

5-1972

Special Project - Nashville Model Cities: A Case Study

Richard W. Creswell

Alan Gates

Paul M. Kurtz

Paul R. Regendorf

Samuel W. Bartholomew, Jr.

See next page for additional authors

Follow this and additional works at: <https://scholarship.law.vanderbilt.edu/vlr>



Part of the [Housing Law Commons](#), [Land Use Law Commons](#), and the [Property Law and Real Estate Commons](#)

Recommended Citation

Richard W. Creswell; Alan Gates; Paul M. Kurtz; Paul R. Regendorf; Samuel W. Bartholomew, Jr.; and Richard K. Greenstein, Special Project - Nashville Model Cities: A Case Study, *25 Vanderbilt Law Review* 727 (1972)

Available at: <https://scholarship.law.vanderbilt.edu/vlr/vol25/iss4/2>

This Note is brought to you for free and open access by Scholarship@Vanderbilt Law. It has been accepted for inclusion in Vanderbilt Law Review by an authorized editor of Scholarship@Vanderbilt Law. For more information, please contact mark.j.williams@vanderbilt.edu.

Special Project - Nashville Model Cities: A Case Study

Authors

Richard W. Creswell; Alan Gates; Paul M. Kurtz; Paul R. Regendorf; Samuel W. Bartholomew, Jr.; and Richard K. Greenstein

SPECIAL PROJECT

Nashville Model Cities: A Case Study

The *Law Review* wishes to express its gratitude to the Urban and Regional Development Center, Nashville, Tennessee, for its assistance and for the grant that made this study possible.

TABLE OF CONTENTS

I.	INTRODUCTION	729
II.	APPLYING FOR A MODEL CITIES PLANNING GRANT	734
	A. <i>Early Interest</i>	735
	B. <i>Selection of the Model Neighborhood Area</i>	736
	C. <i>Planning Grant Application</i>	738
	D. <i>Aftermath of the Planning Grant Application</i>	741
III.	INTERSTATE HIGHWAY 40 AND NORTH NASHVILLE	742
	A. <i>Route Selection Process</i>	742
	B. <i>Development of Opposition to the Route</i>	743
	C. <i>Nashville I-40 Steering Committee v. Ellington</i> ...	745
	D. <i>Residue of the Highway Dispute</i>	746
IV.	INITIAL DEVELOPMENT OF THE PLANNING PROCESS	749
	A. <i>Selection as a First Round Model City</i>	749
	B. <i>Staffing the City Demonstration Agency</i>	751
	C. <i>Role of Consultants in Early Planning</i>	755
	D. <i>Development of a Citizen Participation Structure</i> .	756
V.	EVOLUTION OF PROJECT PLANNING	759
	A. <i>Socio-Economic Planning</i>	760
	B. <i>Physical Planning</i>	762
	C. <i>Planning Without the Citizens</i>	768
VI.	CITIZEN STRUGGLE FOR ROLE DEFINITION	769
	A. <i>Withdrawal from the Planning Process</i>	769
	B. <i>Negotiations and Deadlock</i>	774
	C. <i>Citizen Role Defined</i>	779
	D. <i>Replanning of the CCDP</i>	781
	E. <i>Revision and Submission of the CCDP</i>	785
	F. <i>Reaction to the Submission</i>	788
VII.	HUD REVIEW OF THE NASHVILLE PROPOSAL	790
	A. <i>Initial Review</i>	790

B.	<i>Aftermath of the Initial Review—Opposition and Ambivalence</i>	796
C.	<i>HUD Action on the Nashville Proposal</i>	802
1.	<i>Relocation Plan</i>	802
2.	<i>Administrative Complaint</i>	803
3.	<i>Approval of the CCDP</i>	806
VIII.	FIRST ACTION YEAR	811
A.	<i>Impact of Funding on the Citizens' Group</i>	811
B.	<i>Impact of Funding on the CDA</i>	813
C.	<i>Nature of the Continuing Controversy</i>	819
IX.	POSTSCRIPT	823

I. INTRODUCTION

“The Congress hereby finds and declares that improving the quality of urban life is the most critical domestic problem facing the United States.”¹ There were probably few Americans in 1966 who did not understand the real import of that sentence. The cities had been decaying for a long time. But suddenly there was an urgency that made the disintegrating quality of urban life a “critical” problem and virtually forced Congress to enact the costly and experimental Model Cities Program in an election year. The problem was that the victims of urban deterioration—the ghetto residents—had begun to dismantle the inner cities at a furious pace. The most recent pattern of urban violence had begun in 1963 in Birmingham, Alabama. Viewed, at first, as a regional aberration brought on by the South’s racial policies, the seasonal riots spread during succeeding summers to nearly every major city in the nation. Then in the summer of 1965, a Los Angeles slum called Watts exploded in the worst domestic urban violence since the 1943 Detroit riots.² The message of Watts was more than the failure of the local, state, and federal governments to deal adequately with the problems of the inner cities. It proved beyond doubt that the problem was not regional, but national in scope, and that a speedy solution was critical to the stability of the country.

It was not as if the federal government had been ignoring the deteriorating condition of American cities. In fact, much of Washington’s time during the past two decades had been spent in devising elaborate methods of pouring federal money into municipal programs. The traditional method was the patchwork system of grants-in-aid.³ As a new problem arose or an old program failed, the federal government would respond by appending a new grant-in-aid program to the faltering segment of the old structure. In reality, however, the more than 400 individual categorical grants did not even begin to cover all of the subtle

1. Demonstration Cities and Metropolitan Development Act of 1966, § 101, 42 U.S.C. § 3301 (1970).

2. REPORT OF THE U.S. NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 38 (Bantam ed. 1968).

3. Generally, 4 conditions attach to grants-in-aid: that the money be spent only for a specific purpose; that matching funds be provided according to a specified formula; that the receiving unit of government establish an administering agency with which the federal government can deal directly; and that the federal government reserve the right to monitor the use of the grant. Ervin, *Federalism and Federal Grants-In-Aid*, 43 N.C.L. REV. 487, 490 (1965). Thus, regardless of whether the failure of state and local governments to solve their problems results from lack of revenue or lack of responsibility, the grant-in-aid is designed to fill the breach by providing the cash and by requiring that it be spent on projects implementing a federally defined purpose according to federally defined standards.

local problems that a city might face. And the top-to-bottom lack of coordination between the agencies administering different grants-in-aid programs usually rendered impossible a coordinated use of several grants-in-aid programs to attack the interrelated complex of problems that constitutes urban blight.⁴ Local "grantsmen" and national consulting firms tended to concentrate their efforts on developing the personal contacts and the technical expertise needed to milk the myriad grant-in-aid programs for maximum federal dollar return. Once the money arrived, the experts had completed their jobs, but the problems remained.

The next idea off the federal drawing board was the Community Action Program (CAP).⁵ The creation of professional social planners⁶ and innovative New-Frontiersmen,⁷ the CAP envisioned an enthusiastic coalition of public and private sectors, government, citizens, local institutions—all working together to plan and implement a coordinated and comprehensive attack on the blight of the city. Three problems quickly became apparent. The CAP had nothing to do with physical redevelopment so that, ultimately, it represented neither a coordinated nor a comprehensive approach. Moreover, as finally enacted, the legislation establishing the CAP had been so watered down that it offered but slim hope of any real planning effectiveness.⁸ Finally, the built-in resistance of institutions to change and to a new theory of citizen involvement in urban problem solving—something called "maximum feasible partici-

4. Part of the difficulty stems from the fact that the problem to be solved by the grant is defined by the federal government, not by the individual community. Moreover, a city dependent on federal grants is forced to solve its problems not according to its own sense of priorities, but according to what happens to be on the grant-in-aid shopping list. This distortion of priorities is aggravated further by the inadequate funding of certain grants during a given year and by the inability of a city to meet the matching fund requirement for a needed grant. See note 11 *infra* and accompanying text.

5. Economic Opportunity Act, 42 U.S.C. §§ 2737-49 (1970).

6. See P. MARRIS & M. REIN, *DILEMMAS OF SOCIAL REFORM* 7-32 (1967).

7. See D. MOYNIHAN, *MAXIMUM FEASIBLE MISUNDERSTANDING, COMMUNITY ACTION IN THE WAR ON POVERTY* 61-101 (1969).

8. President Johnson and Congress apparently were more interested in immediate, tangible results than in long range planning (especially in an election year). *Id.* at 41-43. Thus, the innovative local planning contemplated in the Community Action Program was of secondary significance to the more specific programs already detailed in the Act. Similarly, the Office of Economic Opportunity (OEO), which administered the Act, tended to grant funds as individual programs were proposed by the cities, rather than requiring them to develop a comprehensive plan. J. SUNDQUIST & D. DAVIS, *MAKING FEDERALISM WORK* 39 (1969). OEO even took the initiative and proposed its own programs such as Head Start, Upward Bound, and legal services. Congress subsequently earmarked funds specifically for these programs, thereby removing money from the general grants for the CAP's. Hence, instead of encouraging the cities to develop innovative programs, OEO and Congress created what were essentially more federal grants-in-aid.

pation of the residents"—had combined in many cities to produce ugly clashes between citizens and local government.⁹

Watts spoke of the failure of these attempts to eradicate urban blight. Physically, the inner cities continued to deteriorate. The largest grant-in-aid program for physical redevelopment, urban renewal, had been available to the cities since 1949. Yet seventeen years later, seven million substandard homes remained,¹⁰ while only a fraction of the appropriated money had been used.¹¹ The cities were often too poor to take advantage of the program, and the shabby treatment of families displaced by urban renewal projects aroused anger and distrust among the poor. Nor had there been significantly greater success in the area of social services. Existing institutions had failed, for example, to alleviate chronic unemployment or to provide adequate health care.¹² Attempts to alter these institutions and to devise new programs through the CAP's often created more tension between the poor and the government.

In October 1965, President Johnson commissioned a task force on urban problems under the leadership of Robert C. Wood, then Chairman of the Political Science Department at the Massachusetts Institute of Technology.¹³ The recommendations of the task force included a demonstration cities program, which was adopted by the President in his message to Congress on January 26, 1966.¹⁴ The program was endorsed heartily by the nation's mayors, who questioned, however, the adequacy of the proposed funding.¹⁵ Following a lengthy congressional battle,¹⁶ the legislation was passed and signed into law on November 3, 1966, as Title I of the Demonstration Cities and Metropolitan Develop-

9. For a discussion of some of the factors leading to these clashes see D. MOYNIHAN, *supra* note 7, at 102-66. Tension developed quickly, and, in the spring of 1965, a delegation of mayors appeared in Washington to persuade the Administration to aid them in dampening the activities of the local community action agencies that administered the CAP's. It was suggested to OEO that greater emphasis be placed on the role of the poor in the administration of poverty programs, rather than in policy-making and planning. *Id.* at 145. Ultimately, the 1965 amendments to the Economic Opportunity Act included a proposal by Representative Edith Green to empower local governments to bring the community action agencies under local government control. 42 U.S.C. § 2790(a) (1970).

10. H.R. REP. No. 1931, 89th Cong., 2d Sess. 4 (1966).

11. *The Demonstration Cities Controversy*, 46 CONG. DIG. 36, 45 (1967).

12. Hetzel & Pinsky, *The Model Cities Program*, 22 VAND. L. REV. 727 (1969).

13. *Id.*

14. H.R. Doc. No. 368, 89th Cong., 2d Sess. 4 (1966).

15. See, e.g., *Hearings Before the Subcomm. on Housing of the Comm. on Banking and Currency*, 89th Cong., 2d Sess. 181-82 (1966) (testimony of Hugh J. Addonizio, Mayor of Newark, New Jersey).

16. See *The Demonstration Cities Controversy*, *supra* note 11.

ment Act of 1966.¹⁷

The thrust of the Act was to provide the necessary funds for a limited number of cities (ultimately 150)¹⁸ and to plan and implement a comprehensive attack on urban blight within a selected target-area neighborhood in each of the cities chosen. Although the Act was vague about the structure that a Model Cities program should have, the regulations governing the program quickly filled this void.¹⁹ Structurally, a Model Cities program was divided into two phases: one year of planning and five so-called action years.²⁰ During the planning year, each city was required to prepare and submit a Problem Analysis and a Comprehensive City Demonstration Plan (CCDP). The Problem Analysis, which was to be prepared in the first six months of the planning year, was a detailed compilation and analysis of data on problems in the target area neighborhood in each of ten categories or component areas (Housing, Employment, Economic Development, Transportation, Physical Environment, Health, Recreation and Culture, Education, Social Services, and Crime Reduction).²¹ In addition to this systematic survey of data, the Problem Analysis was to include a set of five-year goals for each component category and program strategies for achieving those goals. The second half of the planning year was to be spent devising a set of projects for the first action year in each of the ten component areas. The projects were to utilize not only the existing panoply of federal grants-in-aid, but also state, local, and private resources that might be available. When resources were inadequate, the city could plan programs to be funded with Model Cities funding. The first action year projects, which constituted the bulk of the CCDP, were to be planned

17. 42 U.S.C. §§ 3301-13 (1970).

18. The 150 cities selected to participate in Model Cities were chosen in 2 groups of 75 approximately one year apart. Cities selected in the earlier group are commonly referred to as "first round" Model Cities and the latter group as "second round" Model Cities.

19. There are 2 basic documentary sources that the Department of Housing and Urban Development (HUD) has used in prescribing the administrative structure of the Model Cities program: CDA Letters and Technical Assistance Bulletins (TABs). For a more detailed description of these regulatory publications see *Appendix II infra*. The basic structure that a Model Cities program was to take was published in CDA Letters 1 and 4. To assist cities in developing their programs, a more informal presentation of the administrative regulations was published in a lengthy pamphlet. HUD, *Improving the Quality of Urban Life* (1967).

20. A third phase also might be added to this structure, the preparation of the Planning Grant Application. During this phase, several basic steps were to be taken by a city, such as selecting the Model Neighborhood Area, establishing the citizen participation structure, and initiating the basic data gathering process.

21. The precise names and scope of these 10 component areas have varied somewhat over the history of the Model Cities program. For example, the Physical Environment component has been renamed Environmental Protection and Development.

in coordination with the five-year goals by means of a year-by-year set of objectives.²² Thus, the CCDP was something of a master plan for the entire five-year implementation effort, as well as a detailed administrative outline for the first action year projects. As each action year was completed, a new set of projects for the succeeding action year was to be submitted for funding. In theory, each of the new projects would build on the accomplishments and experience gained in the previous action years, thereby ensuring a comprehensive five-year effort to achieve the program's goals and objectives.²³

From the outset the Model Cities Program was designed to avoid all of the problems of the federal grant-in-aid system, while it simultaneously utilized the structure and resources that the system made available to the cities. The Model Cities Program was to be administered locally by an arm of the city government, not by a semi-autonomous local public agency, such as a housing authority. The program was to be planned at the local level to fit local needs and resources, rather than to conform to federally planned guidelines.²⁴ Coordination in attacking interrelated problems was to be emphasized at the local level by comprehensive planning and at the federal level by inter-agency cooperation. Projects for each action year were to be planned with a specific amount of Model Cities funds in mind.²⁵ The assurance of a predetermined level of funding was designed to permit the city to allocate resources rationally rather than to plan projects to achieve maximum federal dollar

22. These goals and objectives originally were to be coordinated by a complex interrelation of program approaches. See HUD, CDA Letter No. 4, HUD Handbook MCGR 3100.4 (July 1968). After the first round Model Cities programs experienced difficulty in using this complex planning process, the goals and objectives requirements were simplified substantially. HUD, Circular MC 3140.3 (Dec. 1969).

23. The coordination and evaluation plans were to be an integral part of the CCDP that each city submitted at the end of the planning year. It was anticipated that these mechanisms would afford the CDA the capacity to monitor its success and failure and use the information as an input in a continuous replanning process during the five action years.

24. To the extent that a project in a Model Cities program relied on non-Model Cities grant-in-aid funds, the guidelines of the other grant-in-aid programs, of course, would have to be followed. The availability of funds to plan for one year, however, tended to focus local efforts more on the problems to be solved and less on the federal grant-in-aid guidelines that had to be met. Furthermore, the Model Cities funds that were available to implement projects had virtually no programmatic restrictions and required no local matching money. Indeed, under certain circumstances, the Model Cities funds could be used by a city as the local matching money for new categorical grant-in-aid programs in the Model Neighborhood Area. 42 U.S.C. § 3305(d) (1970).

25. The "target amount" of Model Cities funds upon which a city's first action year program was to be based was computed by HUD from a formula that emphasized the population of the city and the relative severity of its problems. Hetzel & Pinsky, *supra* note 12, at 734; see 42 U.S.C. § 3305(c) (1970). In most Model Cities programs the first action year target figure has been continued as the amount for each subsequent action year's funding.

return. Finally, each step of the Model Cities Program was to be implemented with "widespread citizen participation," thereby hopefully avoiding the hostility that had been visited upon other federal urban programs that seemed to have been imposed unilaterally on those whom the program had sought to help.

This is the way a Model Cities program was supposed to look. The narrative that follows is an attempt to discover why in one city, despite hard work and general good faith on the part of all concerned, the Model Cities concept went awry. The Model Cities program examined is that of Nashville, Tennessee. It clearly should be understood that the failure of this program is neither typical of all Model Cities programs (indeed it is commonly acknowledged to be one of the worst), nor is it typical of other federal programs operated by the Metropolitan Government of Nashville, Tennessee. Furthermore, this study is not intended as an exposé of the problems that unfortunately have been encountered by Nashville Model Cities. Instead, it is designed to examine how one federal poverty program that appeared to have strong potential for success ultimately degenerated into an all too common pattern of bureaucratic waste, complexity, and controversy. This study attempts to examine the Nashville program in all its frustrating detail, in the hope that the process by which it became mired in ineffectiveness can be better understood.

II. APPLYING FOR A MODEL CITIES PLANNING GRANT

Nashville-Davidson County is an urban area embracing nearly 500,000 people governed by a metropolitan city-county government. It is the capital of Tennessee and a cultural and commercial center of the Mid-South region. Like most American cities in the mid-1960's, Nashville was beset by extensive inner-city urban blight. Specifically, racial segregation, chaotic land use, and the continual dislocation that attended successive urban renewal projects all conspired to create an ugly slum known as North Nashville. In the late fall of 1967, Nashville's proposal for eradicating urban blight in the decaying North Nashville area was approved by HUD as one of the first round Model Cities programs. In the spring of 1972, that program is stalled in federal court litigation. Consistently with the ethos of the Great Society, Model Cities was envisioned as a grand partnership of federal and local government and private citizens. The manifest failure of that partnership is the story of Nashville Model Cities.

