policy Act (NEPA) of 1970 imposed requirements for environmental assessments and impact statements. In rapid order there followed the Clean Air Act (1970); Clean Water Act (1972); Noise Control Act (1972); Coastal Zone Management Act (1972); Endangered Species Act (1973); Safe Drinking Water Act (1974); Toxic Substances Control Act (1976); Resources Conservation and Recovery Act (1976); and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (1980), the funding arm of which is called *Superfund*.

During the crucial period when most of these environmental programs were being debated and enacted, HUD and much of the urban constituency seemed to have lost interest in urban environmental issues and played little or no part in shaping the programs. By the 1980s, the role of housing and urban policy advocates in formulating national environmental policy was minimal. As a result, few of the newly enacted environmental programs addressed—either implicitly or explicitly—the special needs of inner cities, metropolitan growth, or urban housing markets. With the benefit of hindsight, it seems likely that if members of HUD's urban constituencies had been more fully engaged in the development of environmental protection initiatives, these mandates would be structured differently and would be less subject to criticism from urban interest groups.

## Rediscovering the Urban Interest in Environmental Protection

With the election of President Clinton in 1992, HUD was, for the first time in many years, staffed by activist appointees who were willing to consider broad-based strategies for revitalizing cities and metropolitan regions. For their part, EPA appointees reflected new

sensitivity to the urban impact of environmental regulations. While environmental issues were of little interest to HUD policymakers during the early days of the administration, pressure for a more active HUD role was building rapidly.

In 1993 the New York Citizens Housing and Planning Council, in conjunction with the New York Housing Conference, held an important meeting on housing and the environment. Although the conference was not large, its importance should not be underestimated. For the first time, strong criticism of existing environmental regulations and policies was being voiced by groups that historically had been supporters of environmental protection. Nonprofit community groups and low-income housing advocates, as well as for-profit builders and property owners, argued that many environmental regulations were endangering the economic viability of the existing housing stock and the rehabilitation or new construction of low- and moderate-income housing.

As Frank Braconi states in his article: “The movement of some national urban coalitions from strong support of environmental legislation to outspoken backing of limitations on unfunded mandates should be taken as a signal that a *threshold has been crossed*.” (Emphasis added.) At the New York conference, Michael A. Stegman, HUD’s Assistant Secretary for Policy Development and Research (PD&R) articulated an emerging vision for HUD policies that would begin to reconcile growing tensions between the housing and environmental communities. Since that time, HUD has sought to become a more active and constructive participant in the environmental policy debate.

As its initial foray into these uncharted waters, PD&R funded a series of four symposia in 1994–95 to explore the impact of environmental mandates on housing and urban development. This issue of *Cityscape* presents edited versions of the discussion papers prepared for the symposia, along with summaries of the proceedings. The objective of each symposium was to educate housing and environmental policymakers about their respective mandates, discuss areas of conflict, explore ways to coordinate policymaking more effectively, and identify specific actions HUD might take to address these issues. The first three symposia focussed on the impact of environmental mandates on, respectively: inner-city economic redevelopment, housing affordability, and urban growth. The fourth symposium focussed on the impact of lead-based paint mandates on privately owned rental housing.

HUD’s renewed attention to environmental issues was reflected in its affirmative response to the President’s Executive Order on Environmental Justice (E.O. 12898, February 11, 1994), which directed all Federal agencies to examine their policies and determine whether Federal actions impose disproportionately numerous and adverse health and environmental effects on minority and low-income populations. The order recognized that the poor—particularly the minority poor—are most at risk from serious environmental hazards resulting from Federal action. Secretary Henry G. Cisneros, in announcing the Department’s Environmental Justice policy initiative, stated:

For many Americans, especially low-income and minority families, HUD plays an active role in their quality of life and physical environment. . . . Ensuring environmental justice is a natural goal in HUD’s mission and priorities. . . . HUD is helping . . . to change the way our society thinks about urban policy and environmental issues.

HUD has also worked closely with EPA, the Department of Commerce, the Department of Transportation (DOT), and the White House to incorporate environmental concerns into the administration’s National Urban Policy. Further, HUD has entered into a constructive partnership with EPA to address the newly recognized issue of “urban brownfields,” the name given to underutilized or vacant urban land with toxics or other industrial pollutants of soil and water that inhibit redevelopment. Until very recently, brownfields—

as a term and as an issue—were scarcely acknowledged within HUD. However, the Department has taken a number of steps, in cooperation with EPA, to encourage the redevelopment of urban brownfields. In the proposed American Community Partnership Act that would streamline the Department’s community development initiatives, cleaning up urban brownfields in distressed communities is a priority.