A. Early Interest

Long before passage of the Demonstration Cities and Metropolitan Development Act of 1966, the Mayor of the Metropolitan Government of Nashville-Davidson County²⁶ realized the Model Cities program's political and financial potential²⁷ and had his staff initiate an investigation of Nashville's possible inclusion in the program.²⁸ The first formal action by the Mayor was a series of meetings with the Metropolitan Planning Commission (MPC) staff in early 1966.²⁹ It was determined at these meetings that the MPC would have the primary responsibility for developing objective criteria for selecting one part of the city as the target area. After some very basic goal selection had been attempted,³⁰ however, the Mayor and his staff perceived the need to broaden the base of people involved in the early planning. A Demonstration Cities Workshop for community leaders was held in April for the express purpose of getting Nashville's proposal to Washington at the time the act passed, "probably sometime in June."³¹ Following this meeting, the MPC com-

26. Mayor Beverly Briley has been a political leader in the Nashville area for many years and has constructed an efficient organization that has ensured his continued presence. He was elected in 1963 as the first Mayor of the Metropolitan Government and has held that position ever since, surviving 2 re-election campaigns. Even before Metro, however, he served for a long period as County Judge—the chief executive position in the old Davidson County government.

27. It is not known exactly how and when news of the Model Cities program reached Nashville, but Mayor Briley's active participation in several national municipal organizations placed him in a particularly good position to obtain advance information from Washington. It has even been suggested, with perhaps some exaggeration, that he was an advisor to Secretary of HUD, Robert C. Weaver, in the program's development. Metropolitan Government of Nashville & Davidson County, Planning Grant Application, Pt. III, at 145 (1967).

28. Nashville was not the only city to get a head start on planning for this new urban program. Many cities began to organize far in advance of any official word from Washington. *See, e.g.,* HUD, THE MODEL CITIES PROGRAM—A HISTORY & ANALYSIS OF THE PLANNING PROCESS IN THREE CITIES 14-15, 39, 65-66 (1969) [hereinafter cited as THREE CITIES STUDY].

29. The MPC is the governmental planning body for the entire metropolitan area. For a discussion of the MPC's work in the early Model Cities planning see R. O'Donniley, A Case Study of Metropolitan Nashville and Davidson County, Tennessee's Application for a Model Cities Grant: The Decision-Making Process in Selecting a Model Cities Neighborhood, 55-57, Mar. 1969 (unpublished masters degree thesis presented to Planning Department of the University of Tennessee at Knoxville; available at the University of Tennessee) [hereinafter cited as O'Donniley Thesis].

30. The principle planner from the MPC assigned to Model Cities established the same basic goals that were ultimately chosen by Congress. It was hoped that the program would affect the lives of 20% of the present slum residents and retard any future growth of Nashville's ghettos. *Id.* at 55-56.

31. Planning Grant Application, *supra* note 27, pt. III, at 144-45. Although the meeting accomplished little in the way of substantive planning, 2 interesting points are raised by the official notice. First, the unbridled optimism evidenced by the self-imposed June deadline was echoed throughout the program at the beginning of new stages of development. *See, e.g.,* notes 156-59 *infra* and accompanying text. Secondly, the program apparently was viewed from the start as falling under the control of the Urban Renewal Coordinator in the Mayor's office, an association

pleted its development of the criteria to be used in objectively selecting a target area neighborhood. At the same time, however, the Model Cities bill had become snarled in legislative delays. Therefore, instead of drawing up a proposal without the benefit of federal guidelines, the city settled down to await final congressional action on the Demonstration Cities legislation.

B. Selection of the Model Neighborhood Area

The postponement of detailed planning that had followed the April 1966 workshop came to an end in early November of the same year when the Demonstration Cities Act was passed. Although the precise requirements for a Model Cities Planning Grant Application had not yet been developed by the Department of Housing and Urban Development (HUD),³² the small group of city officials in Nashville with "grantsmanship" experience immediately swung into action to meet a May 1, 1967 HUD deadline. The first task facing these grantsmen was to select the target-area neighborhood that was to be the beneficiary of this federal largesse. The MPC quickly began developing detailed charts and tables³³ comparing data on six possible target-area neighborhoods.³⁴ This activity by the Planning Commission built initially on the work that had followed the April 1966 workshop and was finally coordinated with the first guidelines issued by the Department of Housing and Urban Development. Thus in early 1967 there existed a fairly complete quantitative analysis of the six sites being considered for the Model Neighborhood Area (MNA).

that did little to build citizen confidence in the program. *See generally* notes 173-74 *infra* and accompanying text.

32. The earliest HUD information printed was a series of basic questions and answers on the Model Cities program and a booklet entitled "Improving the Quality of Urban Life." Neither of these was immediately available in Nashville. Consequently, the Nashville planners relied heavily upon information received at a series of meetings with a Boston consultant, held in December 1966. *See* HUD, Questions & Answers to Explain the Demonstration Cities Act of 1966 (1967); HUD Improving the Quality of Urban Life (1966); O'Donniley Thesis, *supra* note 29, at 61-63.

33. *See, e.g.*, Planning Grant Application, *supra* note 27, pt. II, at 11-12. The compilation of statistics on physical characteristics—such as the percentage of deteriorated housing and studies of sanitary and storm sewers—and on quantifiable social considerations—such as racial composition, average income, and education levels—is the kind of short-range work that the MPC does best.

34. The 6 areas considered were all centered around the central business district. Area A was a portion of the East Nashville urban renewal area; B was the northern portion of North Nashville; C was the southern portion of North Nashville; D was essentially the Edgehill urban renewal area; E was a large area south and east of Edgehill; and F straddled the interstate route southeast of the central city. These areas were compared through absolute and ratio analysis by the MPC.

The selection of the target-area neighborhood, however, was not the product of a purely scientific or objectively quantified decision-making process. The Mayor was a sufficiently adept politician to realize that the influx of large sums of money into any one area of the city would have significant political ramifications throughout the community. Consequently, when a controversy arose in January 1967 over one block of totally dilapidated housing in North Nashville,³⁵ the Mayor seized the occasion to announce the first Greater Nashville Housing Conference, to be held in February 1967.³⁶ Instead of considering all of Nashville's housing problems, the conference devoted most of its time to hearing basic reports on housing approaches and to discussing and viewing the problems in North Nashville. Even though little concrete progress was made on the broad question of inadequate housing, the conference did serve three important political goals: (1) it removed some rather severe pressure from the Mayor and his urban planners; (2) it laid the foundation for increasing private developers' interest in the North Nashville area;³⁷ and (3) it focused a great deal of attention on North Nashville as an area in which there were severe urban problems. Following the conference, and with no apparent knowledge of or reliance upon the quantitative recommendations by the MPC, the Mayor moved to formalize what was becoming an increasingly obvious political choice for the MNA.³⁸ On February 13 the Mayor sent letters to more than 300 community leaders inviting them to meetings February 17 and 18 to exchange ideas and information on the city's progress in the Model Cities program.³⁹ Two factors, however, should be noted about these invitations: first, the mix of participants invited to the two meetings, other than city personnel, was weighted heavily in favor of

35. For a discussion of the development of the controversy see Nashville Banner, Feb. 10, 1967, at 1, col. 1; *id.*, Feb. 13, 1967, at 1, col. 3.

36. See *id.*, Jan. 17, 1967, at 1, col. 1; O'Donniley Thesis, *supra* note 29, at 60-61. See also W. Reinhart, Follow Up Report on the Greater Nashville Conference on Housing & Urban Development (July 1967).

37. See Nashville Banner, Jan. 13, 1967, at 1, col. 3. The absence of private development in the North Nashville area was a serious concern of city officials. Interview with Robert A. Horton, Fiscal Administrative Officer of Metropolitan Government, in Nashville, July 13, 1971. This concern was reflected in the follow-up study done on the conference in which the city's progress in housing as of 1967 was compared with the projections made in the Hammer Study (Hammer & Co. Associates, *The Economy of Metropolitan Nashville, Tennessee (1963)* [hereinafter cited as the Hammer Study]) 4 years before. See W. Reinhart, *supra* note 36, at 9, 28. See generally Planning Grant Application, *supra* note 27, pt. III, at 36, 149.

38. See Nashville Banner, Jan. 26, 1967, at 2, col. 3 ("We consider the North Nashville area ideal for revitalizing immediately in this program") (quoting Mayor Beverly Briley); Planning Grant Application, *supra* note 27, pt. III, at 149. See also materials cited note 36 *supra*.

39. Planning Grant Application, *supra* note 27, pt. III, at 107-08.

North Nashville residents;⁴⁰ secondly, on February 14, two days *before* the meetings with the citizens, the Mayor called together a newly appointed Task Force for what was to be the actual selection of the Model Neighborhood Area.⁴¹ At the meeting on February 14, the MPC staff formally recommended the selection of a target area neighborhood that corresponded to the southern half of the present MNA.⁴² The Mayor's staff agreed with the Planning Commission's conclusion that the Model Neighborhood Area should be in North Nashville, but they disagreed with the MPC's restriction of the target area to only a part of the North Nashville community. Considering it more expedient politically to help all of North Nashville rather than only half, the Mayor's staff stood firm and succeeded in persuading the Task Force to expand the target area to include the entire North Nashville community. With the basic target area selection process completed, no meaningful questions were left to be decided by the participants at the meetings on February 17 and 18. Instead, these meetings became hollow gestures that the city could later use to "document" citizen participation in the planning process.⁴³

C. Planning Grant Application

With North Nashville established as the MNA, the city faced the immediate task of completing the Planning Grant Application in time to meet the May 1 HUD deadline.⁴⁴ The basic approach taken was to divide the component areas required by HUD to be covered in the application among the various Metro agencies with responsibilities in these areas.⁴⁵ This method of attack assured a prompt compilation of

40. *See id.*, at 109-39 (mailing list of all persons who received invitations).

41. For the general composition of the proposed Task Force see Nashville Banner, Feb. 10, 1967, at 1, col. 1.

42. O'Donniley Thesis, *supra* note 29, at 83-86; *see* note 35 *supra*.

43. The letters of invitation contained no information on what was to be discussed, and both the agenda (Planning Grant Application, *supra* note 27, pt. III, at 142) and the statement of one participant (Transcript, vol. II, at 231-33, North Nashville Citizens Coordinating Committee, Inc. v. Romney, Civ. No. 6121 (M.D. Tenn., filed Apr. 12, 1971) [hereinafter cited as NNCCC, Inc. v. Romney] (testimony of Edwin Mitchell) indicate that the meetings were not exactly the "wide-spread citizen participation" that the city held them out to be. Planning Grant Application, *supra* note 27, pt. III, at 105-06.

44. It is unclear on what date Nashville received the HUD guidelines for preparing a Planning Grant Application. The basic source for these guidelines bears a publication date of December 1966, but Nashville apparently did not receive any copies until sometime in late February. *See* HUD, Improving the Quality of Urban Life, A Program Guide to Model Neighborhoods in Demonstration Cities (Dec. 1966).

45. Interview with William Reinhart, in Nashville, Feb. 15, 1972. A high level of agency participation in planning did not exist in all Model Cities. *See, e.g.*, THREE CITIES STUDY, *supra*

information, but it also resulted in a distinct unevenness in quality among the various components, a problem that remained with the program throughout its development. Thus, for example, the Health Component⁴⁶—prepared jointly by the Metro Health Department and Meharry Medical College—and the Education Component⁴⁷—prepared under the supervision of the Metropolitan Board of Education—were the products of energetic and candid efforts to describe basic problems in the MNA and suggest possible approaches to their solutions.

Other components, such as Crime Reduction,⁴⁸ similarly were farmed out to various agencies, but these agencies apparently had little interest or expertise to bring to bear in the preparation of such an application and, consequently, contributed little to the overall quality of the Planning Grant Application.⁴⁹ Perhaps the greatest weakness in the application, however, was the incongruity between the emphasis placed on housing as a priority goal⁵⁰ and the total absence of in-depth analysis of housing problems or suggestions for their solutions.⁵¹ This inconsistency was compounded by the inclusion of a woefully inadequate statement on relocation.⁵² An additional deficiency in the early planning that surfaced in the Planning Grant Application was the almost complete lack of any meaningful citizen participation.⁵³ Although

note 28, at 15. Many cities, however, including Nashville, did utilize existing governmental agencies as sponsors of operational projects. See HUD, THE MODEL CITIES PROGRAM—A COMPARATIVE ANALYSIS OF THE PLANNING PROCESS IN ELEVEN CITIES 51 (1970) [hereinafter cited as ELEVEN CITIES STUDY].

46. Planning Grant Application, *supra* note 27, pt. III, at 39-49.

47. *Id.* at 50-74.

48. *Id.* at 75-76.

49. The Transportation Component was an exception to this planning process. No Metropolitan agency was involved in its planning, and the application was submitted without any section dealing with transportation. The absence of an interested agency contributed to the total void in the development of transportation programs at the implementation stage.

50. "Housing, health and education would rate highest on the list of priorities of goals in making this designated area into a model neighborhood." Planning Grant Application, *supra* note 27, pt. 1, at 2.

51. The application did have some very basic statistical information on the Nashville housing situation, but this was not evaluated in the document in a manner indicating the scope of the problem. See *id.*, pt. II, at 11-12, 17; *id.*, pt. III, at 36 (Housing Supply); *id.* at 37 (Housing Choice). The inadequacy of this one and one-half page treatment of one of the most extensive problems in the MNA is compounded by the apparent insensitivity with which it was written. After briefly sketching the overwhelmingly nonwhite ghetto residential pattern in North Nashville, the Housing Choice commentary makes the incredible statement that "[w]ithin this area there is almost complete freedom of choice of housing accommodations for all citizens of all income levels." *Id.* (emphasis added).

52. *Id.*, pt. III, at 98 (one-half page); see Memorandum from Stephen R. Barker to Donald Dodge, former desk officer for the Atlanta region, May 26, 1967.

53. Nashville is not alone in its failure to involve citizens at this early stage. See THREE

roughly twenty percent of the application was devoted to the documentation of citizen involvement, 31 of the 43 pages merely listed the names and addresses of the people invited to the information meetings February 17 and 18.⁵⁴ It was obvious to even the most casual observer that the work at all stages was either coordinated or done by the Mayor's urban staff and the MPC. This absence of community resident involvement has since been rationalized by the lack of time and the relative insignificance of the planning decisions made in preparing the Planning Grant Application. Regardless of these rationalizations, the city's conduct planted a seed of suspicion that the citizens were being used rather than involved in meaningful participation. This suspicion was particularly acute on the part of those leaders from North Nashville whose names had been included without their knowledge as participants in the preparation of the application solely because they had been invited to the February meetings.

Despite its weaknesses, the application was no worse than the average first round city's effort at working with the new concept of coordination intended for the Model Cities program. The information and method of presentation to be used in the application were prescribed by HUD to the most minute detail—including the size of the paper and the numbering of pages.⁵⁵ It is perhaps something of a compliment to the city that Nashville was able to follow these detailed instructions as closely as it did. Of course, the detailed requirements did force the cities to think about the Model Neighborhood Area's problems in a comprehensive manner. Furthermore, it was in the city's best financial interest to identify every problem in the MNA that it could—more specifically identified problems would justify larger federal grants to solve them. The detailed requirements, however, frequently stifled the desired innovative approach by exalting form over content. In the end, the only things exceptional about Nashville's Planning Grant Application were qualities of Nashville itself: the existence of a metropolitan city-county government and the presence of three predominantly black universities in the MNA—Fisk, Tennessee State, and Meharry Medical College.⁵⁶

With the drafting and compilation of the reports completed in late April 1967, the Mayor's staff rushed their 180-page document to a

CITIES STUDY, *supra* note 29, at 15, 68-69. The early deadline and uncertain future of the program militated against organizing any active citizens group for the planning grant.

54. Planning Grant Application, *supra* note 27, pt. III, at 104-46.

55. HUD, *Improving the Quality of Urban Life* 34 (rev. issue Dec. 1967).

56. The importance of having these 3 strong black institutions in the MNA cannot be underestimated. Their existence explains the presence of a strong and educated middle class in the area, a characteristic not found in many model city areas.

specially called City Council meeting on April 27 for the Council's first, and last, look at the application. In what was to prove a frequent practice on Model Cities matters, the Council hurriedly authorized the submission at the same meeting at which it was introduced.⁵⁷ As finally approved, the Planning Grant Application, requesting 270,537 dollars in federal funds (to be matched with 67,634 dollars of local money),⁵⁸ was submitted to HUD in time to meet the May 1 deadline.

D. Aftermath of the Planning Grant Application

Following the Council's approval of the submission, the city planners in essence held all work in abeyance pending a determination by HUD of whether Nashville would be selected as a first round Model City. The planning delay was paralleled by a distinct reduction in efforts by the city to sell the Model Cities concept; this, of course, was to avoid unduly raising the residents' hopes over a program that had not even been funded yet. Some political activity, however, continued as the Mayor realized that he had just requested a program which showed a tremendous preference for one area of the city, a black ghetto at that. The Mayor perceived a dual danger that the citizens of the MNA would react negatively to the Model Cities program if they saw it as being imposed on them, while the rest of the city might resent the restriction of the program's benefits to the North Nashville area. To counter these reactions before they developed, the Mayor and his staff attended a series of community meetings in the MNA and periodically released statements to the press. At the meetings, the standard response to charges of ignoring the MNA citizens⁵⁹ was that the city's activity thus far was technical in nature and only directed at getting Nashville included as a Model City.⁶⁰ This characterization of the role played by the

57. Metropolitan Nashville & Davidson County Council, Res. No. 67-209 (introduced and passed Apr. 27, 1967). The twofold argument that precipitated this hasty approval was typical: No local funds were involved and a deadline had to be met to avoid loss of federal funds. Interview with Councilman James Tuck, Model Cities Committee Chairman, in Nashville, Feb. 28, 1972.

58. Planning Grant Application, *supra* note 27, pt. VIII, at 178. Model Cities planning and administration was funded subject to a 20% local match. This was in contrast to the 100% federal funding from Model Cities for project implementation and relocation benefits. 42 U.S.C. §§ 3304-05, 3307(b) (1970).

59. "The planning heretofore has not been sensitive and compassionate to the problems we have." Nashville Tennessean, May 3, 1967, at 29, col. 6. "We need to be involved in the planning of the plans . . . not just members of an advisory committee on something that's already been planned." Nashville Banner, May 3, 1967, at 16, col. 4. Statements like these 2 by a North Nashville businessman, Inman Otey, were voiced frequently in the summer of 1967.

60. Nashville Tennessean, May 3, 1967, at 29, col. 6. Reassuring statements by the Mayor and his staff concerning their intention to delay planning until the citizens could organize them-

city in compiling the Planning Grant Application seems to have satisfied the citizens at the time. Potential hostility from other parts of the city was averted largely by constant references to the planned expansion of the program to the rest of the city, as soon as practicable.⁶¹ In fact, there was no HUD program at that time that would have allowed such expansion,⁶² and this was generally known to the top officials on the Mayor's staff.⁶³ Whatever the intent of these statements, they did keep any animosity toward the program from erupting at this stage of the planning.

III. INTERSTATE HIGHWAY 40 AND NORTH NASHVILLE

In 1967, just as the Planning Grant Application was being put together, citizens in North Nashville began to feel the effects of another federal project.⁶⁴ This was the planned construction of Interstate 40 directly through the MNA.

A. Route Selection Process

In the early 1950's, the City of Nashville hired a consultant to study possible routes for the interstate highway through the western part of the city.⁶⁵ Relying partially on a 1946 study,⁶⁶ the consultant tentatively

selves were repeated through 1967 and continued even after Nashville was selected for a Model Cities program. *Id.*, Jan. 25, 1968, at 4, col. 1; *id.*, Feb. 10, 1968, at 17, col. 5. They were still being made 6 months into the planning year. *Id.*, Sept. 18, 1968, at 6, col. 4.