In the context of urban brownfields, EPA, too, has come to recognize that the existing regulatory framework often works against urban revitalization, ultimately hurting the inner cities and their low-income residents. Without waiting for Superfund reform, EPA has taken dramatic actions to remove barriers and provide incentives for brownfields cleanup and redevelopment. The agency is implementing its own community-based environmental protection program and is administering a sustainable development grant program.

These actions are important first steps, but far more must be done to rebuild a complementary and supportive relationship between urban development and environmental protection. Despite several collaborative efforts, serious frictions persist. Many still believe that the goals of environmental protection are fundamentally incompatible with those of housing and community development or that they are independent policy domains and should remain separate.

Because so much of our Nation’s population is urban, cities and metropolitan areas are a natural focal point for implementation of key environmental mandates. They are the sites of many of our most serious and contentious environmental issues: polluted air and water, contaminated land, environmental health hazards, and disappearing open spaces and habitats. As a result, some of the most important environmental legislation, such as the Clean Air Act, has focussed on improving America’s urban environments. Clearly, these acts have been immensely successful in achieving many of their goals but, as discussed in the articles that follow, many environmental programs and regulations have inadvertently produced negative consequences for urban development, creating barriers to community revitalization and affordable housing.

Often, environmental regulations reflect a “one size fits all” approach. They do not allow for specialized urban analyses or for regulatory tools or programs specifically tailored to the circumstances of particular urban areas. However, environmental regulations are very different from other programs of universal applicability, such as Medicare or Social Security, because they have the effect of regulating and constraining development of the physical environment in our cities and urban areas. The requirements and methods used to assess a public dam or water project in the rural Southwest may not apply to a publicly assisted housing project in southwest Chicago. The regulatory tools that protect a major regional watershed may not make sense if used to regulate an artificial drainage ditch in the median strip of the New Jersey Turnpike.

As we begin to search for opportunities to craft environmental protection strategies that also promote housing and community development goals, a number of contentious issues arise. Some can be addressed relatively easily, with a bit of goodwill and true dialog, between urban and environmental interests. Others raise such fundamental questions of equity, cost allocation, or public subsidies that effective resolution—particularly during this era of diminishing resources—will be difficult. Drawing from the articles collected in this volume and the symposia for which they were prepared, we have defined four broad categories of issues. In ascending order of difficulty, they are:

- Procedural reforms.
- Balancing of social goals.

- Urban risk analysis.
- Allocation of costs.

The sections that follow explore each set of issues in turn, identifying both opportunities for compromise and key issues of disagreement.

## Procedural Reforms

Although much of the current debate about existing environmental programs is very intense, many of the disagreements are not truly substantive. Rather, they involve the procedures used to administer environmental mandates. Considerable friction between environmental protection and urban development interests could be eliminated by simplifying and streamlining regulatory mechanisms.

Virtually all regulatory programs are subject to criticism by the regulated interests, which view them as administratively unworkable or unnecessarily complicated. However, environmental mandates appear to be subject to particularly intense criticism regarding administrative and enforcement processes and tools. Environmental regulations are frequently described as confusing, duplicative, and vague. The most common complaint is that environmental regulations lack a clear “road map” for the approval process. Regulators are viewed as having excessive discretion, and multilevel reviews and approvals are not always sufficiently sensitive to the costs of delay.

Land development and housing have long been heavily regulated, and developers and builders have come to accept and work within elaborate State and local regulatory systems. In many communities, local zoning ordinances and related regulations place more stringent restrictions on a developer’s ability to use his or her land than do Federal or State wetlands laws. Further, although rigid density and use restrictions are the norm in many communities, it is rare for them to be attacked as regulatory “takings.” Why, then, do so many builders and developers object so vehemently to environmental regulations?

Objections to the current environmental regulatory system by the building and development community cannot be dismissed as simply a smokescreen to conceal a basic unwillingness on the part of regulated businesses to comply with environmental mandates. Members of that community have accepted many regulatory burdens and incorporated them as part of the cost of doing business. As presently administered, however, many environmental protections create uncertainties and delays that make it difficult for developers and builders to predict cost impacts and factor them into development and construction plans.

Federal environmental regulations are typically single purpose and permit based. They tend to be centrally administered, independent of one another, and divorced from local building and development regulatory processes. Thus, a developer must seek multiple single-purpose permit approvals after he or she buys land and plans for development. Moreover, since few wetlands and protected habitats are mapped, the builder does not know before seeking a permit whether the land will be subject to restrictions on its use. Both Federal and State environmental land regulations also tend to be insensitive to time pressures. When local zoning and planning boards make land use decisions, they consider many issues (density, traffic, environment, open space, economic development) concurrently. In contrast, environmental reviews by Federal and State entities are generally sequential, and time is not always treated as a valuable resource.

At the HUD symposium on the impact of environmental mandates on urban growth, Gus Bauman, a nationally recognized land use expert, noted that another characteristic of



Federal and most State environmental laws is the lack of direct local accountability. The Federal environmental regulatory system is administered by officials who are far removed from the locality, and “it is impossible to correct something that is not right.” Although the regulators may consult local elected officials, they—unlike most local land use regulators—are not readily identifiable and directly accountable to local elected officials. At the local level, interaction and bargaining among the various players can facilitate solutions to regulatory logjams.

The current system of NEPA-mandated environmental assessments and impact statements also fails to integrate environmental reviews sufficiently with preexisting urban planning and regulatory mechanisms. For example, even if a locality has already adopted a comprehensive plan that fully reflects environmental impacts, every federally assisted project will require an individual NEPA assessment. Such a case-by-case process not only imposes burdensome administrative delays, but may actually undermine local efforts at systematic environmental planning. It may also provide a venue for NIMBY (not-in-my-back-yard) obstructionists to oppose housing for low- and moderate-income families or other vulnerable groups.

Many States also have enacted “little NEPAs” that require an environmental assessment prior to any State action. Because any local government rezoning or variance usually constitutes a State “action,” local governments are required to hold environmental reviews, which duplicate public hearings already mandated, on every rezoning request. The current NEPA system is essential when there are no established planning and land use regulatory systems in place, but in most urban areas this system ignores workable planning tools and processes. While the local planning and zoning processes may not be perfect, they represent well-tested and generally accepted tools.

As part of its reinvention process, the Clinton administration has taken important steps to simplify Federal wetlands laws. However, even more fundamental change is needed. As Marsh, Porter, and Salvesen argue in “The Impact of Environmental Mandates on Urban Growth,” many complaints about the administrative process could be eliminated if Federal and State environmental protection reviews were fully integrated into State and local programs for comprehensive planning and growth management. Through Federal delegation, strict performance criteria, and monitoring, individual environmental protection programs could become part of the larger local planning process. Multiple reviews could be eliminated and conflicts among competing public policy objectives could be more effectively reconciled through single agency development approvals. Such reforms could strengthen the hand of those committed to protecting wetlands, endangered habitats, and other natural resources. And by eliminating these very real process problems from the current regulatory system, environmentalists could weaken the strong coalition of regulated interests now calling for more drastic overhaul of these crucial programs.

## **Balancing of Social Goals**

Integrating single-purpose environmental reviews into State and local planning procedures would force local decisionmakers to treat environmental protection as one of many, perhaps competing, public policy objectives. While some existing environmental programs do call for a balancing of competing goals, practical mechanisms for achieving that objective have not been put in place. Perhaps it is the very idea of balancing that disturbs some environmental advocates and regulators. Single-purpose Federal reviews, by their very nature, assure that individual environmental goals will not be compromised by government balancing efforts at the local level, where powerful development interests may wield most of the power and influence.

Although this concern is certainly justifiable, environmental laws can be written to ensure that important national environmental objectives are adequately protected. However, all good public policy requires consideration of many valid social objectives. In fact, the balancing of interests and public objectives is implicit in NEPA, the most comprehensive of all environmental laws. The purpose of NEPA is to ensure that any adverse environmental effects of proposed governmental actions are adequately identified; it does not necessarily require mitigation. Governments may decide that other goals or benefits outweigh the environmental costs and undertake the proposed actions despite adverse environmental impacts.