61. See, e.g., *id.*, May 8, 1967, at 3, col. 1; Nashville Banner, Aug. 31, 1967, at 9, col. 1; Nashville Tennessean, Oct. 18, 1967, at 1, col. 3.

62. There now exists a modification in the original Model Cities approach that allows some cities to expand their MNA to include the entire city.

63. Interview with William Reinhart, in Nashville, Feb. 15, 1972.

64. One national study of highways and their routings through inner cities concluded that the Nashville I-40 experience was "the worst example of the effects of a large highway on a viable, inner-city community." C. Sevilla, *Asphalt Through the Model Cities: A Study of Highways and the Urban Poor* 24, Jan. 31, 1971 (unpublished Masters in Laws thesis presented to the Urban Law Institute of the National Law Center at George Washington University; available at George Washington University) [hereinafter cited as *Sevilla Thesis*]. For a condensation of this thesis see 49 J. URBAN L. 297 (1971).

65. H. Ford, *Interstate 40 Through North Nashville, Tennessee: A Case Study in Highway Location Decision-Making* 28, Dec. 1970 (unpublished masters degree thesis presented to Planning Department of the University of Tennessee at Knoxville; available at the University of Tennessee library) [hereinafter cited as *Ford Thesis*]. For other discussions of the early highway planning see A. MOWBRAY, *ROAD TO RUIN* 178-79 (1969); F. Bergerson, K. McNeil, & C. Zuzak, *Beyond the Ballot—Organized Citizen Participation in Metropolitan-Nashville*, Dec. 1971 (a published but as yet unreleased project of the Urban Observatory of Metropolitan Nashville and the Joint Universities Center), [hereinafter cited as *Beyond the Ballot*]; *Sevilla Thesis*, *supra* note 64, at 24-25.

66. In 1946, Nashville hired an outside consultant to conduct an expressway study and its

recommended a route through a predominantly white area, paralleling Charlotte Avenue and running, for the most part, just south of what is now the MNA.⁶⁷ During meetings with the MPC in 1955, however, the consultants modified their proposal and recommended a more northerly route that closely paralleled Jefferson Street and passed directly through the major black business district in North Nashville.⁶⁸ The factors that allegedly precipitated this change were the cost of right-of-way acquisition,⁶⁹ design requirements,⁷⁰ and interference with major institutions located along the southern route.⁷¹ The final blessing for the northern route was given at a public hearing held on May 15, 1957, which was to become a major source of controversy.⁷²

B. *Development of Opposition to the Route*

For the next eight years very little progress was made on the Memphis leg of I-40. In 1964, however, the acquisition phase began, and tracts in North Nashville that lay in the path of the highway were systematically purchased by the State. As the total impact of the right-of-way acquisitions became apparent, black leaders of the North Nashville community began to examine the route selection process. In mid-1967 these community leaders⁷³ learned of the discarded southerly

recommendation was for a route that was located between Broadway and Charlotte, 2 of the major east-west streets in the area. See Ford Thesis, *supra* note 65, at 28-29.

67. This new route was only slightly north of the 1946 route. There is some indication that the recommendation of the 1954 route was made after only a general corridor study had been completed. Later examination of the precise right-of-way, however, revealed some serious difficulties with the route. See Ford Thesis, *supra* note 65, at 31-32; Beyond the Ballot, *supra* note 65.

68. A. MOWBRAY, *supra* note 65, at 178-79.

69. Ford Thesis, *supra* note 65, at 32-34.

70. In order to have the desired number of interchanges for the downtown area, it was allegedly necessary to move the highway farther north so there could be the required 3 miles between interchanges. Beyond the Ballot, *supra* note 65.

71. The southern route passed very close to a major hospital and a large urban park. *Id.* It should be noted, however, that the present route affected more houses, businesses, apartment houses, and churches. Also, the 3 black colleges are in close proximity to the present route. Ford Thesis, *supra* note 65, at 39; see Sevilla Thesis, *supra* note 65, at 24-25.

72. The circumstances surrounding this hearing were unusual and led to charges that no proper hearing had been held. First, the notices for the hearing had the wrong date. Secondly, the notices were posted only in post offices in white neighborhoods and were not distributed to the news media. Thirdly, the transcript of the hearing, required by law to be taken, was very incomplete. Nashville I-40 Steering Committee v. Ellington, 398 F.2d 179, 182-84 (6th Cir. 1967) *cert. denied*, 390 U.S. 921 (1968); Ford Thesis, *supra* note 65, at 40-42.

73. Two of the important figures in the I-40 struggle, Dr. Edwin Mitchell of Meharry and Dr. Flournoy Coles of Fisk, also were influential in other stages of the Model Cities program. Dr. Mitchell has been a key figure throughout the Model Cities program in Nashville and was among

route and sensed that the selection of the northern route had been something less than totally objective.⁷⁴ After several months of disorganized concern, two events in early September 1967 spurred the group to action: the first was the proposed widening of a street running between Fisk and Meharry to accommodate the anticipated increase in traffic from completion of the interstate, and the second was an announcement that bids for the actual construction of the highway would be let on October 1, 1967.⁷⁵ For the next month an informal coalition of community leaders petitioned all levels of government—local, state, and federal⁷⁶—to have the route modified or at least reexamined, but they were rebuffed at every turn. As the crisis developed, the interested citizens formed the I-40 Steering Committee as an advocacy group and hired a professional urban planner to give them technical assistance.⁷⁷ Upon the planner's suggestion, the Steering Committee asked

the first citizens of the area involved in the program's development, having learned of it through his position as chairman of the Metropolitan Human Relations Commission. After participating in the struggle over I-40, he was appointed to the Citizens Coordinating Committee as a representative of the Davidson County Independent Political Council. Once on the CCC he was selected chairman of the Standing Committee on Housing, later was chosen to head the ad hoc committee seeking clarifications of the CCC's role, and finally in 1969 was elected chairman of the CCC. Dr. Coles also has played an important role, especially in the early development of the Model Cities program. In addition to serving as head of the citizen advocacy group fighting I-40, he later undertook a major survey of the North Nashville area to study employment problems. This report ultimately was included in the Problem Analysis.

74. Three factors combined to create this impression: (1) the routing change did not have the benefit of extensive engineering studies; (2) the consultants apparently were able to come up with the northerly route in a very short period of time; and (3) there was a substantial difference in the amount of private property and in the percentage of black-owned property between the 2 rights-of-way. See generally Ford Thesis, *supra* note 65, at 33-39; Beyond the Ballot, *supra* note 65.

75. Beyond the Ballot, *supra* note 65.

76. Ford Thesis, *supra* note 65, at 47 (Mayor of Nashville); *id.* at 45 (Governor of Tennessee); *id.* at 47 (United States Department of Transportation).

77. After examining the Nashville situation, Yale Rabin, the citizens' consultant, recommended a fourth alternative route for I-40. He suggested placing the highway along the river, which would have been well away from all populated areas. *Id.* at 40. This route, however, had several disadvantages: (1) it would pass directly through a municipal golf course utilized primarily by the black community in Nashville; (2) it would pass through the Cumberland floodplain and would present extensive engineering drainage problems; and (3) it would not aid rapid intra-city transportation because of its distance from the downtown area. It is interesting to note that Rabin has had several other important contacts with North Nashville. In 1968, he was commissioned by the Middle Tennessee Business Association (MTBA) to do a land-use study of the black communities in Nashville for the MTBA Project, Operation Northtown. Rabin, Land Use and Urban Analysis of Afro-American Communities in Metropolitan Nashville, in Middle Tennessee Business Assn., Operation Northtown, Jan. 21, 1969. He also was retained by the NAACP Legal Defense Fund to assist in the preparation of suits to enjoin the Edgehill Urban Renewal Area and the Model

the Secretary of Transportation for a 90-day delay in the letting of bids, but despite widespread approval of this suggestion,⁷⁸ the Secretary refused to grant the delay. Having exhausted their limited administrative remedies, the Steering Committee retained a local black attorney⁷⁹ for a court challenge of the I-40 route.

C. *Nashville I-40 Steering Committee v. Ellington*

On October 26, 1967, suit was filed in the District Court for the Middle District of Tennessee, and a temporary restraining order was requested pending a determination on the merits.⁸⁰ The restraining order was not granted, but hearings were held immediately, on October 30 and November 1. The primary issues were the validity of the 1957 corridor hearing and the legality of the subsequent decision to route the highway through North Nashville. On the day following the hearings in federal court, an opinion was rendered which held that the 1957 corridor hearing, although a poor example of administrative procedure, was not legally inadequate. The decision went on to state that the crippling effect which the highway would have on the community was not enough to show the absence of consideration for the economy necessary to warrant an injunction.⁸¹ The Sixth Circuit Court of Appeals heard the appeal in December and affirmed the trial court decision.⁸² The Supreme Court put an end to the Steering Committee's court battle by refusing to hear the case.⁸³

Cities program. See Y. Rabin, Affidavit, Oct. 5, 1970; Transcript, vols. 1 & 2, NNCCC, Inc. v. Romney, *supra* note 43.

78. See *Beyond the Ballot*, *supra* note 65.

79. Avon Williams, a prominent attorney and politician in Nashville, is another of the figures who is present at almost every stage of the Model Cities program. After the I-40 fight he was involved in the CCC's struggle to obtain expert assistance, played a substantial part in the CCC's negotiations with the Mayor concerning the citizens' role, and was the citizens' attorney in their suit to enjoin the program.

80. See *Nashville I-40 Steering Committee v. Ellington*, 387 F.2d 179, 181 (6th Cir. 1967).

81. The \$10,000,000 that already had been spent on engineering studies and on acquisition must have had some effect on the decision as well. *Id.* at 184; see A. MOWBRAY, *supra* note 65, at 182.

82. 387 F.2d 179 (6th Cir. 1967). The trial court was reversed in one aspect of its holding. Judge Gray had dismissed Mayor Briley as a party defendant because the judge found that the Mayor had played no role in the decision-making process. The Sixth Circuit accepted this finding, but stated that the Mayor's position of power and influence justified requiring him to cooperate in the ultimate disposition of the case. *Id.* at 186.

83. 390 U.S. 921 (1968).

D. *Residue of the Highway Dispute*

The efforts of the I-40 Steering Committee were not totally wasted. As a result of the litigation and negotiations with many government officials, the citizens gained concessions that somewhat mitigated the disruptive effects of the highway. Among these were three additional underpasses, one pedestrian overpass, some design modifications of access ramps,⁸⁴ and replanning of two major feeder roads.⁸⁵ The most significant concession discussed was depressing the roadbed of the highway in the vicinity of Fisk, Meharry, and the disrupted black business district so that an air rights project, or deck, might be constructed over 1,000 feet of the interstate. The space thus created could have been vertically developed for commercial, recreational, educational, or governmental services purposes.⁸⁶ Despite extensive engineering studies⁸⁷ and support from the federal government,⁸⁸ the project has never been instituted, primarily because of disagreements over the extent of the design model⁸⁹ and a concern over the additional residential and business dislocation that would result from the deck and the accompanying

84. Ford Thesis, *supra* note 65, at 62-64. See also Memorandum from Donald Dodge, former desk officer for the Atlanta region, to Dep't of HUD staff, Feb. 19, 1968.

85. One significant victory for the citizens was the redesigning of the South Street connector, S19, which is a feeder street for the Interstate. After considerable negotiation with the I-40 Steering Committee, the Metropolitan Government agreed to modify the design of the road to reduce the residential displacement. See Memorandum from Deane Tucker to Earl Metzger, July 26, 1968; Memorandum from Deane Tucker to Earl Metzger, July 16, 1968. A similar result was reached on the design of 28th Avenue North. See Ford Thesis, *supra* note 65, at 64.

86. See generally Marcou, O'Leary & Associates, Interstate Highway 40 Air Rights Project, Nashville, Tennessee (1970).

87. See *id.* It is interesting to note that the original consultants for Interstate 40 recommended some form of air deck in the 1950's. See Beyond the Ballot, *supra* note 65.

88. See, e.g., Memorandum from Deane Tucker to Earl Metzger, May 8, 1968. See also materials cited note 84 *supra*; Memorandum from Deane Tucker to Earl Metzger, Feb. 19, 1968. Most of the federal support for the deck came from Lowell Bridwell, Federal Highway Administrator. Aside from making the suggestion of a deck, however, Bridwell did not see the highway planners as the implementers of this program. Instead, he put great stress on using the Model Cities program to do the coordination. All this was being recommended when the Model Cities program in Nashville was barely underway. See *id.*

89. In a preliminary report, Marcou, O'Leary presented 2 alternatives: one was a limited, one-level deck that would have been used primarily as a park with some business space; the other was a comprehensive approach utilizing several blocks around the deck itself for housing, business, recreation, medical, and university development. Marcou, O'Leary & Associates, *supra* note 86, at 20-21. The final report, drawing on citizen reaction that preferred the comprehensive approach's utilization scheme but disliked the displacement, recommended a Revised Development Approach with minimal additional relocation but with extensive vertical development. *Id.* at 23-24. None of these approaches, however, ever received the wholehearted support of all the people involved.

frontage roads.⁹⁰

Another reason for the failure of an air rights deck to materialize was that almost every agency involved, although acknowledging the desirability of a deck, felt no responsibility to coordinate the planning. The Tennessee Department of Highways and the U.S. Bureau of Public Roads were only involved with the possible physical construction of the deck,⁹¹ but the Department of Highways at least showed some concern over the lack of coordination in overall planning.⁹² The Federal Highway Administrator, on the other hand, did consider the deck to be basically his program, did make preliminary structural commitments,⁹³ and did authorize the necessary feasibility study,⁹⁴ but at the same time made it clear that he felt that responsibility for the deck lay with the Model Cities program.⁹⁵ Theoretically, this approach was sound but as a practical matter the City Demonstration Agency (CDA) in Nashville was ill-equipped to handle the extensive study and coordination necessary, and it consequently resisted efforts to assume complete administrative responsibility.⁹⁶

The CDA, despite its reluctance to handle the deck by itself, was cognizant of the disruption caused by the highway and of the need to mollify influential groups in the area. One such group was the Middle Tennessee Business Association (MTBA), which was composed of black businessmen from the MNA and which had become very concerned over the damage that was soon to be visited upon the black business com-

90. One of 4 requirements that the State Highway Department and the Bureau of Public Roads felt was necessary before the deck development could proceed was "[f]irm financial commitments of public resources for the air rights development." *Id.* at 22. At several meetings concerning the deck, the public commitment of funds was made contingent upon the creation of frontage roads in the area. Transcript, vol. 6, at 242, *NNCCC, Inc. v. Romney*, *supra* note 43 (testimony of Marion Fuson). The residents of the area were strongly opposed to this because it would be just one more reason to dislocate substantial numbers of MNA residents. *See id.*; *id.* at 247-51 (testimony of Edwin Mitchell).

91. *See generally* Marcou, O'Leary & Associates, *supra* note 86, at 7, 55.

92. *See* Memorandum from Deane Tucker to Earl Metzger, Mar. 14, 1968.

93. *See* Memorandum from Donald Dodge, former desk officer for the Atlanta region, to Dep't of HUD Staff, Feb. 19, 1968.

94. *See* Memorandum from Deane Tucker to Earl Metzger, May 8, 1968.

95. *See* Memorandum from Deane Tucker to Earl Metzger, Feb. 19, 1968. By August 1968 Lowell Bridwell, the highway administrator, had stopped referring to the CDA as the answer to all the problems and had begun accusing it of delay. *See* Memorandum from Deane Tucker to Earl Metzger, Aug. 1968.

96. *See* Memorandum from Deane Tucker to Earl Metzger, Mar. 14, 1968; Memorandum from Deane Tucker to Earl Metzger, Aug. 1968. In Washington HUD also expressed grave concern over the participation of City Demonstration Agencies in smoothing out the problems caused by highways in Model Neighborhood Areas. Memorandum from Donald Dodge, former desk officer for the Atlanta region, to Dep't of HUD staff, Feb. 19, 1968.

munity.⁹⁷ In an effort to obtain an assessment of the potential damage, the CDA met with this organization in March 1968 and agreed to give the MTBA a grant of just under 10,000 dollars to study the impact of I-40 on the business community.⁹⁸ After some initial delay in getting the contract approved,⁹⁹ the CDA and the MTBA, with the financial assistance of the Small Business Administration, contracted for an impact study costing approximately 30,000 dollars.¹⁰⁰ The final MTBA report, entitled "Operation Northtown," although not relied on extensively in the final planning, was included in the Problem Analysis submission to HUD.¹⁰¹

The North Nashville area also received one offer of assistance from the private sector in Nashville. Realizing the economic damage that had been suffered by the North Nashville business community, leaders of several Nashville financial institutions united to create a pool of capital from which black businessmen could borrow to overcome the losses incurred as a result of the highway. Ultimately one million dollars was set aside for this purpose, but, although a black group was supposed to generate the interest in the community, only one sizeable loan was ever made.¹⁰²

The effect that the interstate highway had on the MNA cannot be underestimated. Despite the concessions received, the highway still disrupted many businesses and residences, still split up many traditional neighborhoods, still dead-ended many streets, radically altering the traffic flow, and still remained as a constant source of nuisance to the area in the form of noise and exhaust emissions. The highway's presence

97. For a discussion of the role of the MTBA in the I-40 controversy, see Memorandum from Deane Tucker to Earl Metzger, Mar. 14, 1968; Memorandum from Deane Tucker to Earl Metzger, Apr. 1, 1968.

98. Memorandum from Deane Tucker to Earl Metzger, Mar. 14, 1968; Nashville Tennessean, Mar. 27, 1968, at 11, col. 1.

99. See Memorandum from Deane Tucker to Earl Metzger, Apr. 1, 1968.

100. See Memorandum from Deane Tucker to Earl Metzger, July 26, 1968; Memorandum from Deane Tucker to Earl Metzger, July 16, 1968.

101. For a summary of Project Operation Northtown see Appendix I *infra*.

102. Offers of financial assistance came from both a large insurance company in Nashville and a collection of local banks. Each of these offers generally referred to \$1,000,000 becoming available for special loans to North Nashville businessmen and each proposed to use the MTBA as the coordinating body. Despite this financial support, the only significant loan was obtained by an influential family in North Nashville to develop a large supermarket shopping center. Interestingly, one brother in this family was the president of the MTBA and another was the chairman of the MTBA's Operation Northtown study. See Nashville Tennessean, Apr. 15, 1969, at 36, col. 5; Nashville Banner, Mar. 4, 1969, at 1, col. 7; Nashville Tennessean, April 18, at 1, col. 7; *id.*, Apr. 13, 1968, at 1, col. 2; Nashville Banner, Mar. 28, 1968, at 16, col. 8; Nashville Tennessean, Mar. 26, 1968, at 1, col. 3.

served as a permanent reminder of the impact that a federal program can have on ordinary citizens. The highway also served indirectly as a threat of future residential displacement in the form of access roads and commercial development drawn to the area by the newly acquired access to interstate highway transportation. The entire episode taught the citizens at least two things: (1) that concerted action against a major project cannot wait until the final implementation stage and still have a reasonable chance for success¹⁰³ and (2) that the MNA residents have the ability to organize and work to provide meaningful citizen participation in projects affecting their community.¹⁰⁴

IV. INITIAL DEVELOPMENT OF THE PLANNING PROCESS

A. *Selection As a First Round Model City*

In November 1967, more than six months after the submission of the Planning Grant Application and only two weeks after the court test of I-40, the Secretary of HUD came to Nashville to announce formally the selection of Nashville as one of the first round model cities.¹⁰⁵ For

103. The North Nashville area recently has been the scene of another highway location dispute. Since 1958, a connection between state Route 12—U.S. Highway 41A—and an I-40 interchange in North Nashville had been planned. The highway was to run west through Buena Vista Park and connect with the Clarksville highway in the northwest corner of North Nashville. Like I-40, there had been a long delay before implementation, but as that day approached, the citizens became concerned over the status of the park and the surrounding residential neighborhoods. After a series of meetings and tours of the area, it became fairly clear that relocation of the highway would be accomplished, moving it north of major residential development in the MNA. *See generally* Letter from Bul Edens, Assistant Director for Highway Planning, to Edwin Mitchell, April 28, 1971; Letter from Edwin Mitchell to Paul Edens, June 4, 1971; Letter from Paul Edens to Edwin Mitchell, June 11, 1971; Letter from Ben L. Smith, Project Planning Section, Tennessee Department of Highways, to Edwin Mitchell, June 22, 1971. The stringent environmental protection requirements now in effect greatly aided the citizens' efforts. *See* Dep't of Highway, State of Tennessee, Environmental Impact Statement (draft Feb. 23, 1971) (for project U-021-1(4), State Route 12). It is also possible that planned private development in the floodplain area caused the highway to be located nearer to it. *See id.* at 17, 19. *See also* note 187 *infra*.

104. In addition to the benefit gained by proving to themselves that black citizens can work together, there were more tangible gains. First, the conflict caused a number of black leaders to become concerned with the future of their community. Doctors Edwin Mitchell, Ralph Hinas, and Flournoy Coles are excellent examples. Secondly, the struggle left as its residue a viable citizens' advocacy group with working contacts in the community that were potentially invaluable for the young Model Cities program. *See generally* Memorandum from Deane Tucker to Earl Metzger, May 8, 1968; Memorandum from Deane Tucker to Earl Metzger, July 26, 1968. It was clear, however, that the city resented the I-40 Steering Committee's efforts. *See* Letter from Flournoy Coles, Chairman of the I-40 Steering Committee, to Beverly Briley, Jan. 30, 1968.

105. There were 63 cities selected as first round cities in November 1967. Twelve subsequently were chosen for a first round total of 75. *See* Nashville Banner, Nov. 15, 1967, at 2, col.

Nashville, as for other cities, this did not mean that the application would be accepted *in toto*, but rather that HUD would work with the selected cities to modify their programs to achieve conformance with department guidelines. The most obvious alteration of the application was in the amount of the federal grant—182,000 dollars of federal funds as opposed to the requested 270,000 dollars.¹⁰⁶ The structure for meaningful citizen participation and a workable financial system were the two other major concerns.¹⁰⁷

As soon as the selection announcement was made, the Mayor appointed his Urban Renewal Coordinator to serve as Acting Director of the program in addition to his other duties.¹⁰⁸ Work began almost immediately in an effort to satisfy the HUD requirements. In a series of meetings in November and December between the Mayor, his Fiscal Administrative Assistant, the Metropolitan Finance Director, the Acting Director of Model Cities in Nashville, and federal agency representatives,¹⁰⁹ the exact problems were defined, and, at least in the area of citizen participation, a final organizational structure was evolved. To assure participation representative of all segments of the community, a broadly based citizen participation structure to be known as the Citizens Coordinating Committee (CCC) was proposed. This group was to have 75 members drawn from four separate categories: eleven members were to be appointed by the three universities in the Model Neighborhood Area; eleven members were to be appointed by the Mayor to represent the total Nashville community; twenty-three members were to be appointed by community organizations that had been selected in public

4. Secretary Robert Weaver's main purpose in coming to Nashville was to try to settle a dispute with the residents of a major urban renewal area.

106. *Id.*, Nov. 28, 1967, at 1, col. 4. Because of the reduced federal funds, Nashville's matching share was cut from about \$67,000 to approximately \$43,000. See note 58 *supra* and accompanying text. The failure to receive full funding was not unique to Nashville, but was indicative only of decreased federal appropriations. See, e.g., THREE CITIES STUDY, *supra* note 28, at 20, 43, 74. Nashville, like other cities, did become eligible for some additional planning funds part-way through the planning year. Nashville Tennessean, May 29, 1968, at 7, col. 3 (\$40,000 urban planning assistance grant supplemented with \$20,000 of local money). See also Memorandum from Frank R. Garban, Fiscal Management Analyst, HUD Atlanta Regional Office, to Earl Metzger, Oct. 29, 1968 (\$62,500 additional federal grant).

107. Interview with William Reinhart, in Nashville, Feb. 15, 1972. These 2 areas of concern were encountered in many other Model Cities programs. See generally THREE CITIES STUDY, *supra* note 28, at 20-21, 43, 74-75.

108. Nashville Tennessean, Nov. 17, 1968, at 1, col. 4. William Reinhart had been serving as the Mayor's Urban Renewal Coordinator since early 1967 and, in this position, was primarily responsible for the Planning Grant Application. See note 31 *supra*. Reinhart served in this dual capacity until his appointment as permanent Director in March 1968.

109. Nashville Banner, Nov. 28, 1967, at 1, col. 4.

meetings of Model Neighborhood Area residents; and thirty members were to be selected from the Model Neighborhood Area as grass-roots representatives. This basic structure, along with a promise for some small remuneration for participating citizens, was submitted to HUD in January for approval.¹¹⁰ Following a review of this organizational plan at a meeting with the Mayor on January 29, 1968, the Assistant Regional Administrator for Model Cities gave his general approval, but some specific questions remained unanswered.¹¹¹ The CCC was established in a role in which it would interact directly only with the CDA, an arrangement that could insulate the Mayor from direct citizen input and isolate the CCC from the real locus of decision-making power. There was also some concern about the ability of Nashville to select group representatives from MNA groups without alienating the excluded groups.¹¹² Except for these two points, however, the citizen participation structure was approved and, with a financial program that was at least sufficient to begin the planning year, the Metropolitan Government and HUD signed a contract for a one-year planning grant of 182,000 dollars on February 27, 1968.¹¹³

B. Staffing the City Demonstration Agency

Most of the day-to-day coordinating work in a Model Cities program is normally conducted by a City Demonstration Agency. The staff of a CDA is a group of full-time employees hired by the city but theoretically responsive to all parties in the planning process. As crucial as this coordinating role is in a program like Model Cities, it is surprising to note the absolute lack of urgency exhibited by the Mayor's office in filling vital positions and taking the steps necessary to begin planning. For example, there was no North Nashville office of the CDA until three weeks after the grant contract was signed,¹¹⁴ and a CDA Director

110. Nashville Tennessean, Jan. 19, 1968, at 1, col. 4.

111. See Letter from Beverly Briley to Earl Metzger, Feb. 5, 1968.

112. The primary concern on this point was that the selection of a few representatives from a large number of groups would cause many citizens to become immediately disgruntled with the program. The proposed solution was to utilize as much as possible existing federations of groups with common interests as constituencies for the group representatives.

113. Nashville Tennessean, Feb. 28, 1968, at 9, col. 6.

114. Nashville Banner, Mar. 21, 1968, at 37, col. 5. The HUD Washington office was aware of Mayor Briley's apparently dilatory attitude and could discover no satisfactory explanation for his inaction. See Memorandum from Stephen R. Barker to H. Ralph Taylor, Mar. 27, 1968. Other cities apparently did not suffer the extensive delays encountered by Nashville. Dayton, Ohio, for example, had its Director and Assistant Director appointed, its citizen participation structure selected, an office opened, and some staff hired by the time Nashville opened its office—with no director, staff, or citizen structure. See *THREE CITIES STUDY*, *supra* note 28, at 74-77.

was not named until one week after that.¹¹⁵ This loss of planning time could have been recouped if staffing had quickly accelerated, but the progress continued to be slow. One staff member, technically assigned from the Metropolitan Welfare Commission, was added to the general staff almost immediately,¹¹⁶ and a black planner from Tennessee State University was hired in early April to take charge of physical facilities planning.¹¹⁷ Shortly thereafter a fiscal man was added, followed by the first coordinator of citizen participation. The first strictly socio-economic planner was not hired until mid-July.¹¹⁸

Even after this staffing process had gathered some momentum, however, the CDA as a unit remained far from full operational efficiency for several reasons. The first factor causing this inefficiency centered on the personality of the CDA Director. Although he was a skilled and experienced planner, he had only limited administrative experience. For some four months prior to the hiring of any CDA staff, the Director had single-handedly administered the program, and as staff members were hired he apparently was hesitant to delegate his accustomed tasks.¹¹⁹ Although the staff generally accepted this diminished role, it was not conducive to the formation of an effective organization.¹²⁰ The second factor causing delay in beginning effective staff planning activity was the very practical one that, until the citizen participation structure was implemented, very little planning could or should take place.¹²¹

115. Nashville Tennessean, Mar. 27, 1968, at 11, col. 1. This schedule compares very unfavorably with both the Atlanta and Dayton timetables. *THREE CITIES STUDY*, *supra* note 28, at 24, 74; see Memorandum from Deane Tucker to Earl Metzger, Mar. 14, 1968. See generally Memorandum from Deane Tucker to Earl Metzger, July 26, 1968.

116. This staff member was Robert Meadows. Interview with Norman Moore, in Nashville, Feb. 22, 1972. Meadows' formal assignment on the CDA staff was uncertain, but he served as a general assistant to Reinhart in practice. Interview with Robert Meadows, in Nashville, Feb. 24, 1972; see Memorandum from Deane Tucker to Earl Metzger, Sept. 6, 1968.

117. Nashville Tennessean, Apr. 4, 1968, at 33, col. 1.

118. Interview with Norman Moore, in Nashville, Feb. 22, 1972. See also Memorandum from Deane Tucker to Earl Metzger, July 16, 1968.

119. "The administrative organization still orbits very closely around Director Reinhart. He exerts close control of all aspects of the program and, in fact, is the only one who has a clear idea of the long range picture." Memorandum from Deane Tucker to Earl Metzger, Sept. 6, 1968. See also Memorandum from Deane Tucker to Earl Metzger, July 16, 1968; Memorandum from Deane Tucker to Earl Metzger, Aug. 1968 (Reinhart's failure to submit reports "is probably because he has not delegated enough authority to enable anyone else to prepare these things").

120. Memorandum from Deane Tucker to Earl Metzger, Sept. 6, 1968.

121. Despite the repeated representations by the city that no planning would be done without citizen input (see note 60 *supra* and accompanying text), the CDA did move ahead and arrange for substantial consultant work to be done prior to the completion of the citizen structure. See notes 131-140 *infra* and accompanying text. The CDA was able to do this preliminary work without

Instead, the summer of 1968 was filled largely with ironing out problems in the financial operations and working toward the August political elections¹²² and with preparing for the long-overdue citizens elections.¹²³ A third factor that resulted in poor staff coordination was the addition of the local Concentrated Employment Program (CEP)¹²⁴ to the administrative responsibilities of the CDA office without the appointment of a separate director.¹²⁵ Consequently, the CDA Director, out of a sense of necessity or a desire to control yet another program, administered CEP as well as Model Cities. Moreover, because it was an "early impact" program, CEP required active attention.¹²⁶ The fourth factor that hindered the efficiency of the CDA staff was an inability to retain personnel in key positions. Within four months of the creation of the CDA staff, both the citizen participation director and the physical planner had resigned.¹²⁷ The final, and perhaps most important factor in the

a large staff because Reinhart insisted on doing most of it himself. Interview with Norman Moore, in Nashville, Feb. 22, 1972.

122. Interview with Norman Moore, in Nashville, Feb. 22, 1972.

123. See notes 146-149 *infra* and accompanying text.

124. The Concentrated Employment Program is an OEO-funded program that serves as a local packaging and delivery system for a wide variety of OEO and Department of Labor employment projects. In areas having a Model Cities program, the CEP "target area" must be identical with the MNA. Although the local Community Action Program agency is usually the prime sponsor for the CEP operation, the CDA has served as prime sponsor since the beginning of the CEP program in Nashville. With a total of approximately \$1,600,000 in federal funding per year, Nashville CEP is the only manpower development effort currently operating in North Nashville.

125. See Nashville Model Cities Agency, Bi-Monthly Planning Progress Report No. 1, at 2 (July 10, 1968). The position of CEP Director was not filled until December 1968 (Nashville Tennessean, Dec. 4, 1968, at 38, col. 3), and this prolonged vacancy was a constant source of irritation for HUD. See, e.g., Memorandum from Deane Tucker to Earl Metzger, Oct. 10, 1968.

126. The CEP, although administered through the CDA, was not a part of the Model Cities program per se. As a result, the planning and funding requests for CEP could proceed far ahead of the Model Cities work itself. For the progress of the CEP application see Nashville Banner, Apr. 14, 1968, at 7, col. 2; Nashville Tennessean, June 11, 1968, at 9, col. 2; *id.*, July 15, 1968, at 1, col. 3. For a discussion of the Nashville CEP program see Nashville Model Cities Agency, *supra* note 125, at 3-4. The application and organization of CEP not only occupied a great deal of Reinhart's time (see Memorandum from Deane Tucker to Earl Metzger, Sept. 6, 1968; Memorandum from Deane Tucker to Earl Metzger, Aug. 1968; Memorandum from Deane Tucker to Earl Metzger, July 26, 1968), but also required the efforts of the entire CDA staff (see Memorandum from Deane Tucker to Earl Metzger, July 16, 1968; Nashville Model Cities Agency, Work Program Status Report No. 1, at 2 (July 10, 1968)). The CEP project was not a total liability, however, because its large staff provided a pool that Reinhart could call upon for manpower assistance. See Memorandum from Deane Tucker to Earl Metzger, Sept. 6, 1968.

127. Both Cecil Cook, in charge of citizen participation, and Robert McClain, in charge of physical planning, left the CDA during the summer of 1968. It was the feeling of the HUD leadman that Cook was generally inadequate in his position and the lack of progress in that area does nothing to relieve that impression. See Memorandum from Deane Tucker to Earl Metzger, July

delay and inefficiency in staffing the CDA was the difficult relationship that the CDA had with the Mayor's office.¹²⁸ The Mayor's reluctance to allow adequate staffing of the CDA was only symptomatic of a continuing problem of hostility to the CDA's comprehensive planning role, which was perceived by the Mayor's assistants and, to a lesser degree, by other Metropolitan agencies as a threat to their traditional prerogatives.¹²⁹ The most serious aspect of this difficulty was the line of communication from the CDA Director to the Mayor. Although the Mayor's assistants tended to act as a buffer and clearing house for reports from the heads of various Metropolitan agencies, the CDA Director insisted that he should have a direct line of communication with the Mayor himself, free of any intermediate steps through the Mayor's office staff. It is not surprising that this adamant position was met with a significant amount of resistance on the part of the Mayor's assistants who were not amenable to any invasion of their supervisory prerogatives. By the end of the summer of 1968, however, the CDA Director had established himself as independent of the Mayor's staff and possessed of full administrative and staffing authority.¹³⁰

26, 1968. See also Memorandum from Henry Bankston to Earl Metzger, July 30, 1968. The failure to implement a viable citizen participation structure, however, cannot be blamed solely on the inefficiency of any one man. See notes 144 & 146 *infra* and accompanying text. McClain, the only black in the original CDA structure, was by all accounts a talented individual; he soon received far better job offers and finally accepted a job in Michigan. See Memorandum from Deane Tucker to Earl Metzger, Sept. 6, 1968; Interview with Norman Moore, in Nashville, Feb. 22, 1972; Interview with William Reinhart, in Nashville, Feb. 15, 1972.

128. The relationship of the CDA with the Mayor's office was usually discussed with reference to the personalities involved (see notes 129-30 *infra* and accompanying text), but there is some indication that this problem was mirrored in an uncertainty over the exact status of the CDA—department, direct arm of the Mayor's office, or independent agency—within Metropolitan Government. See Letter from Earl Metzger to William Reinhart, Nov. 29, 1968; Memorandum from Deane Tucker to Earl Metzger, Dec. 13, 1968.

129. Interview with William Reinhart, in Nashville, Feb. 15, 1972. The CDA office staff was a particularly sensitive issue because it could have developed into a self-contained planning and implementation unit that would not have been dependent upon other Metro agencies. The jealousy thus generated in these agencies, coupled with the financial capability of this relatively independent program to provide a large source of jobs, made it politically expedient for the Mayor to delay the full staffing of the CDA, especially with a city election approaching in August. This hesitancy to commit local resources to the CDA effort also surfaced in the search for a permanent office for the CDA in North Nashville. Following a summer of squabbling over which property should be acquired, the present office was opened in September 1968, after the local elections had been held. Interview with Norman Moore, in Nashville, Feb. 22, 1972; Nashville Tennessean, Sept. 5, 1968, at 22, col. 2; Memorandum from Deane Tucker to Earl Metzger, July 26, 1968.

130. Reinhart had previously worked on the Mayor's personal staff so he was no newcomer to the tactics of insulation that prevailed. Throughout the summer of 1968 he had attempted to clear his lines of communications with the Mayor, and to do so, had to go over the heads of some of Briley's top assistants—Robert Horton and Joel Mosely—and of Briley's influential personal

C. *Role of Consultants in Early Planning*

As is typical in most small and medium sized American cities, Nashville has frequently utilized the expertise of outside consultants in the development of complex planning and the organization of federal programs. The city made extensive use of such experts in early highway planning¹³¹ and in the development of several urban renewal projects.¹³² Perhaps the most ambitious study undertaken prior to Model Cities in Nashville was one conducted by Hammer and Company Associates on the economy of Nashville.¹³³ The impact on Model Cities planners of this report, which strongly urged a governmental offensive to broaden and strengthen the already diversified economy, cannot be ignored. In fact, in the summer of 1967, when a follow-up report on the Nashville Conference on Housing was written, the Hammer study was relied upon heavily in the assessment of the progress that the Nashville housing market had made and in the determination whether current housing efforts were consistent with the goals that Hammer had defined. The most important fact to note, however, is that this follow-up report was written by the man who was later appointed CDA Director.¹³⁴

With this history of consultant use, it was no surprise when, soon after his appointment, the CDA Director looked at his infant program and began to identify various areas in which outside assistance might be most beneficial. The resultant scheme embraced four components—physical environment, economic development, housing, and transportation—which were oriented directly or indirectly toward physical planning. It was the Director's belief that the questions involved in

secretary. Interview with William Reinhart, in Nashville, Feb. 15, 1972. Despite the fact that this problem apparently was resolved by early fall 1968 (see Memorandum from Deane Tucker to Earl Metzger, Sept. 6, 1968; Memorandum from Deane Tucker to Earl Metzger, July 16, 1968), some areas of Metro Government continued to press for restrictions on CDA development (see *id.*). It is significant to note that, although authority to staff the CDA had allegedly been granted to Reinhart by the Mayor (see, e.g., *id.*), the permanent CDA staff never totalled more than 4 during 1968. Reinhart apparently acquiesced in this miniscule staffing (see Nashville Model Cities Agency, *supra* note 125, at 7), even though he lost the key Assistant Director for Physical Planning in late August. See *id.*, at attachment #3; Memorandum from Deane Tucker to Earl Metzger, Sept. 6, 1968. For a comparison with the staff development in other Model Cities see ELEVEN CITIES STUDY, *supra* note 45, at 40-42.