A greater number of integrated strategies for balancing environmental protection with urban development objectives might actually strengthen environmental protection. For example, an integrated growth management plan that explicitly designates areas for development while systematically protecting wetlands, species habitat, and other open spaces could be much more effective at controlling urban sprawl than case-by-case environmental reviews. The case-by-case approach to environmental regulation may inadvertently reinforce existing tendencies toward sprawl, because it does not designate areas where development *should* occur. Despite the uncertainty, delay, and expense that wetlands regulations have generated, they have not resulted in either denser development in the urban core or the systematic preservation of wetlands.

Uncontrolled sprawl has weakened the economic base of older cities, isolated the poor and minorities from access to jobs and educational opportunities, increased traffic congestion and air pollution, and consumed vast amounts of valuable wetlands, farmlands, historic resources, and species habitat. Thus sprawl is an issue around which environmentalists, big city mayors, and advocates for the poor could rally. But, because there has been so little real discussion between the environmental community and urban advocates, proposals for regional land use planning are almost always over before they begin.<sup>1</sup>

## Urban Risk Analysis

Many of the most determined opponents of existing environmental laws are advocating complex and highly technical requirements for environmental risk assessment that could bring most environmental regulation to a halt. Such proposals do not serve the best interests of cities or their low-income residents. Nevertheless, current methods for determining environmental risk and the cost of environmental protection could be enhanced so that they better reflect the circumstances of cities, minorities, and the poor. Although risk assessment methodologies vary, most existing approaches ignore the differential risks and costs faced by urban communities, particularly central cities. Moreover, they generally overlook the implications of environmental regulations for housing affordability, housing preservation, and inner-city economic development, giving policymakers an incomplete and potentially inaccurate picture of regulatory impact.

The Clinton administration is reassessing many of the techniques now used to set environmental, health, and safety standards. The President's 1993 Executive Order on Environmental Regulation (E.O. 12866) directs Federal agencies to improve their risk analysis tools. It requires the agencies to adopt regulations only after determining that the benefits justify the costs, that the best available data have been used, and that the rules have been developed according to sound regulatory principles, such as performance standards and market incentives. E.O. 12898, discussed earlier, offers a good starting point for marrying urban risk analysis with the administration's larger efforts on regulatory reform. As noted, E.O. 12898 requires that Federal agencies assess whether Federal actions impose disproportionately numerous or adverse health and environmental effects on minority and low-



income populations. This order was not intended to require a comprehensive urban risk analysis but does require agencies to consider the differential effect of Federal actions on poor and minority communities.

The vast majority of environmental problems in urban communities, however, result not from current Federal policies and programs but from the complex forces of poverty and discrimination. Therefore, E.O. 12898 does not address the extent to which low-income and minority families and central-city communities may bear an inordinate share of the cost of environmental protection.

Many diverse efforts are under way to reexamine the way environmental risks are defined, measured, and managed. They include risk-based decisionmaking for problems (such as underground storage tanks), use-based cleanup standards (for brownfields), health-based standards (for lead and other health hazards), more cost-effective cleanup technologies, prioritized lead hazard reduction, flexible drinking water testing requirements, and area-wide conservation/urban planning to protect wetlands and endangered species. These efforts reflect a growing sensitivity to the impact on urban areas that should be supported and strengthened.

### Allocation of Costs

If implementation of a desirable environmental action imposes a significant cost burden on the poor or on inner-city communities, policymakers should ask not only whether adequate public funds have been allocated to ameliorate the burden but also whether less costly strategies can be used to accomplish the essential environmental objectives. The issue of who pays for environmental protection is, ultimately, at the heart of the debate. All environmental mandates impose costs, many of which are borne by commercial and industrial sectors of the economy. Urban advocates should be particularly concerned if these costs are allocated in a way that seriously impedes the pursuit of other important urban policy goals.

In *Breaking the Vicious Circle: Towards Effective Risk Regulation*, U.S. Supreme Court Justice Steven Breyer argues that many regulatory agencies have “tunnel vision,” single-mindedly pursuing a goal to the point at which they cause more harm than good. Justice Breyer describes this tendency as “going the last mile” or “the last 10 percent.” (Breyer, 1993.) For example, if a regulation insists on such high cleanup standards that contaminated sites are simply abandoned by the owners, it undermines the very goals it was intended to promote. Although disadvantaged communities should be expected to bear a reasonable share of the cost of protecting the environment and to promote environmentally sound behavior, rarely has the issue of a disproportionate burden upon poor people been adequately addressed. The impact of environmental mandates on housing cost and housing affordability is of particular concern. Preserving the dwindling stock of affordable rental housing, increasing homeownership opportunities for low- and moderate-income families, and opening up suburban neighborhoods to a wider range of income levels are critical public policy goals that should not, and need not, be sacrificed to environmental objectives.