131. See, e.g., notes 65-68 *supra* and accompanying text. See also Wilbur Smith & Associates, Nashville Metropolitan Area Transportation Study, vol. 1, Origin-Destination Survey and Major Route Plan (1961), abstracted in Metropolitan Planning Commission, Model City Survey Research Evaluation and Preliminary Data System Design 176-181 (1970).

132. Note 173 *infra* and accompanying text.

133. Hammer Study, *supra* note 37.

134. W. Reinhart, *supra* note 36.

these components were too complex for local agencies.¹³⁵ Consequently, in the summer of 1968, he negotiated a 68,000 dollar contract with Marcou, O'Leary and Associates to study the physical environment, housing, and economic development components.¹³⁶ An additional contract was soon let to Alan M. Voorhees and Associates for an examination of the transportation component.¹³⁷ These contracts were negotiated long before any formal citizen participation had been achieved.¹³⁸ The consultants were to report their findings by late in 1968.

Both of these contracts—Marcou, O'Leary and Voorhees—dealt with the physical planning track of the program. The other components were placed under the supervision of the Associate Director for Social and Economic Planning.¹³⁹ It was decided that this type of planning could be done locally without the aid of professional, non-Nashville consultants.¹⁴⁰

D. *Development of a Citizen Participation Structure*

The Model Cities program was conceived as a cooperative approach to the solution of urban problems and was intended to involve widespread citizen participation. In Nashville, an organization to satisfy this requirement was not formally created until well into the planning year. The planning grant application had involved no real citizen participation, and the period of time immediately before Nashville's selection as a first round city brought citizen participation only in the I-40 dispute. In the first few months after selection, the city was too concerned

135. Interview with William Reinhart, in Nashville, Feb. 15, 1972; see Memorandum from Deane Tucker to Earl Metzger, Aug. 1968.

136. Memorandum from Deane Tucker to Earl Metzger, Aug. 1968; Nashville Model Cities Agency, *supra* note 125, at 1. This is the same firm that did the engineering studies for the I-40 air rights deck. See note 87 *supra*.

137. Although the selection of Voorhees was apparently made in the early summer of 1968 (see Nashville Model Cities Agency, *supra* note 125, at 1), the report itself (see Alan M. Voorhees & Associates, *Transportation Accessibility in the Model Cities Area (1969)* [hereinafter cited as Voorhees Report]) indicates that there was no contract until October 1968 (*Id.* at viii, xv).

138. The citizens in North Nashville held meetings on August 28, 1968 to nominate local residents to serve as the grass-roots representatives to the CCC. At one of these meetings, more than one month before the CCC held its first meeting, it was announced that 2 outside consultants had been selected to study economic development, housing, and public transportation. Nashville Tennessean, Aug. 29, 1968, at 5, col. 4.

139. Norman Moore not only supervised the entire social program, he served as the chairman for each of these components and was personally responsible for their progress. See Nashville City Demonstration Agency, Work Program Status Report No. 3, attachments 1-4, 7-8 (Dec. 4, 1968). See also Memorandum from Deane Tucker to Earl Metzger, Feb. 12, 1969; Memorandum from Norman Moore to Members of the CCC, Mar. 1969.

140. Memorandum from Deane Tucker to Earl Metzger, July 26, 1968.

with ironing out the details of the grant to worry about involving citizens. Nevertheless, one of the “wrinkles” that needed attention during the spring of 1968 was the citizen participation structure. By February of 1968 HUD had approved generally the 75-member Citizens Coordinating Committee proposed by Nashville. Despite this approved structure and prodding by the HUD Regional Office’s leadman for Nashville, there was no effort to contact citizens about the CCC until after the grant contract had been signed.¹⁴¹ Then, in a series of open meetings in the MNA during March and April, 1968,¹⁴² the 23 representatives of the community organizations in North Nashville were selected by allocating a membership quota to each of several different kinds of clubs.¹⁴³

With this first step taken toward establishing the CCC, it appeared that full membership would soon be achieved. Instead, four forces intervened. The first was the discontent that lingered in the community as a result of the I-40 controversy.¹⁴⁴ This general feeling was exacerbated by the assassination of the Reverend Martin Luther King, which effectively precluded any immediate attempt to establish citizen cooperation in North Nashville. By the time relationships returned to near normal, the CDA staff member in charge of citizen participation had resigned. His departure was not viewed as the loss of an invaluable individual, but it did leave the CDA with an important position vacant at a crucial time in the development of the CCC.¹⁴⁵ The final factor that delayed the filling of CCC positions was the refusal of the Mayor to allow the final selection process to coincide with the summer primary elections. Consequently, CDA staff personnel had to suspend work on the CCC elections in order to avoid confusion between the two elections.¹⁴⁶

141. Both the leadman and Reinhart apparently were concerned about the delays in implementing the citizen participation structure. The Mayor’s office seemed to be the source of the delay. See Memorandum from Deane Tucker to Earl Metzger, Mar. 14, 1968.

142. See Nashville Tennessean, Apr. 22, 1968, at 17, col. 3; *id.* Apr. 14, 1968, at 97, col. 2; Nashville Banner, Mar. 30, 1968, at 6, col. 5; Nashville Tennessean, Mar. 28, 1968, at 67, col. 5; *id.*, Mar. 21, 1968, at 6, col. 3. Some groundwork had been laid earlier when 2 citizens—Dr. Edwin Mitchell and Mrs. C.E. McGruder—were invited to attend a 4-day meeting in Atlanta with HUD officials and local government personnel from the Southeast. See Nashville Banner, Mar. 6, 1968, at 1, col. 1.

143. The task of apportioning the 23 representative positions among the numerous MNA groups could have been troublesome but it was accomplished without visible antagonism; 8 were allocated to religious organizations, 3 to business, one to labor, 2 to political groups, 4 to civic clubs, 4 to social organizations, and one to a youth group. Nashville Banner, Apr. 23, 1968, at 14, col. 1.

144. See D. Tucker, Report—Nashville Tennessee, Feb. 1968, attached to Memorandum from Donald Dodge, former desk officer for the Atlanta region, to H. Ralph Taylor, Feb. 8, 1969.

145. See note 127 *supra* and accompanying text.

146. Interview with Norman Moore, in Nashville, Feb. 22, 1972.

During this delay, two significant modifications were made in the procedures to be used in selecting grass-roots representatives. As a result of citizen pressure, the grass-roots representatives were to be elected by the MNA residents themselves and not selected through a canvass conducted by city personnel.¹⁴⁷ Further, the five MNA councilmanic districts were to serve as the foundation of the grass-roots representation.¹⁴⁸ This was intended to ensure the support of councilmen themselves and make possible the use of familiar voting places and districts. The election procedure involved an organizational meeting in each district, a nominating meeting two weeks later, and an election ten days thereafter, on September 7, 1968.¹⁴⁹ A relatively healthy turnout was received and the 30 grass-roots representatives joined the organized group representatives and the institutional representatives, who had been selected by the three universities in the MNA. The final obstacle to full CCC membership should have been the easiest to overcome: the appointment by the Mayor of the eleven representatives of the total community. These members from the community-at-large were not appointed, however, until October 1, more than seven months after the grant and almost one month after the rest of the CCC had been selected.¹⁵⁰

As soon as the last appointments were made, the CCC began to organize to fulfill its planning role. The chairmanship went to a grass-roots representative who was the minister at one of the North Nashville churches.¹⁵¹ With the assistance of the CDA Director,¹⁵² the CCC structured itself by establishing standing committees corresponding to the

147. The initial plan for selecting the grass-roots representatives was to use a questionnaire survey of the MNA in an attempt to discover who the perceived leaders were. The process was viewed with suspicion by the citizens, and the CDA finally modified the selection process to allow for direct nomination and election by adult MNA residents. See Nashville Model Cities Agency, *supra* note 125, at 2, 6; Memorandum from Deane Tucker to Earl Metzger, Aug. 1968; Memorandum from Deane Tucker to Earl Metzger, July 26, 1968.

148. Nashville Model Cities Agency, *supra* note 125, at 6. This move had definite merit because it would encourage the local councilmen to become involved in a program that would vitally affect their districts. Because an unwritten role of "councilmanic courtesy" governs many localized issues in the Metropolitan Council, the change could also have served to facilitate the ultimate passage of the program by enlisting the early support of the MNA councilmen. These councilmen, however, generally have not been too active in the Model Cities program.

149. Mass meetings were held in each of the 5 districts of the MNA on August 15, 1968 to acquaint residents with the election process. Nominations were received at meetings on August 28, 1968, and the 30 positions were filled on September 7, 1968. See W. Reinhart, Model Cities Elections—Voting Regulations, Aug. 1968; Nashville Banner, Aug. 10, 1968, at 3, col. 4.

150. Nashville Tennessean, Oct. 2, 1968, at 1, col. 1.

151. CCC, Minutes of Regular Meeting, Oct. 10, 1968, at 2.

152. Reinhart helped the citizens through the initial organizational difficulties by using his staff to prepare such things as agenda and minutes for the first meetings.

components planned for the final submission and by creating an executive committee composed of the CCC officers and the chairman of each Standing Committee. Coincident with this citizen activity, the city was organizing agency representatives, city staff, and local technicians into groups to work in the various component areas.¹⁵³ What remained seemed to be a simple job of matching the appropriate citizen committee with the proper city group and starting these Task Forces, seven months late, on the job of planning Nashville's Comprehensive City Demonstration Plan.

V. EVOLUTION OF PROJECT PLANNING

Even though some of the joint city-citizen component task forces had their initial meetings in early October,¹⁵⁴ it took the citizens another month to work out the exact membership of each standing committee and to designate the representatives from each committee to the corresponding joint Task Force.¹⁵⁵ In other words, very little meaningful discussion for the problem analysis had taken place by mid-November 1968. Nevertheless, on November 14, 1968, the CDA Director suggested to the Executive Committee of the CCC that the planning process be expedited and that, instead of aiming for the April 1, 1969 deadline, they work toward a January 1969 completion date.¹⁵⁶ His reason for suggesting the acceleration in planning effort was that, if Nashville met this earlier deadline, it would receive a 75 percent increase in the level of its first-year funding.¹⁵⁷ This recommendation and the CCC's ap-

153. See, e.g., *Nashville Tennessean*, Oct. 10, 1968, at 34, col. 1.

154. See *Nashville City Demonstration Agency*, *supra* note 139, attachments 1-9. There was no actual physical environment component at this time.

155. CCC, Minutes of Regular Meeting, Nov. 21, 1968, at 2; CCC, Minutes of Executive Committee Meeting, Nov. 14, 1968, at 1. Part of the cause for this delay was the citizens' rejection of Reinhart's suggestion that each task force have only 2 citizen representatives. Instead, the CCC voted to place 8 representatives on each task force in an attempt to ensure that their voice would be heard. See *Nashville Tennessean*, Oct. 11, 1968, at 16, col. 3; *id.*, Oct. 4, 1968, at 21, col. 1. Ultimately, the citizens agreed to have only 2 representatives per task force, with any other interested citizens invited to attend the meetings, but this agreement was arrived at only after 6 weeks of discussion.

156. CCC, Minutes of Executive Committee Meeting, Nov. 14, 1968, at 2.

157. *Id.* Although some cities did meet an earlier deadline and consequently received additional first year funds, most cities, including Nashville, were told exactly how much money they were planning for (and ultimately did get). Some of the cities that received extra first year money, however, had their second year budgets slashed. Dick Battle, a Nashville newspaperman who had followed the Model Cities program closely, criticized the new January 1, 1969 deadline as an effort by the Democrats in Washington to get the money spent before they left office; he felt that it could only hurt the planning effort. *Nashville Banner*, Nov. 25, 1968, at 1, col. 1.

proval of it,¹⁵⁸ was made in the face of knowledge that much of the information needed for planning would not even be available until December 1968.¹⁵⁹ Despite this apparently optimistic, or seemingly naive action,¹⁶⁰ there was some progress in the identification and evaluation of some of Nashville's problems. In order to appreciate this progress, however, it is again necessary to realize that the program evolved into two different tracks: the socio-economic components and the physical components.¹⁶¹

A. Socio-Economic Planning

The socio-economic components—health, recreation, education, employment, social services, and crime reduction—never had the benefit—or liability—of outside consultants. Instead, it was felt that local experts and agency representatives would possess knowledge of these topics sufficient to identify the problem areas and to suggest projects for their solution.¹⁶² The Health Component Task Force¹⁶³ may be typical of the success that this approach enjoyed in the development of the Problem Analysis.¹⁶⁴ As a complete task force it had seven meet-

158. CCC, Minutes of Regular Meeting, Nov. 21, 1968, at 1. Approval followed a report by the Planning Committee of the CCC recommending the speed-up in planning. CCC, Report of the Planning Committee, Nov. 18, 1968.

159. CCC, Minutes of Regular Meeting, Nov. 21, 1968, at 1.

160. Perhaps a more plausible explanation of Reinhart's motives would be that he was trying to stimulate the CCC to prompt action after the long delay in membership selection and committee appointment.

161. This division of planning work was highly visible in the CDA's reports to HUD. *See, e.g.*, Nashville City Demonstration Agency, *supra* note 139, at 2.

162. One of the major questions that developed later in the program was whether outside consultants had been relied on too heavily. In the early stages, however, there was at least some doubt concerning whether consultants were being under-utilized, presumably in relation to the social components. *See* Memorandum from Deane Tucker to Earl Metzger, Dec. 11, 1968.

163. The Health Task Force consisted of representatives of the Citizens Standing Committee on Health and agency representatives from the Tennessee Department of Public Health, the Tennessee Department of Mental Health, Meharry Medical College, Meharry Neighborhood Health Center, the Metropolitan Health Department, the Council of Community Agencies, and the Model Cities staff. Metropolitan Government of Nashville & Davidson County, Problem Analysis, Health Component, at 1 (1969) [hereinafter cited as Problem Analysis].

164. Although the Health Task Force may have been typical of the success of this overall planning approach, it was somewhat atypical in that it had a large amount of preexisting data to draw upon for the Problem Analysis. *See, e.g.*, Nashville Metropolitan Planning Commission, Model City Survey Research Evaluation and Preliminary Data System Design 56-77 (1970) (3 relevant reports are included: (1) Mercer & Newbrough, The North Nashville Health Study: Research into the Culture of the Deprived (1967); (2) Hines, the Health Status of Negroes in a Mid-Southern Urban Community; pts. I-II (1967); (3) Meharry Medical College, Community Mental Health Center (1968) (application for staffing grant)).

ings,¹⁶⁵ at which the residents discussed the problems of health care delivery from the residents' point of view. The CCC's Health Standing Committee also met on its own in attempts to define more precisely the priorities that should be set for the MNA.¹⁶⁶ When the ideas had been presented as carefully as possible, the joint city-citizen Task Force tried to draft its section of the Problem Analysis as a committee of the whole. This proved to be unwieldy, and as a result, the Mayor appointed a four-man Technical Task Force from the larger joint city-citizen Task Force in early 1969 to write the first draft of the health portion of the Problem Analysis.¹⁶⁷ After this draft was reviewed and revised by the full joint Task Force, the component was approved in March 1969 for inclusion in the Problem Analysis.¹⁶⁸ The other five socio-economic components developed in the same basic way: early discussion between the citizen group's standing committees and concerned agency personnel as a joint task force, drafting and revision by a smaller technical task force, and final approval by the full joint task force. The task forces did vary considerably, however, in the availability of raw data with which to work. The recreation task force, for example, had an excellent study of the recreational space that different parts of the county would need by 1980,¹⁶⁹ and also had a recent inventory of physical facilities in the MNA.¹⁷⁰ The Employment task force had a 1968 survey done by the Concentrated Employment Program,¹⁷¹ and the social services task force felt the need to run its own survey of community needs. These six task forces all made serious attempts to involve citizens, but there were practical differences in the extent to which the citizens could provide meaningful input for the technical task forces.¹⁷²

165. Problem Analysis, *supra* note 163, Health Component, at 1.

166. See, e.g., CCC, Minutes of Regular Meeting, Dec. 19, 1968, at 1. Other standing committees did not meet as frequently. *Id.*

167. The members of this Technical Task Force were Thomas W. Hunter, Administrative Assistant in the Metropolitan Health Department; Abbie Watson, Director of Nursing for the Metropolitan Health Department; Billy Tolbert, Administrator of the Metropolitan General Hospital; and Dr. Ralph Hines, Vice President of Meharry Medical College and an influential member of the CCC.

168. Memorandum from Norman Moore to Members of the Citizens Coordinating Committee, Mar. 1969.

169. Nashville Metropolitan Planning Commission, Recreation Space—1980 (1965).

170. Nashville Metropolitan Planning Commission, Model City Area Community Facilities Inventory (1968) (staff memorandum).

171. The survey, ultimately included in the appendix of the Problem Analysis, was conducted and compiled by Dr. Flournoy Coles.

172. In one component, for example, Crime Reduction, the joint task force held a series of meetings but had not made any real progress on problem identification and analysis. Consequently, when its Technical Task Force was created, the bulk of the work on the Problem Analysis, in

In general, the development of the Problem Analysis in the six socio-economic components was a reasonably successful implementation of the Model Cities concept. The CDA coordinated the efforts of local planners, agency representatives, and MNA residents, and, in the effective elapsed time of five months, completed a significant portion of the Problem Analysis. As a result, by April 1969 the citizens were ready to move into the program planning stage in each of the social components. Although the citizen standing committees for each of the six components differed in the degree of their continued interest and effectiveness in completing the basic planning, lines of communication between the citizens and the city still existed and could have been used. A comparison with the citizens' efforts in physical planning makes the social component work more noteworthy and also provides the background for the subsequent break in meaningful citizen participation.

B. Physical Planning

Physical planning for the MNA raised the spectre of one of the greatest concerns of North Nashville blacks—urban renewal. Since the middle 1950's, the Nashville metropolitan area had been the recipient of a substantial quantity of urban renewal development. Because an area must be dilapidated before urban renewal funds can be used to redevelop it, and because the city's black population is localized and predominantly poor, it hardly is surprising to discover that most of the projects have centered on black neighborhoods which surround the downtown, inner city area. The reaction of the black community to urban renewal, consequently, is both personalized and extensive.¹⁷³ The primary ingredient of that reaction is fear. The foundation of this fear is the cumulative impact of the massive physical displacement experienced by black

addition to the basic writing function, was left for it to do. Interview with Robert T. Knupp, former member of the Crime Reduction Technical Task Force, in Nashville, Feb. 12, 1972.