Many early environmental mandates—the Clean Air Act, the Water Pollution and Control Act amendments, and the Resource Conservation and Recovery Act (RCRA) of 1976, among others—imposed costly standards and practices but were generally supported by massive commitments of Federal funds. In the 1970s and 1980s, Congress provided substantial funding to implement these mandates. However, beginning in the late 1980s, Federal support dwindled, while State and local spending to meet federally mandated requirements for drinking water and sewage treatment rose dramatically. By

1990 Federal support for pollution control had dropped to 30 percent of total spending, with local spending on water supply systems increasing 3 percent annually. Local solid waste expenditures, driven by RCRA requirements, have risen more than 10 percent annually. State and local governments, in turn, pass most of the costs through to residential property owners in the form of increased property taxes, special assessments, or user fees. Whether financed through property taxes or user fees, solid waste treatment costs, which have been one of the fastest-growing components of shelter costs, are billed directly to residents.

Although the majority of American households can afford these costs, the current method of funding clean water systems and solid waste removal may seriously endanger the low-cost housing stock in some communities by increasing the amount low- and moderate-income families pay for housing, causing deferred housing maintenance, encouraging disinvestment, and increasing the costs of rehabilitation. Central cities with thousands of lower income families concentrated in economically marginal multifamily properties face tremendous pressures in trying to meet these costs. Older apartment buildings, which often serve low-income populations, are especially vulnerable, because there is no technically feasible way to submeter water to encourage conservation, and little money is available to repair inefficient plumbing systems. For example, in New York City, where water and sewer charges may reach \$800 a month per apartment, rising fees are believed to be a major factor in the recent dramatic rise in tax arrears and foreclosures. Lower income families that already have unaffordable rent burdens face substantial increases; apartment owners who cannot raise rents may allow housing to deteriorate; and rehabilitation of older urban housing for lower income families may be discouraged.

When the burden of unfunded Federal mandates has the potential to endanger poor families and distressed communities in this way, housing providers and urban advocates have a responsibility to work with environmental protection agencies to reallocate costs or provide subsidies to at-risk households, property owners, or neighborhoods. For example, it might be possible to impose water and sewer mandates statewide, so that costs could be spread across the full range of income levels. User fees or property tax increases might be calibrated to protect low-income families and affordable rental properties, or Federal assistance might be targeted to help finance infrastructure improvements for lower income housing or in communities with high concentrations of low- and moderate-income populations.

Environmental regulations may also affect the cost of new housing development at the urban fringe. Requirements for environmental impact reviews—in NEPA and corresponding State statutes—and ecological mandates such as wetlands regulation, the Endangered Species Act, and the Clean Air Act may reduce the total supply of land available for development. Thus, even if the costs of delay and uncertainty imposed by the regulatory process are minimized, environmental mandates may increase land costs and thereby help to raise the price of suburban housing.

If the impact is significant, environmental regulations may make suburban communities less accessible to moderate-income families, reinforcing income exclusion and reducing homeownership opportunities. Because the benefits of the environmental protection programs are clear but the real costs are hard to quantify and isolate, it is difficult to articulate and acknowledge the public policy tensions that may exist. Once identified, however, strategies that maximize environmental protection while promoting housing affordability can be devised. For example, the inclusionary zoning requirements that incorporate moderately priced units into new suburban housing developments and the comprehensive growth

management efforts now in effect in Oregon could serve as models for future Federal and State efforts.

For older, inner-city housing that requires repair or renovation, environmental regulations regarding lead-based paint, asbestos, and historic preservation can significantly increase costs, perhaps making much-needed rehabilitation financially difficult in some circumstances. Some reports suggest that compliance with these requirements may increase housing rehabilitation costs by 15 to 20 percent. It is not uncommon for advocates of a particular mandate to argue that the cost of compliance is modest, but the cumulative impact of many mandates on the feasibility of housing investment can be substantial.