173. The Nashville area, especially in black residential communities, has undergone substantial urban renewal development. This began in the middle 1950's with one of the first projects in the country. The development—Capitol Hill—totally cleared a black residential and business area and converted it into an attractive white commercial section surrounding the state capitol building. Later projects—especially East Nashville and Edgehill—were planned by the same consultant but were developed with a different overall plan and focused primarily on the provision of decent rehousing, with an emphasis on public housing. This residential emphasis was not, however, completely acceptable to local residents and drew fire from citizen groups who were concerned about: (1) the destruction of black housing and supporting commercial establishments without adequate relocation; (2) the concentration of black families caused by the public housing; and (3) an absence of new commercial development to provide necessary services for the residents of the projects. See Transcript, vol. 6, at 200-09, NNCCC, Inc. v. Romney, *supra* note 43 (testimony of Mansfield Douglas, Metropolitan Councilman for the Edgehill Urban Renewal Area).

neighborhoods in the urban renewal process. This fear of physical displacement is compounded by a pervasive feeling that government is either unable or unwilling to provide adequate relocation assistance for the persons displaced. When these two factors are added together, urban renewal is frequently perceived to be destructive—especially of black neighborhoods—rather than constructive. The urban renewal process is viewed as destroying the institutional heart of the affected neighborhood—schools, churches, residential centers, small neighborhood business and commercial districts—and substituting barracks-style public housing or, even worse, large-scale commercial and industrial development. The basic hostilities generated over individual urban renewal projects are intensified by the feeling of many black leaders that the overall renewal program results in the displacement of poor blacks from one renewal area only to begin the process of deterioration and redevelopment in another.¹⁷⁴

The acute awareness of urban renewal helped make the developments in the physical components—economic development, housing, transportation, and physical environment—sharply contrast with the relatively successful local planning accomplished in the social components. The physical task forces, however, began the planning process in October 1968 in much the same way as did their social services counterparts, with several organizational meetings to discuss the broad parameters of each group's intended future study.¹⁷⁵ This similarity was short-lived, as it soon became apparent to them that their roles did not perfectly parallel those of the other six task forces.¹⁷⁶ In fact, the serious activity of the physical component task forces was not going to begin

174. In addition to the fear that city planners are "chasing" black residents from neighborhood to neighborhood, there is a belief that, within a neighborhood, certain forces are employed by the city to assure its eventual selection as an urban renewal area. The best description of this process was given by Edwin Mitchell in a tape recorded lecture to a Vanderbilt University urban affairs seminar in April 1971. In order to qualify for urban renewal, an area must have more than 50% dilapidated structures. According to Dr. Mitchell, this can be accomplished in 4 stages. First, codes enforcement is withdrawn from an area, which allows substandard conditions to remain and proliferate. Secondly, capital improvements are suspended by the city—or at least decreased markedly—making the area deficient in municipal service and less attractive as a residential neighborhood. Thirdly, the private sector pulls out its assistance from the bad neighborhood that is developing. Finally, those few middle- and upper-income blacks who are residents make "voluntary" decisions to leave the unattractive area that was once a respectable neighborhood, thus leaving the community powerless and voiceless.

175. See Nashville City Demonstration Agency, *supra* note 139, attachments 5, 6, 9.

176. One of the consultants realized this difference and made a statement that was highly appropriate to the Nashville situation. "Technical recommendations, no matter how expertly conceived, have little value unless they are understood and desired by the people for whom they are intended." Voorhees Report, *supra* note 137, at 9.

until the consultants, hired the previous summer, had made preliminary reports, which initially were expected on November 1, 1968.¹⁷⁷ Finally, in mid-December, ten weeks after the joint task forces had been formed and almost ten months after the grant agreement for the planning year had been signed, the consultants' reports were received.¹⁷⁸ The report of Alan Voorhees and Associates was fairly routine and raised little concern.¹⁷⁹ The Marcou, O'Leary report on housing, economic development, and physical environment, however, deliberately raised fundamental land use policy questions, and it quickly became the focus of intense citizen concern.¹⁸⁰

On December 18, 1968, a representative of Marcou, O'Leary met with citizens from the Economic Development, Housing, and Physical Environment Standing Committees and the Executive Committee of the CCC to present the firm's initial report.¹⁸¹ The citizens had been given little advance notice of the type of work that this firm was doing, and at least two factors must have misled them. First, the other components at this time were still involved with basic data collection and problem analysis and, as far as the citizens knew, this had not yet been done in the physical components. Secondly, the only contact that these citizens had had with Model Cities planning was limited to the MPC data surveys and inventories, and they reasonably could have been expecting basic statistical compilations of the type the MPC had already prepared. What they saw and heard, however, was far more comprehensive. When contracting with Marcou, O'Leary, the CDA director had stressed the need for an extremely broad examination of current land use patterns in North Nashville and the future land use trends—especially those resulting from I-40—as a prerequisite for any physical planning. Consequently, the presentation went beyond mere statistics into analysis of different fundamental approaches to land use that could be employed in redeveloping the MNA. Marcou had prepared three internally consistent redevelopment planning alternatives that called for concentrated

177. Nashville Tennessean, Aug. 29, 1968, at 5, col. 4.

178. CCC, Minutes of Executive Committee Meeting, Dec. 6, 1968, at 3.

179. The Voorhees Report suggested only 3 projects: (1) crosstown bus service; (2) a dial-a-bus system—centrally dispatched small buses for door-to-door service; and (3) a bus route information program. The only reaction to the report came from the black-owned taxi industry, but the delay and ultimate failure to implement any of the 3 projects quieted even that criticism.

180. Memorandum from Marcou, O'Leary & Associates to William Reinhart, Dec. 26, 1968; Marcou, O'Leary & Associates, Nashville Model Neighborhood Area—Alternatives for Housing and Industrial Development (1969) [hereinafter cited as Marcou, O'Leary Report].

181. Transcript, vol. III at 260, NNCCC, Inc. v. Romney, *supra* note 43 (testimony of Edwin Mitchell); *id.*, vol. V, at 618-19, (testimony of Mary Walker).

employment (a euphemism for concentrated industrial development),¹⁸² maximum housing,¹⁸³ or a blend of the two.¹⁸⁴ The immediate citizen reaction was confusion coupled with defensiveness. The large planning maps that had been prepared by the consultants made at least three points painfully clear: First, a substantial amount of urban renewal was

182. The main goal of the concentrated employment approach, quite obviously, was to "maximize employment opportunities in MNA." This was to be accomplished by utilizing all vacant land for industrial use and by clearing some housing for industrial use. At the same time new housing would be limited, dilapidated housing would be cleared, and deteriorated housing would be rehabilitated. The projected land use would be:

NUMBER OF ACRES

	<u>1968</u>	<u>1985</u>
Residential	1460	1535
Industrial	360	935
Trade	220	475
Other*	1030	1210
Undeveloped	1200	80
Streets and ROW**	<u>1130</u>	<u>1165</u>
TOTAL	5400	5400

*Includes services, cultural, recreation, and entertainment activities.

**Rights-of-way.

Memorandum from Marcou, O'Leary & Associates to William Reinhart, Dec. 26, 1968, at 2-4.

183. The maximum housing approach would meet its objective by utilizing vacant land for housing and by minimizing all forms of residential housing clearance. Industrial development would not be ignored, but would be allocated space only after residential development. Dilapidated and deteriorated housing would be handled in the same way as in the concentrated employment approach. Note 182 *supra*. One key aspect of this approach was the planned rehousing within the MNA of all displaced MNA families. The projected land use would be:

NUMBER OF ACRES

	<u>1968</u>	<u>1985</u>
Residential	1460	1890
Industrial	360	500
Trade	220	500
Other*	1030	1480
Undeveloped	1200	80
Streets and ROW**	<u>1130</u>	<u>1160</u>
TOTAL	5400	5400

*Includes services, cultural, recreation, and entertainment activities.

**Rights-of-way.

Memorandum from Marcou, O'Leary & Associates to William Reinhart, Dec. 26, 1968, 0/062 at 4-6.

184. The blended housing and employment approach essentially tried to find a middle ground between the 2 extremes. It attempted to avoid unnecessary residential clearance, but did divide the new development between industry and housing. The projected land use would be:

planned for the MNA;¹⁸⁵ secondly, this renewal would involve large-scale residential clearance regardless of which of the three planning alternatives was chosen;¹⁸⁶ thirdly, the large vacant floodplain of the Cumberland River¹⁸⁷—located in the northern one-third of the MNA—would be used extensively for the development of replacement

NUMBER OF ACRES

	1968	1985
Residential	1460	1705
Industrial	360	720
Trade	220	400
Other*	1030	1320
Undeveloped	1200	95
Streets & ROW**	1130	1160
TOTAL	5400	5400

*Includes services, cultural, recreation and entertainment activities.

**Rights-of-way.

Memorandum from Marcou, O'Leary & Associates to William Reinhart, Dec. 26, 1968, at 5-6.

185. See, e.g., Marcou, O'Leary Report, *supra* note 180, at 46-47, 51.

186. Between 1968 and 1985 all 3 approaches had extensive projected residential clearance; the reasons for the clearance, however, varied.

HOUSING CLEARANCE IN MNA 1968-1985 (in dwelling units)

	INDUSTRIAL APPROACH	HOUSING APPROACH	BLENDED APPROACH
Dilapidated	2,300	2,300	2,300
For Project Objectives*	467	525	496
For Road Projects	186	186	186
For Industrial Corridor	385	385	385
For Industrial Expansion	1,161	0	581
TOTAL UNITS CLEARED	4,499	3,396	3,948

*Calculated at 5% of remaining housing after all other clearance. Marcou, O'Leary Report, *supra* note 180, Appendix Table 16.

187. When the possible corridors for I-40 were being considered, a route through the floodplain was rejected because the ground was not safe for extensive development. See note 77 *supra*. Less than a year later, however, Marcou, O'Leary felt so confident that new dams had eliminated the possibility of frequent flooding that they recommended using the entire floodplain for new development—residential and/or industrial. Marcou, O'Leary Report, *supra* note 180, at 38-39, 47. After the publication of these Model Cities studies, however, one large private developer acquired ownership of all the land in the floodplain and announced an extensive balanced community development there. Nashville Tennessean, May 16, 1971, at 1, col. 7. There have been indications recently, however, that the residential portion of the plan has been reduced. This flip-flop of expert opinion on the usefulness of the floodplain has been especially difficult for the citizens to understand. Many of the current community leaders in the MNA were active in the I-40 dispute and remember the short shrift given the recommendation of their planner that the floodplain be used for the interstate right-of-way.

housing.¹⁸⁸ Because the report of Marcou, O'Leary had not only compiled data, but had analyzed it and proposed detailed program approaches, the citizens group representatives felt that their statutory right of widespread citizen participation had been usurped. Although the three planning alternatives developed by Marcou, O'Leary had been intended to facilitate the citizens' involvement in the policy decisions on how the MNA should develop, the members of the CCC felt they were being stampeded into approving a large-scale urban renewal project that would destroy the residential character of the MNA.¹⁸⁹ The sophistication and detail of the consultant's presentation intimidated the citizens. On the one hand, the CCC felt that it lacked the technical expertise needed to comprehend the full significance of the alternative plans being urged upon them. On the other hand, the CCC realized that without expert technical assistance its membership could not begin to prepare a viable substitute program to replace the detailed plans of Marcou, O'Leary. For more than a month the citizens puzzled over what position the CCC should take on the physical development alternatives. The Marcou, O'Leary staff, however, apprised of the deadlines that the CDA was under, did not cease their activities in the face of the residents' lack of action, but completed the work on the physical components section of the problem analysis¹⁹⁰ and proceeded on to actual program planning. In late January 1969, the full CCC finally faced the issue of selecting one of the three Marcou, O'Leary alternatives.¹⁹¹ Instead of selecting one of the options, however, the CCC voted to have its Executive Committee select a black consultant to explain the plan to them.¹⁹²

188. Both the maximum housing approach and the blended approach utilized significant portions of the floodplain for relocation housing. The concentrated employment approach increased the citizens' concern for housing because it provided for very little replacement housing of any kind.

189. Despite statements in the Marcou, O'Leary Report that none of the 3 alternatives was a "straw man" (see Marcou, O'Leary Report, *supra* note 180, at 59) and that the suggested approaches were merely 3 possible points on a continuum from all housing to all industrial (see Memorandum from Marcou, O'Leary & Associates to William Reinhart, Dec. 26, 1968, at 2), it was soon clear that the blended approach was the city's choice. See, e.g., Problem Analysis, *supra* note 163, Program Strategy Under the Blended Housing-Employment Approach; Letter from John Van Ness, Planning Supervisor, Nashville Housing Authority, to Mary Walker, Chairman of the Citizens Standing Committee on Housing and Relocation, Nov. 18, 1969. It is conceivable that, if the citizens had reacted promptly, they could have modified the approach, but they in fact made no progress in this direction.

190. The Problem Analysis for the 4 physical components consists totally of materials that were prepared by Marcou, O'Leary. Because they had not contacted citizens before December 18, 1968, and because after that the relationship developed with growing antagonism, this portion of the Problem Analysis did not have any citizen participation.

191. Memorandum from Deane Tucker to Earl Metzger, Feb. 12, 1969.

192. CCC, Minutes of Regular Meeting, Jan. 24, 1969.

C. *Planning Without the Citizens*

By early February 1969, a two-fold pattern had begun to emerge that tended to maximize the differences between the city and the citizens group. While the city officials had begun to intensify their efforts to meet the impending April 1 submission deadline for the CCDP, the citizens had become increasingly reluctant to participate at all without the benefit of expert technical assistance. Had there been more time available to the city, these differences might have been resolved. The Mayor, however, felt he could not halt the planning process for the period of time necessary to quiet the CCC's apprehension. Consequently, the Mayor ordered the various departments to proceed with the preparation of projects without awaiting citizen involvement.¹⁹³

The best description of this planning process by the city departments is found in a letter from the Nashville Housing Authority Planning Supervisor to the chairman of the citizens' Standing Committee on Housing and Relocation. This letter describes the work of the Housing Technical Task Force in its preparation of the projects that would constitute the Housing Component of the CCDP:

Last spring, the five of us [the members of the Housing Technical Task Force] were requested to serve as an ad hoc committee to prepare a draft of the Housing Component. Although we worked for various agencies of the Metro government, namely, the Housing Authority, Metro Codes Administration and the Office of the Mayor, we were not to serve as representatives of these agencies nor were we to seek the approval of these agencies or of your Committee—that was to be done by the CDA staff. Rather, we were asked to devise programs in response to the various objectives that had been developed by the CDA staff as they related to improved housing. These objectives related to the "Blended Approach" for neighborhood development [the Marcou, O'Leary alternative favored by the city].

Within a three week period of time, we suggested the various major activities to meet these objectives, estimated the degree of activity and attempted to estimate the cost of the programs. It was our understanding that these programs were then to have been presented to the Citizens Housing Committee by the CDA staff for their review and for whatever action was desired. The CDA staff was then to put the application for funds together for submission to the Metropolitan Council.¹⁹⁴

Although the planning process varied somewhat in detail from component to component, the basic planning pattern was the same as that described for the Housing Component: detailed project planning by a technical task force of agency personnel for the implementation of goals and objectives prepared by the CDA staff. Citizen participation was to be obtained by the CDA office only after it received the completed draft component from the task force. The strategy of the city was

193. See Nashville Banner, Feb. 7, 1969, at 2, col. 1.

194. Letter from John Van Ness to Mary Walker, Nov. 18, 1969.

thus aimed at completing the CCDP as quickly as possible, and obtaining whatever citizen participation might be possible once a draft plan was ready for submission. Although there had been a substantial amount of citizen involvement in the socio-economic components in the early data collection stages, even this involvement was effectively terminated when the technical task forces initiated project planning.

By mid-March the technical task forces had completed the Problem Analysis and it was submitted to HUD after a brief citizen review.¹⁹⁵ At the same time the CDA Director persuaded the CCC to form a Priorities and Funding Committee, which would review projects as they were prepared for the CCDP and which could negotiate any major objections the citizens might have to these projects. The city officials hoped that this preliminary citizen review would make possible a simple vote of approval by the CCC that could be used by the city to satisfy the widespread citizen participation requirement of the statute. The meetings of the Priorities and Funding Committee, however, did little to resolve the doubts of the CCC. Instead, these meetings merely became briefing sessions in which the citizens' representatives were informed of the projects that had been completed for inclusion in the CCDP.¹⁹⁶ It was against this background of growing divergence and hostility that the CCC engaged the services of the urban planning consulting firm, Simmons, Ussery, Streets and Associates.

VI. CITIZEN STRUGGLE FOR ROLE DEFINITION

A. *Withdrawal from the Planning Process*

Two major considerations governed the selection by the CCC of its consultants. The citizens' group wanted a black consultant,¹⁹⁷ and it

195. The CCC had received copies of at least part of the Problem Analysis, but never took formal action on the entire document. The preparation and submission of the Problem Analysis, however, was not a major source of controversy. See generally Memorandum from Dogan Williams, Chairman, Citizens Coordinating Committee, to Members of the Citizens Coordinating Committee, Mar. 21, 1969; note 164 *supra*.

196. Interview with Edwin Mitchell, in Nashville, Apr. 20, 1972.

197. The issue of having black consultants was not a new one for the CCC and was not related solely to the Marcou, O'Leary report. One CCC member, Mrs. C.E. McGruder, had travelled to several national meetings and had learned of various black consultants who were helping other Model Cities citizens groups. On November 21, 1968, she recommended that the CCC Executive Committee consider hiring a black consultant for the citizen planning effort. CCC, Minutes of Regular Meeting, Nov. 21, 1968, at 2. The proposal was discussed in December, before the Marcou, O'Leary presentation, but no final action was taken. CCC, Minutes of Executive Committee Meeting, Dec. 6, 1968, at 2. Soon after the presentation, Mrs. McGruder publicly complained about the all-white planning and asked for black experts. Nashville Tennessean, Jan. 8, 1969, at 6, col. 3. Consequently, when the 3 Marcou, O'Leary choices were put to the citizens, the immediate reaction was a request for black consultants. The CCC voted to seek consultants

wanted a qualified physical development planning consultant.¹⁹⁸ It was clear from the outset that the CCC was primarily concerned with the redevelopment plans for the MNA that had been prepared by Marcou, O'Leary and the Housing Technical Task Force. Nonetheless, by the time the CCC consultants arrived in Nashville—late March of 1969—the question of physical planning had been largely overshadowed by the broader issue of the CCC's role in the planning process.

Although HUD regulations clearly authorize the provision of consultants for the citizens,¹⁹⁹ the hostility of most city officials toward the consultants was manifested immediately. For example, the CDA Director refused to allow the consultants to use the office facilities of the CDA, despite the more than adequate available space and the temporary nature of the use desired—the consultants' contract was for only thirty days. More importantly, the city refused to provide the CCC consultants with copies of the physical development projects that had been drafted for the CCDP. These obstructive gestures were surmounted easily by the citizens,²⁰⁰ but the broader implications of this hostility were readily perceived by the consultants.²⁰¹ Almost immediately the consultants emphasized to the CCC the importance of clarifying the group's role in the planning process. Preparation of criticism and alternative plans, the consultants argued, would be meaningless if the city officials were not willing to listen to the citizens' proposals.²⁰²

Following the advice of their consultants, the citizens requested and obtained a meeting on April 18, 1969, with the Mayor to discuss the CCC's role. At this meeting, the Mayor informed the citizens' representatives and their consultants that the CCC's role was to be essentially

and began looking immediately. When a suitable planner was found, city officials were not totally cooperative because they felt that only a small minority of citizens wanted a black consultant and because at that time they were encountering difficulties with the Edgehill citizens. Memorandum from Deane Tucker to Earl Metzger, Feb. 12, 1969.

198. Interview with Edwin Mitchell, in Nashville, Apr. 20, 1972.

199. HUD, CDA Letter No. 3, HUD Handbook MCGR 3100.3 (Nov. 30, 1967). "In order to initiate and react intelligently in program matters, the [citizen participation] structure must have the technical capacity for making knowledgeable decisions. This will mean that some form of professional technical assistance, in a manner agreed to by neighborhood residents shall be provided." *Id.*

200. Interview with Edwin Mitchell, in Nashville, Apr. 20, 1972.

201. The consulting firm chosen by the citizens, Simmons, Ussery, Streets & Associates, had previously encountered role-oriented citizen participation disputes. Both Kenneth Simmons and William Ussery had begun their careers in controversial citizen participation programs in the San Francisco area. For a discussion of their experiences see R. KRAMER, PARTICIPATION OF THE POOR 25-67 (1969).

202. Interview with Edwin Mitchell, in Nashville, Apr. 13, 1972.

advisory in nature.²⁰³ On the following day, at a meeting of the Priorities and Funding Committee, the city officials were even more blunt: the CCC's role was to advise and recommend; if the citizens did not wish to participate in this capacity then the CCDP would be submitted directly to HUD.²⁰⁴

Predictably, the citizens refused to accept the city's unilateral limitation of their group's role. At their next meeting, on April 24, the members of the CCC voted to suspend all participation in the planning process until a meaningful role for the group could be defined and established.²⁰⁵ All standing committees ceased operation, and a negotiating group, the Ad Hoc Committee, was selected by the citizens to seek a satisfactory role definition from the Mayor. Finally, the CCC made two specific requests of the Mayor: first, that the Mayor schedule another meeting with the citizens' group before the current consultants' contract expired on May 3, and secondly, that the 30-day consultants' contract be extended for the duration of the planning period. When the Mayor refused to grant either of the specific requests, the CCC decided to carry its protest directly to HUD.

On May 2, 1969, the CCC mailed a letter of formal protest to the Secretary of Housing and Urban Development.²⁰⁶ The letter explained the reasons that motivated the CCC to withdraw its participation from the Nashville Model Cities program "until a voice and decision making power are obtained by its representatives." It was specifically asserted that the major thrust of the CCDP was directed toward the industrial development of North Nashville rather than toward the type of human development envisioned by the Model Cities legislation. The citizens emphasized that the CCDP was composed of programs prepared without the participation of MNA residents by technical task forces of city personnel and the city's consultants.²⁰⁷ The letter concluded with four formal requests of Secretary Romney:

203. Transcript, vol. III, at 291-92, *NNCCC, Inc. v. Romney*, *supra* note 43 (testimony of Edwin Mitchell).

204. Interview with Edwin Mitchell, in Nashville, Apr. 13, 1972.

205. Letter from Dogan Williams and Edwin Mitchell to George Romney, May 2, 1969.

206. *Id.* Copies of the letter were sent to President Nixon; Senators Gore and Baker; Congressman Richard Fulton; Daniel P. Moynihan, Chairman of the President's Council on Urban Affairs; Nicholas Pharr, Director of Model Cities Administration; Terry Chrisholm, Citizens Participation Advisor; Donald Dodge, Department of HUD; Floyd Hyde, Assistant Secretary for Administrative and Intergovernmental Relations; and 7 others.

207. The citizens also objected to the city's use of the Marcou, O'Leary consulting firm on the grounds that (1) the firm had been hired without CCC approval and (2) Mr. Marcou had begun his career as a staff member of the Metropolitan Planning Commission in Nashville, which made the objectivity of his work with the present staff of the Metro agencies suspect.

1. That HUD refuse to accept or fund any CCDP from Nashville until the CCC had secured the right of prior approval of the plan;
2. That the final date for CCDP submission be extended 60 days to allow the CCC to prepare alternatives to objectionable components;
3. That the contract for the services of the Simmons firm be extended for the duration of the replanning period; and
4. That funds be authorized for the CCC to compensate its attorney for the legal services he had rendered.

Although HUD never responded specifically to the citizens' four formal requests,²⁰⁸ the May 2 letter had a significant impact on the department's attitude toward the Nashville program. HUD normally reserved the question of the citizens' role in a Model Cities program for resolution by local participants.²⁰⁹ This pattern had been followed generally in Nashville as well. By the spring of 1969, however, Model Cities officials at the HUD Atlanta Regional Office had begun to question the effectiveness of citizen participation in the Nashville program. On April 28, the HUD Regional Citizen Participation Adviser arrived in Nashville for a two-day survey of the status of citizen involvement in the Model Cities program.²¹⁰ The Citizen Participation Adviser adopted no official position on the dispute between the city and CCC during his visit in Nashville, but his concern about the situation in Nashville was clearly reflected in the intra-office report he submitted after his return to Atlanta.²¹¹ Thus receipt by HUD of the May 2 letter of protest only served to confirm the fears that had already developed about the adequacy of the citizen participation in Nashville.

Instead of responding directly to the citizens' letter, HUD began to discuss the program informally with city officials. The CDA Director informed the regional officials that the CCDP was almost completed

208. It was not until June 26 that the citizens received a formal reply from HUD to their May 2 letter. Letter from Floyd Hyde to Dogan Williams, June 26, 1969. That letter merely acknowledged receipt of the CCC's dispatch. A more detailed response followed one month later in a letter that praised both the city and the CCC for "the manner in which they have dealt with the current situation." Letter from Floyd Hyde to Dogan Williams, Aug. 26, 1969.

209. "HUD will not determine the ideal organizational pattern designed to accomplish . . . [citizen participation]. It will, however, outline performance standards for citizen participation which must be achieved by each City Demonstration Agency The city government, as the principal instrument for carrying out the Model Cities program, will be responsible for insuring that whatever organization is adopted provides the means for the model neighborhood's citizens to participate and be fully involved in policy-making, planning and the execution of all program elements." HUD, CDA Letter No. 3, HUD Handbook MCGR 3100.3 (Nov. 30, 1967).

210. Memorandum from Henry Bankston to Earl Metzger, May 6, 1969.

211. *Id.*

and ready for submission. Although HUD accepted a copy of the draft proposal, the city was informed that evidence of citizen participation would be required. The regional officials made it clear that the citizen involvement that had already occurred was not sufficient to comply with the statutory and regulatory requirements.²¹² The regional officials required that the city obtain citizen approval of the CCDP if the proposal was to be submitted as drafted by the city officials and consultants.²¹³ In effect, the city had been caught in a trap of its own making. Although the HUD regulation that defined the statutory phrase "widespread citizen participation" contemplated meaningful citizen involvement, the provision clearly did not require citizen veto or final approval of the CCDP.²¹⁴ The Mayor's decision to plan the CCDP without citizen in-

212. Interview with Earl Metzger in Atlanta, Mar. 17, 1972; Interview with Henry Bankston, in Atlanta, Mar. 17, 1972.

213. *Id.*

214. Citizen Participation—CDA Letter No. 3 reads as follows:

"(1) INTRODUCTION. Section 103(a)(2) of the Demonstration Cities and Metropolitan Development Act of 1966 requires that a Model Cities program provide for 'widespread citizen participation in the program.'

"(2) POLICY STATEMENT ON CITIZEN PARTICIPATION. The implementation of this statutory provision requires: (1) the constructive involvement of citizens in the model neighborhood area and the city as a whole in planning and carrying out the program, and (2) the means of introducing the views of area residents in policy making should be developed and opportunities should be afforded area residents to participate actively in planning and carrying out the demonstration.

"This requirement grows out of the conviction that improving the quality of life of the residents of the model neighborhood can be accomplished only by the affirmative action of the people themselves. This requires a means of building self-esteem, competence and a desire to participate effectively in solving the social and physical problems of their community.

"HUD will not determine the ideal organizational pattern designed to accomplish this objective. It will, however, outline performance standards for citizen participation which must be achieved by each City Demonstration Agency. It is expected that patterns will vary from city to city, reflecting local circumstances. The city government, as the principal instrument for carrying out the Model Cities program, will be responsible for insuring that whatever organization is adopted provides the means for the model neighborhood's citizens to participate and be fully involved in policy-making, planning and the execution of all program elements. For a plan to be approved, it must provide for such an organization and spell out precisely how the participation and involvement of the residents is to be carried out throughout the life of the Model Cities program.

"(3) PERFORMANCE STANDARDS FOR CITIZEN PARTICIPATION IN MODEL NEIGHBORHOOD PROGRAMS. In order to provide the citizen participation called for in the Act, there must be some form of organizational structure, existing or newly established, which embodies neighborhood residents in the process of policy and program planning and program implementation and operation. The leadership of that structure must consist of persons whom neighborhood residents accept as representing their interests.

"The neighborhood citizens participation structure must have clear and direct access to the decision making process of the City Demonstration Agency so that neighborhood views can influence policy, planning and program decisions. That structure must have sufficient information about any matter to be decided for a sufficient period of time so that it can initiate proposals and react

volvement, however, left the city with the alternatives of subjecting the completed proposal to the citizens' final approval—in effect a veto power—or of reopening the planning process so that the citizens' group could contribute meaningfully to the preparation of the CCDP.

B. *Negotiations and Deadlock*

Immediately following the CCC protest to HUD, the attitude of the Mayor and the city officials mellowed appreciably. A series of meetings was held between the Mayor, the CDA Director, and the CCC Ad Hoc Committee.²¹⁵ In these early meetings the negotiations centered upon the four requests made by the citizens' group in its May 2 letter to HUD. After initial bargaining, the Ad Hoc Committee requested that the Mayor issue a formal written response to the four issues. The Mayor complied with this request and his letter was surprisingly conciliatory.²¹⁶ On the issue of prior approval, *i.e.* the right to veto an objectionable proposal before it could be sent to the mayor for approval, the Mayor spoke of an equal partnership between the CCC and the CDA, with both organizations working for the welfare of the MNA residents. Any disagreements between these partners would be resolved by the Mayor after hearing the recommendations of both. On the question of a 60-day extension for citizen review and replanning of the CCDP, the Mayor expressed the hope that the CCC's objections could be resolved informally. If, however, the citizens felt a process of replanning was necessary, the Mayor requested that the CCC arrange a firm time schedule for review. Rather than an extension of the Simmons contract, which had by that time expired, the Mayor assured the CCC that it could hire whichever consulting firm it chose, within the limits of the present budget. The Mayor likewise allowed the CCC to select an attorney of its choice, again with the stipulation that the costs remain within

knowledgeably to proposals from others. In order to initiate and react intelligently in program matters, the structure must have the technical capacity for making knowledgeable decisions. This will mean that some form of professional technical assistance, in a manner agreed to by neighborhood residents shall be provided.

"Where financial problems are a barrier to effective participation, financial assistance (e.g., baby sitting fees, reimbursement for transportation, compensation for serving on Boards or Committees) should be extended to neighborhood residents to assure their opportunity to participate.

"Neighborhood residents will be employed in planning activities and in the execution of the program, with a view toward development of new career lines, including appropriate training and modification of local civil service regulations for entry and promotion." HUD, CDA Letter No. 3, HUD Handbook MCGR 3100.3 (Nov. 30, 1967).

215. Interview with William Reinhart, in Nashville, Feb. 15, 1972; Interview with Edwin Mitchell, in Nashville, Apr. 13, 1972.

216. Letter from Beverly Briley to Edwin Mitchell, May 22, 1969.

the CCC budget. In concluding his letter, the Mayor reminded the CCC that the first year action grant would include ample funds for citizen consultant and contract services. The intent of this final statement was clear: to promise a full opportunity for citizens revision of the CCDP during the first action year in exchange for *pro forma* approval of the CCDP by the CCC.

The Ad Hoc Committee had three basic objections to the Mayor's May 22 letter. First, the committee felt that it was imperative that the citizens proceed with a formal replanning process in their review of the CCDP rather than negotiate differences informally.²¹⁷ Secondly, the citizens accepted the basic concept of the proposed "equal partnership" between the CCC and the CDA as a substitute for the power of prior approval. The citizens argued, however, that "since the CDA for practical purposes considers itself responsible to the Mayor rather than to the CCC, the approach of [the Mayor's] acting as mediator between CDA and CCC is unrealistic."²¹⁸ Finally, the Ad Hoc Committee felt that the Mayor's position on citizen review, consultants, and legal counsel was acceptable if, and only if, adequate funding could be allocated to the CCC.²¹⁹

The CDA Director formulated a novel proposal to solve the funding problem: to submit the CCDP as it stood, but under a cover letter signed by the CCC, the CDA, and the Mayor, stating that all or part of the CCDP would be subject to review and replanning by the city and the citizens.²²⁰ The advantage of this proposal was that submission of the CCDP would entitle Nashville to receive funds that had been reserved by HUD for Nashville's first action year. Furthermore, the review and replanning requested by the CCC did not vary appreciably from the continuing planning and evaluation that HUD expected of a Model Cities program following action year funding.²²¹ The Ad Hoc Committee tentatively agreed to the suggestion of submitting the CCDP under a cover letter, but expressed doubt that HUD would accept this proposal. The precise conditions under which such a cover letter submis-

217. The CCC objected to a negotiated resolution of differences over the projects as planned for two reasons. First, the citizens felt that the physical components, because they were based on the use of urban renewal, were totally unacceptable. Secondly, the citizens wanted to be involved in the planning process itself, and not limited merely to an approval role. Interview with Edwin Mitchell, in Nashville, Apr. 13, 1972.

218. Letter from Edwin Mitchell to Beverly Briley, June 22, 1969.

219. Without additional funding, the CCC would have been limited to a total expenditure of \$3,750 for additional technical and legal assistance. Letter from Beverly Briley to Edwin Mitchell, Aug. 13, 1969.

220. Letter from Edwin Mitchell to Beverly Briley, June 26, 1969.

221. HUD, CDA Letter No. 1, §§ 2.3, 6.1 (Oct. 30, 1967).

sion would be accepted by HUD were of particular concern to the committee because the citizens realized that their primary negotiating leverage was the program's dependence upon CCC approval.²²² The committee was therefore understandably reluctant to recommend any step that would surrender its bargaining advantage.

On June 26, 1969, the Chairman of the Ad Hoc Committee sent to the Mayor a formal response to the May 22 statements.²²³ In this reply the Ad Hoc Committee accepted the Mayor's proposal for an equal partnership between the CCC and the CDA on the condition that a mechanism acceptable to the CCC be established for the final mediation of disagreements. The committee also accepted the Mayor's suggestion for establishing a strict timetable for CCC review of the CCDP, but only if the timetable afforded sufficient time for serious citizen replanning. Finally, the citizens requested clarification by the Mayor of the regulatory authority that would permit the cover letter submission procedure.

Although the letter from the Ad Hoc Committee appeared to suggest grounds upon which the negotiations could be quickly concluded, no response from the Mayor was forthcoming. Instead, the negotiations dragged on and began to assume a subtly different nature. Whereas the Ad Hoc Committee initially had met frequently with both the CDA Director and the Mayor, the July meetings were primarily between the citizens' committee and the CDA Director. By late July the Ad Hoc Committee and the CDA Director had apparently reached some sort of informal agreement.²²⁴ At this point the CDA Director drafted a letter to the Ad Hoc Committee for the Mayor's signature, which outlined very specifically the authority under which the replanning process was to be conducted and assured the citizens that approval of the CCDP would be only the first step in a continuing process of planning and programming.²²⁵ Once again, however, the lines of communication between the Mayor and the CDA Director appear to have become blurred. The letter drafted by the CDA Director was rewritten by the Mayor's staff. As rewritten, the letter substituted very general language for specific details and expressed the Mayor's pleasure that agreement had

222. During the negotiation process the citizens were not aware of HUD's refusal to accept the CCDP without further evidence of citizen participation. Interview with Edwin Mitchell, in Nashville, Apr. 20, 1972. The citizens were, however, fully aware of the general importance of citizen approval of the CCDP. *E.g.*, CCC, Minutes of Executive Committee Meeting, June 12, 1969, at 3.

223. Letter from Edwin Mitchell to Beverly Briley, June 26, 1969.

224. Interview with William Reinhart, in Nashville, Feb. 15, 1972.

225. Letter from Beverly Briley to Edwin Mitchell, July 22, 1970 (unsigned).

been reached with regard to the relationship of the City Demonstration Agency and the Citizens Coordinating Committee.²²⁶ The second letter confused and frustrated the citizens' group because it clearly stated that agreement had been reached, but failed to describe adequately the nature of that agreement.²²⁷ Realizing the necessity for a more specific response, the CDA Director drafted yet another letter for the Mayor's signature to be sent to the CCC. This time, however, a copy of the draft letter was also sent directly to the Chairman of the Ad Hoc Committee.²²⁸ The response from the Mayor's office to the CDA Director's action was instantaneous: the Mayor demanded the Director's resignation. Although the circumstances surrounding the dismissal of the CDA Director remain something of a mystery,²²⁹ the effect of the dismissal on the negotiations was the elimination of the only city official with whom the citizens' committee had established working rapport.²³⁰

In the two weeks that followed the CDA Director's dismissal, the negotiations between the city and the CCC ground to a complete halt. The citizens had objected vigorously to the dismissal of the Director of the CDA. Their protest did not reflect their dismay at the loss of a sympathetic administrator—indeed the CDA Director had always been a tough-minded advocate of the city's position—but was directed at the Mayor's failure to consult the CCC or even give the group prompt notice of the decision.²³¹ Within a week of the dismissal, the Mayor's staff sent a letter to the Ad Hoc Committee in an effort to salvage the faltering negotiations. The letter from the Mayor followed very closely the wording of the very specific letter drafted by the former CDA Director for the Mayor on July 22.²³² In essence the letter offered to confer

226. Letter from Beverly Briley to Edwin Mitchell, July 30, 1969.

227. CCC, Minutes of Ad Hoc Committee Meeting, Aug. 2, 1969.

228. See Letter from William Reinhart to Beverly Briley, Aug. 6, 1969.

229. It appears that Reinhart had served the Mayor well, yet had been a thorn in the Mayor's side because of his unusual independence. Local newspapers proposed several hypotheses explaining the dismissal, among them the following: lack of progress in the program; disagreement over citizen participation; disagreement over the drafting of a letter to the CCC. *Nashville Tennessean*, Aug. 8, 1969, at 1, col. 8; *id.*, Aug. 7, 1969, at 11, col. 1. Reinhart attributed his dismissal to political machinations within the Mayor's office. Interview with William Reinhart, Feb. 15, 1972. It does appear that Briley dictated a letter of dismissal with instructions to his secretary to delay its dispatch until he returned from an imminent trip. The secretary apparently ignored these directions and sent the letter without delay. Interview with Norman Moore, in Nashville, Feb. 22, 1972.

230. Interview with Dick Battle, in Nashville, Feb. 14, 1972; Interview with William Reinhart, in Nashville, Feb. 15, 1972.