Environmental mandates generally apply to both publicly assisted housing stock and privately owned, unassisted stock. However, the resources for financing compliance differ substantially. Costs for federally assisted housing are usually financed from available program resources, with the result that fewer units can be produced out of a fixed budget. Regulatory cost burdens on privately owned rental housing, however, are not cushioned by the availability of subsidies or public financing. For example, although substantial funds are available for reducing lead hazards in HUD-assisted housing, public funding generally is not available to private-sector property owners. Thus these private housing providers, including nonprofit organizations, face higher costs to rehabilitate inner-city housing for low-income households or to preserve the existing stock of low-cost rental housing. Because low-income renter households have limited purchasing power, private housing providers cannot pass on the costs to renters, yet these organizations generally have little financial cushion or room for error in projects to renovate or preserve older rental properties. Therefore, unless public subsidies are available to cover all or part of the cost of compliance, environmental requirements may result in reduced property maintenance and delayed repair or in the loss of affordable rental units from the existing stock.

Because the impact on the existing affordable housing stock may be severe, special care should be used when applying environmental mandates originally devised for new housing construction to existing housing. Policymakers should require compelling evidence of health or environmental risks before imposing new requirements on the fragile stock of affordable housing. They should also consider interim standards for existing housing (without sacrificing health and safety) and implement phased strategies that can preserve the affordable stock as well as protect residents until adequate public resources are available. Ultimately, public subsidies may be necessary to achieve the goals of environmental health and safety without incurring further losses to the dwindling stock of affordable rental housing.

The issue of cost allocation also affects HUD's ability to carry out its mission of assisting vulnerable populations. With the Department's resources declining in real terms for the foreseeable future, the cost of meeting housing-related environmental mandates directly reduces the number of new units that can be subsidized. As a result, vulnerable populations will suffer in terms of both health and housing, because HUD's diminished resources will not go as far as they once did. Lead-based paint is the primary environmental challenge facing HUD directly. A recent departmental analysis indicates that, although health benefits are expected to justify the expenditures, the immediate annual cost of lead hazard reduction mandates for HUD's assisted housing stock will approach \$460 million. Congress has clearly determined that, with regard to lead-based paint hazard abatement, HUD-assisted housing should lead both the public and private sectors, serving as a model for environmental health and safety. Before holding publicly assisted housing to the same high standard in other areas of environmental regulation, HUD needs an opportunity to

establish priorities that address the most significant environmental problems first, within existing resource constraints.

## Toward an Urban Environmental Policy

The time has come to change the way this Nation develops both its urban and its environmental policies. Urban and environmental interest groups, advocates, and legislative committees must begin to consider crosscutting issues that, until now, have been of only marginal interest to their respective organizations and memberships. Cities, nonprofit developers, and urban advocacy groups must recognize that environmental health and protection of natural and built environments are an integral part of their agenda. The environmental advocacy community must look to State housing and community development agencies, local zoning and planning agencies, community nonprofit organizations, and HUD for help in the development of new environmental protection strategies that can work more effectively in urban areas.

In recent years some private development interests, such as homebuilders and the lending community, have become increasingly active in the environmental policy debate, seeking changes to mitigate what they consider to be regulations that harm or impede their industries. Examples include opposition to wetlands and endangered species takings as well as lender liability under Superfund. These industry groups have become major players in policy debates on environmental mandates and undoubtedly will continue to be aggressive in representing and promoting their interests in the policy arena. However, their participation has generally been a reactive one prompted by—in their view—the undesirable impact of existing environmental mandates. This type of protective response by individual business groups cannot substitute for full and balanced urban involvement in the formulation of environmental policy. Parochial, industry-supported restrictions on wetlands regulations or overly broad limitations on lender liability are not necessarily in the best interests of the developers' constituency.

Recently, EPA and environmental advocacy groups have begun to work with minority and low-income groups on the issue of environmental justice. This long-overdue effort represents an important first step, but concern for environmental justice does not constitute a comprehensive urban environmental policy. In fact, there is a danger that misapplication of the principles of environmental justice could result in greater economic and environmental deprivation for the urban poor. For example, unless adequate strategies are developed to address the high cost of environmental cleanup in central cities (many promising EPA-sponsored efforts are under way), rigid application of the principle that central-city brownfields must be cleaned to the extent that they present no greater exposure to pollutants than suburban greenfields may block opportunities for environmental cleanup as well as for new housing, jobs, and economic redevelopment in central cities.

Clearly, the full range of urban interests must participate in the formulation of environmental policies and must also make environmental concerns an integral part of their agenda. Community and economic development programs cannot ignore the needs of environmental restoration and protection. Those who craft publicly assisted programs for housing rehabilitation and development have a responsibility to be concerned not only with production costs but also with the living environment of assisted families. To achieve these environmental objectives, urban interests that have generally been absent from the formulation of urban policy must begin to consult more systematically with environmental advocates.

The Federal Government's approach to the problem of lead paint poisoning provides a model for future efforts to address urban environmental challenges. Childhood lead-based

paint poisoning is an environmental health problem that occurs within a housing context. It is most prevalent in older low-income housing, in central cities, and among the poor and minorities. Therefore, there is an inevitable tension between housing affordability/preservation and the protection of children's health. These issues are explored in the article by Nick Farr and Cushing Dolbeare.

The Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) recognizes that solving the problem of lead-based paint requires the coordinated efforts of housing and health officials at the Federal, State, and local levels. Under Title X—the only environmental health legislation jointly developed by housing, health, and environmental committees in Congress—HUD, EPA, and the Centers for Disease Control and Prevention (CDC) play complementary roles. Most lead-based paint problems occur in privately owned housing, which is not normally subject to Federal regulation. HUD's participation in the development of lead regulations has been critical, because both the CDC and EPA lack expertise in the operations of the private housing market. In addition, most lead-based paint abatement activities are carried out by the local agencies, nonprofit organizations, and private owners that generally conduct housing rehabilitation and own and manage the stock. HUD is the only Federal agency that has a close working relationship with these providers. The Department also must address lead paint hazards in federally assisted housing, where it has a special responsibility to ensure that the regulations protect children while also permitting the continued economic viability of assisted housing. Further, Federal coordination has stimulated cooperation and coordination among State and local housing and health agencies.

In effect, Title X dictated what has become a successful marriage between agencies that approach the lead paint issue from different perspectives. For example, one important Federal responsibility is to prepare technical standards and procedures for identifying and reducing lead-based paint hazards. While all of the participating agencies are required to consider health, financial, and technical factors, each agency's mission and perspective affects its approach to these issues. In this process, HUD is concerned about cost as well as health effects, seeking measures that will be perceived by the housing industry as sensible, affordable, and manageable. EPA's and CDC's primary concerns are with the environmental and medical soundness of hazard control measures. All perspectives are clearly needed. The recent report of the Task Force on Lead-Based Paint Hazard Reduction and Financing is an important effort to balance and reconcile these goals. (U.S. Department of Housing and Urban Development, 1995.) By working together, the public health and housing constituencies have developed a comprehensive but realistic strategy for lead hazard control, which a number of States are now enacting.

## **A New Urban Environmental Role for HUD**

HUD is undergoing a profound and long-term transformation in both its mission and its operations. In the future, categorical programs will be consolidated and more decisions regarding housing and community development tradeoffs will be made at the local level. A smaller and leaner HUD, freed from managing a multitude of small, special-purpose programs, will have an opportunity to stake out a new role in the development and implementation of urban environmental policy. By facilitating constructive dialog between urban and environmental interests, the Department may be able to help fashion a consensus for new approaches that can resolve many of the existing strains and tensions. In addressing urban environmental issues, HUD can and should perform three important and closely related roles: advocate and "broker" for urban interests, technical resource and environmental educator, and more effective and aggressive program administrator.

To perform the first of these roles, HUD should speak with a clear, strong voice within the Administration and to Congress regarding the environmental policy perspectives of cities, low-income residents, housing markets, and urban development. The Department should stay in close contact with its varied constituencies regarding developing environmental policies and should participate in major rulemaking and legislative initiatives that might have significant urban or housing impacts. In assuming this role, HUD must take great care not to be influenced by individual business interests that might be affected by existing or impending environmental policies. Rather, the Department must act as an “honest broker” within the Administration, accepting or rejecting individual interest groups’ arguments in favor of a broader perspective that reflects the urban public interest while maximizing protection of the environment.

HUD should also become a reliable source of data and research for groups whose constituencies are affected by impending environmental regulations and legislation—a center for urban environmental expertise. Many urban constituencies find the problems addressed in environmental legislation and regulations too technical or esoteric for their full participation. These groups have neither the expertise nor the resources for adequate exploration of such issues as pollution hazard levels and environmental risk assessment. In this role, HUD would undertake scientific research and analysis, disseminate existing studies, and demonstrate approaches or techniques suggested by others’ research. Although the Department has performed this role for particular subjects, such as lead paint and radon, it would need to devote more of its limited research resources to urban environmental research than it has in the past.

Finally, as HUD permits State and local governments to exercise greater flexibility in program implementation, it should work with EPA to develop performance measures as well as technical assistance and guidance materials that help and encourage communities to incorporate environmental protection into their housing and neighborhood revitalization efforts. Examples of actions that HUD is now carrying out, or has under active consideration, include providing guidance to local governments on brownfields redevelopment strategies, developing guidance on controlling urban sprawl, and developing tools for use by local housing authorities conducting their own comprehensive environmental assessments. The Department must also ensure that all publicly assisted or insured housing units meet high standards of environmental protection.

As HUD becomes more involved in the formulation of national environmental policy, it must be guided by principles that not only reflect its historic commitment to cities, low-income residents, affordable housing, and minorities but also contribute to more rational and effective environmental protection. We propose for consideration nine principles that could guide HUD as it assumes a more active role in the environmental policy debate:

- HUD’s fundamental mission is to ensure decent, safe, and sanitary housing in a suitable living environment for all Americans. All HUD programs and resources should contribute to improving the quality of the urban environment, promoting environmental amenities, and eliminating housing and community environmental hazards and their blighting effect, especially for the poor and minorities. To accomplish this objective, environmental goals and programs should be fully integrated into the formulation and implementation of all of the Department’s programs.
- HUD has a special responsibility to ensure that publicly assisted housing meets high standards of environmental protection and serves as an example for the private market regarding environmental protection. Fulfilling this commitment requires a careful and balanced analysis of the degree of HUD involvement; the nature, immediacy, and



certainty of environmental risk; the population served; and the costs and available resources. Where resources are limited, HUD should establish prioritization strategies that address the most pressing needs first.

- HUD should be an advocate for Federal, State, and local environmental policies that do not force low- and moderate-income families to bear excessive costs. Public strategies and programs for addressing environmental problems must maintain housing affordability. Nevertheless, Federal, State, and local policies should encourage everyone, regardless of income, to support and comply with environmental mandates.
- Environmental risk-analysis research necessary for setting hazard levels, as well as policies based on that research, must consider potentially disproportionate impacts on low-income families and central cities. When such impacts are identified, HUD should advocate the adoption of standards and policies that can achieve a balance between reducing risk and minimizing costs and other negative impacts on the poor and on central cities.
- HUD should press for Federal, State, and local land use policies that will ensure that potentially hazardous land uses are not sited in low-income neighborhoods and that new housing is built only in environmentally sound locations.
- Adequate public resources should be made available to ensure that conditions in lower income and minority communities meet fundamental standards of environmental quality.
- HUD should support Federal, State, and local efforts to develop comprehensive planning and growth management programs, as well as regulatory systems that protect environmental resources and enhance the built environment without an excessive increase in housing costs or limitations on urban economic growth.
- The design and implementation of environmental programs that affect the built environment should, to the maximum extent possible, coordinate with, or work through, existing public and private housing finance, construction, housing services, and community development systems. Consistent with this principle, HUD should support the design of legislative strategies and the provision of adequate resources to achieve the full integration of environmental priorities into local community development goals and programs.
- Maximum effort should be undertaken to develop programs and policies to abate or avoid environmental hazards that discourage reinvestment or redevelopment in urban areas.

As both urban housing and environmental programs undergo intense scrutiny and reexamination, it is natural that advocates and beneficiaries of existing programs will seek to preserve much of the status quo. However, this should also be a time of opportunity and innovation in which common interests will be identified and possibilities for mutual support and collaboration will be pursued. The articles in this issue of *Cityscape* raise serious concerns about the interaction of environmental protection and housing and community development policy. Clearly, these issues deserve far more attention, research, and policy consideration than they have received to date. While our intent is to be provocative, we hope we have also been constructive. Above all, we hope this volume represents the beginning of an ongoing dialog between the urban and environmental policy communities.

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## Note

1. Although the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) encourages regional transportation planning, the actual connection to urban growth planning, housing affordability, and environmental protection issues remains weak.

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