231. The CCC adopted a resolution insisting that the CCC "should participate in the selection, hiring or discharge of any Executive Director of Model Cities." CCC, Minutes of Called Meeting, Aug. 6, 1969.

232. The letter was initially drafted by two CDA staff members, Norman Moore and Robert

upon the citizens authority to replan the CCDP during the first action year with a conflict resolution mechanism of their own choosing if the citizens would provide the approval necessary to submit the already completed proposal to HUD.²³³ Although the initial reaction of the CCC to this letter was favorable, the citizens decided, on the advice of their attorney, to remain firm in their position that the CCDP be re-planned prior to submission to HUD.²³⁴ On August 19, 1969, the CCC voted to reject the Mayor's proposal and to adopt the letter embodying the advice of the group's attorney as its official position.²³⁵

At this juncture the CCC, with the urging of its attorney, decided to implement a suggestion, offered originally by the city's consultants, Marcou, O'Leary, that the CCC incorporate itself. The original purpose of incorporation was to qualify the CCC for direct sponsorship of certain projects in the housing component.²³⁶ Now, however, the purpose was different. The citizens' consultants, in their report, indicated the desirability of incorporation not only to sponsor projects, but also to facilitate the solicitation of private funds with which to hire black planners and consultants on a continuing basis.²³⁷ Corporate papers were ratified by the full CCC on June 19, 1969.²³⁸ When the corporation was activated on August 29, new officers were elected to run the new organization, officially designated as the North Nashville Citizens Coordinating Committee, Inc. (NNCCC, Inc.).²³⁹ The old CCC and the new NNCCC, Inc., were identical in all respects, except for the new name

Meadows, who enjoyed particularly good working relations with the members of the CCC, at the request of Robert Little, the Mayor's Urban Coordinator, and signed by the Mayor after only minor revisions. *Compare* Letter from Beverly Briley to Reverend Dogan W. Williams (unsigned, undated draft) with Letter from Beverly Briley to Edwin Mitchell, Aug. 13, 1969.

233. Letter from Beverly Briley to Edwin Mitchell, Aug. 13, 1972.

234. CCC, Minutes of Executive Committee Meeting, Aug. 14, 1969, at 1; Interview with Edwin Mitchell, in Nashville, Apr. 13, 1972.

235. CCC, Minutes of Called Meeting, Aug. 19, 1972, at 2; Letter from Avon N. Williams, Jr., Attorney for the CCC, to Rev. Dogan W. Williams, Chairman of the CCC, and Edwin Mitchell, Aug. 19, 1972.

236. CCC, Minutes of Regular Meeting, May 15, 1969, at 2.

237. Beyond the Ballot, *supra* note 65. See CCC, Minutes of Regular Meeting, May 15, 1969, at 1.

238. The CCC's attorney, Avon Williams, prepared the charter in April. CCC, Minutes of Regular Meeting, May 15, 1969. The charter was filed with the Tennessee Secretary of State on August 9, 1969, and approved by the CCC membership in June. CCC, Minutes of Regular Meeting, June 19, 1969. Although the full CCC voted to accept the corporate papers as drawn in June, the corporation was not activated until August. The original incorporators of the NNCCC, Inc., were Dr. Edwin Mitchell, Rev. Dogan Williams, Mrs. C.E. McGruder, Robert Payne, Mrs. Mary R. Walker, and Herbert Collier. Charter of Incorporation, in CCC, Minutes of Regular Meeting, June 19, 1969.

239. CCC, Minutes of Called Meeting, Aug. 29, 1969.

and slate of officers. Although there were rumors that the Mayor would refuse to recognize or negotiate with the incorporated body,²⁴⁰ the issue did not mature until much later.

C. Citizen Role Defined

In the weeks following the August 19 CCC meeting, the conflict between the citizens and the city seemed hopelessly deadlocked. HUD still refused to accept the city's CCDP unless an acceptable form of citizen participation in the program could be shown. The citizens refused to approve the program until they were afforded the opportunity to review and replan the entire proposal. The negotiation had come to a standstill following the CDA Director's dismissal, and the post he had vacated was yet to be filled. It was also clear, however, that HUD would not allow the Nashville Model Cities program to remain suspended indefinitely.²⁴¹ The April 1 HUD deadline for submission of the CCDP and a two and one-half month extension had long since passed. The city was now operating under a temporary funding mechanism called a Letter to Proceed by which Nashville paid 100 percent of the costs incurred by the program, subject to 80 percent reimbursement by HUD upon approval of the city's CCDP.²⁴² The Letter to Proceed mechanism had been designed by HUD to enable cities to maintain their CDA staffs and offices during the period following submission of the CCDP when HUD was reviewing the proposal for funding.²⁴³ In Nashville's case, however, the Letter to Proceed had been issued by HUD prior to receipt of the CCDP, and as the deadlock continued, HUD was increasingly reluctant to grant extensions of the city's Letter to Proceed.²⁴⁴

In early September the negotiations between the Mayor's office and the Ad Hoc Committee were revived. This renewal of the negotia-

240. Memorandum from Melvin Randolph to Wallace Cheatwood, Oct. 8, 1969.

241. *Id.*

242. Although supplemental funds used for operating projects were subject to 100% reimbursement, those used for administrative expenditures were only 80% reimbursable. Since all of the Nashville CDA's expenditures were for administration, only 80% of the city's outlay was recoverable from HUD, and that reimbursement was contingent upon ultimate approval of Nashville's CCDP.

243. HUD, CDA Letter No. 2, HUD Handbook MCGR 3100.2A, Chap. 5 (May 26, 1969).

244. The financial pressure that HUD exerted on the city tended to be inversely proportionate to the progress being made by the city. Thus during September 1969, as the negotiations dragged on, HUD indicated that the program could not remain "suspended indefinitely." Memorandum from Melvin Randolph to Wallace Cheatwood, Oct. 8, 1969. After agreement was reached on October 20, 1969, this pressure was eased. As the replanning process dragged on in early 1970, however, HUD decided to terminate the Letter to Proceed. *E.g.*, Memorandum from Melvin Randolph to Wallace Cheatwood and Earl Metzger, Jan. 26, 1970.

tions was precipitated by the intervention of a newspaperman who had been following the progress of the Model Cities program closely and who was personally acquainted with both the Mayor and the Chairman of the Ad Hoc Committee.²⁴⁵ Although a new CDA Director was appointed at approximately the same time that the negotiations were resumed, the meetings usually included only the Chairman of the Ad Hoc Committee, the Mayor's chief administrative assistant, and the newspaperman who had initiated the effort. Finally, on October 20 a written agreement was reached.²⁴⁶

The agreement, or "working partnership," as it was later designated, was hailed by the citizens as a major victory. The CDA structure remained intact and the CCC recognized the Mayor's ultimate control of the program, but the CCC won not only the right of prior approval of the program but also the right to replan the entire CCDP prior to submission to HUD. The CCDP that already had been completed was officially designated "Working Papers" to serve only as a guide for replanning. The partnership agreement seemed to produce a format for the constructive resolution of the underlying land-use issue. The CCC was to have consultants to aid it in reprogramming those parts of the Working Papers that it found objectionable. The replanning process was to be accomplished through the standing committees working with members of the task forces. Negotiation of differences would take place at this level with the CCC and its Executive Committee passing on the finalized proposals before they went to the Mayor for his approval and ultimate submission to the Metropolitan Council.²⁴⁷ This arrangement was symbolized in a diagrammatic flow chart and termed "concurrent approval." Despite the new name, the CCC obtained what it had requested in its May 2 letter. No proposal was to become a part of the CCDP until agreement had been reached between the CCC, the CDA, and other appropriate agencies.

Although HUD's decisions to refuse approval of the CCDP without further citizen involvement and to fund Nashville under a Letter to Proceed facilitated the negotiations, the Department maintained a policy of noninvolvement in the substantive negotiations themselves. It has been suggested that this hands-off policy was a response to the desires

245. This newspaperman was Dick Battle of the *Nashville Banner*. Battle's primary tie with the citizens' group was his friendship with Edwin Mitchell, Chairman of the Ad Hoc Committee and newly elected Chairman of the full CCC.

246. *Nashville Tennessean*, Oct. 21, 1969, at 1, col. 1. The text of the agreement is reproduced as Appendix B of the Program Administration Component of the Nashville CCDP submitted March 11, 1970.

247. Interview with Norman Moore, in Nashville, Mar. 16, 1972.

of both the CCC and the city since neither was willing to risk the unknown influence of the Department.²⁴⁸ The forbearance of the HUD officials, however, was also due in large part to a settled policy of avoiding sensitive local problems.²⁴⁹ In fact, the Model Cities Regional Office Coordinator for Nashville did not even visit the city during the critical periods of negotiation.²⁵⁰ When agreement was finally reached, the HUD officials were undoubtedly pleased, but they were also concerned about the delay that the replanning process would necessarily involve.

D. Replanning of the CCDP

Following the October signing of the working partnership agreement, the standing committees of the CCC were revived and a schedule developed for the review of the Working Papers. The committees and the CCC began the review with three goals in mind: (1) to preserve the residential character of the neighborhood, (2) to utilize fully the facilities within the MNA, and (3) to create those necessary facilities not in existence in the MNA.²⁵¹ In short, the CCC's position was to prevent a nonresidential land-use plan for the MNA from being implemented and to maximize the economic benefits of the Model Cities project expenditures for the businesses and residents of North Nashville.²⁵² As had been the case in the spring of 1969, no serious problems arose in the social services components of the Working Papers. Once again, however, the housing, economic development, and physical environment components posed the serious problems. During the month of December, the CCC attempted to exercise the power to secure technical consultants to help translate the citizens' proposals into programs, a power the CCC thought had been conferred by the partnership agreement.²⁵³ Although \$10,000 in additional funds had been allocated for consultants in the first

248. Citizen Participation Coordinator Henry Bankston offered to both Reinhart and Mitchell to arrange a meeting with concerned city officials, citizens, and regional HUD staff members. Both Mitchell and Reinhart, however, apparently felt the problem could best be solved at the local level.

249. Interview with Steve Vilvens, in Knoxville, Jan. 28, 1972.

250. Memorandum from Melvin Randolph to Wallace Cheatwood, Dec. 18, 1969.

251. Transcript, vol. III, at 306, NNCCC, Inc. v. Romney, *supra* note 43 (testimony of Edwin Mitchell).

252. The citizens hoped to design the Model Cities projects so that the economic multiplier effect of the money expended would accrue to the benefit of the MNA. Thus, for example, the CCC intended that the Economic Development Corporation would utilize MNA contractors who hired MNA residents and obtained building materials from MNA businessmen, etc.

253. Letter from Edwin Mitchell to Buford Drake, Dec. 15, 1969.

extension of the Letter to Proceed,²⁵⁴ the citizens were unable to obtain action on their request until January 1970.²⁵⁵ The consultant selected by the CCC was The National Committee Against Discrimination in Housing, whose director, Clarence Funnye, and one associate began a fifteen-day consultation contract on January 26.²⁵⁶ The consultants' duties under the contract were to assist the CCC in assessing the Working Papers and indicate needed modifications, to set priorities among the components of the CCDP, and to study the impact on the CCDP of the proposed I-40 frontage roads.²⁵⁷ Unlike the Simmons firm, the CCC's new consultants were program-oriented rather than role-oriented. Funnye's work reflected this program-orientation and the few substantial changes made in the CCDP during this replanning period indicate how easily agreement could have been reached the previous summer. The consultants met regularly with the CCC standing committee chairmen and task force members and guided their consideration of the Working Papers according to two basic tests: (1) whether the programs complied with HUD guidelines, and (2) whether the programs benefited the MNA without undue disruption of the quality of life in the MNA.²⁵⁸

With the two basic criteria in mind, Funnye met with the Standing Committee on Housing to examine the programs prepared by the city's Housing Technical Task Force²⁵⁹ the previous spring. That technical task force had operated according to a different set of standards and had sought to implement Marcou, O'Leary's blended approach to MNA development.

Objectives I and II of the Marcou, O'Leary plan contemplated the elimination of at least 2,400 units of housing.²⁶⁰ This and other objectives were to be carried out through urban renewal projects since that

254. Letter from Earl Metzger to Beverly Briley, Oct. 6, 1969.

255. Transcript, vol. III, at 305, NNCCC, Inc. v. Romney, *supra* note 43 (testimony of Edwin Mitchell). The official third-party contract was signed on Feb. 9, 1970 (Contract for Technical or Professional Services between CDA and The National Committee Against Discrimination in Housing).

256. CCC, Minutes of Executive Committee Meeting, Jan. 15, 1970.

257. Contract for Technical or Professional Services between CDA and The National Committee Against Discrimination in Housing (Feb. 9, 1970).

258. Funnye, Addendum No. 1 to Report; CCC, Minutes of Regular Meeting, July 19, 1970, at 2-3.

259. Serving on that Task Force had been: John Van Ness of the Metro Planning Commission, Gil Swinea of the Nashville Housing Authority, Robert Crownover of the Nashville Housing Authority, Robert Little of the Office of the Mayor, and Robert Walker, Metro Codes Administration. Letter from John Van Ness to Mary Walker, Nov. 18, 1969.

260. These figures appeared in Objectives I and II of the Housing Component of the initial CCDP. Nashville CDA, CCDP [Working Papers], Housing Component at 1. Other figures in the objectives indicate removal of more than 5,000 units of housing.

was the major source of funds. Programs designed to implement these earlier plans were the first targets of the rejuvenated CCC Standing Committee on Housing. The citizens had not made much headway toward the formulation of an alternative housing component when Funnye was hired. Funnye's response to the housing component was inseparably linked to the economic development component. The CCC's version of these components included the creation of a non-profit Economic Development Corporation (EDC) to administer a program designed to displace a minimum of homeowners by building on vacant lots and undeveloped land within the MNA. The EDC would utilize a revolving fund to purchase vacant lots in the MNA which would then be resold to persons buying or renting homes through various federal programs. To construct the housing for those programs, the EDC would create a consortium of black contractors from the MNA to build and repair homes utilizing MNA job trainees from employment programs. The EDC would also have been in charge of constructing the proposed air-rights deck over I-40.²⁶¹ Perhaps the feature of the EDC most important to the citizens was a provision that two-thirds of the board of directors of the corporation were to be drawn from the MNA, with the remaining third to be chosen by MNA residents, thus affording substantial control by the area residents over the program that was to redevelop their neighborhood.²⁶² Any mention of urban renewal in the Working Papers was deleted, and clauses prohibiting the use as urban renewal matching funds of expenditures on street and park improvements in other components were inserted. In a similarly motivated action, the CCC created a new program in the Physical Environment Component, "The Expansion and Development of Cumberland Park." On its face, the program called for the addition of nine holes to the existing Cumberland Park golf course. The real intent of the citizens, however, was to utilize a large plot of vacant land for nonindustrial purposes. The writing of the citizen participation provisions had been left to the CDA staff as a part of the preparation of the Program Administration Component. This arrangement failed to satisfy the citizens,²⁶³ so the CCC and its consultants proposed a citizen participation section to be included in appropriate parts of the CCDP and to supplant the "Citizen Participation Provision" boilerplate in each project description. The proposed citizen participation section also was to replace each reference to the management and evaluation program with a phrase indicating the joint

261. See discussion *supra* note 86-96 and accompanying text.

262. Memorandum from Allen Polsby to Earl Metzger, July 22, 1970.

263. Letter from Edwin Mitchell to Buford Drake, Feb. 21, 1970.

CCC-CDA nature of continuing decision-making in compliance with the October 20 agreement.²⁶⁴ In addition the section changed all references to the CCC to read "NNCCC, Inc."²⁶⁵

One change made throughout the CCDP by the citizens was in the designation of program sponsor. In many instances, especially when the original sponsor was to have been a Metro agency, such as the Nashville Housing Authority, the citizens substituted the "NNCCC, Inc." as sponsor. There were two motivations for the change. First, the CCC was aware of the limited political influence of the MNA and it was therefore unwilling to entrust the administration of crucial programs to agencies it deeply distrusted. For this reason, they deleted the Nashville Housing Authority from sponsorship of the seven housing programs and four economic development programs in which it appeared and the Chamber of Commerce from the two economic development programs in which it appeared. Whenever the sponsor was deleted or had not been announced, the CCC inserted either "NNCCC, Inc." or "NNCCC-CDA" to ensure the citizens a role in the selection of replacement sponsors.²⁶⁶ The second idea motivating the sponsorship changes was the CCC's belief at that time that it could properly sponsor some of the Model Cities projects itself. For this reason CCC sponsorship was inserted for several programs in which HUD supplementary funds were available.²⁶⁷ Although HUD did not announce formal prohibition of the CCC sponsorship until November 1970,²⁶⁸ there is reason to believe that city officials had some knowledge that direct sponsorship would be forbidden.

At a called meeting of the CCC on February 25, 1970, more than 10 months after the CDA had requested the citizens to approve a CCDP, the CCC voted unanimously to approve each of the ten components and the entire package as amended and modified during the period of replanning.²⁶⁹ The CDA Director, in attendance at this meeting, was

264. CCC, Citizen Participation during First Year Operations § 3.2 (Draft Citizen Participation Section for Program Administration Component).

265. *Id.* at § 3.5.

266. At a regional Model Cities meeting in April to which Nashville citizen leaders were invited, Dr. Mitchell stated that he *now* knew that the CCC would not administer programs, but he wanted to know who *was* going to sponsor them. RICC Secretariat, Notes on RICC meeting, Apr. 15, 1970, at 7.

267. Interview with William Reinhart, in Nashville, Feb. 15, 1972.

268. HUD, CDA Letter No. 10D at 1 (Nov. 1970). "Neither the CDA staff nor the citizen participation structure shall operate projects, with the exception of projects which are necessarily related to their basic responsibilities, or are minor and temporary in nature." *Id.*

269. CCC, Minutes of Called Meeting, Feb. 25, 1970. At this meeting the chairman of each Standing Committee made a short report on his component and the CCC voted to accept or reject that component.

asked to offer his comments. At this moment of high emotion for the citizens, his remarks must have seemed inappropriate. He expressed his belief that there were disagreements with the Mayor's office on two points affecting the CCDP: (1) the legality of CCC sponsorship of programs and, (2) the legality of the use of "NNCCC, Inc." rather than "CCC" throughout the package.²⁷⁰ It is strange that the CDA Director should have raised these issues, which certainly were not new to him, at this point, rather than having attempted to resolve them before the completion of the replanning and approval of the CCDP. The only explanation for his behavior is that the Director and the City had wanted some output from the CCC replanning period and simply intended to alter the product unilaterally to reflect the desires of the Mayor. This hypothesis is borne out by the subsequent actions of the City.

E. Revision and Submission of the CCDP

In the week following the February 25 approval of the CCDP, city officials²⁷¹ edited the CCC version of the CCDP. As might have been expected, the city officials concentrated on the physical development, rather than social services, components. All mention of direct sponsorship by the CCC and/or CDA was deleted and the phrase "To Be Announced" was inserted.²⁷² The new provisions for citizen participation in management and evaluation were also deleted in an effort to remove any explicit recognition of CCC veto power.²⁷³ The Expansion

270. *Id.*

271. These officials included Robert Horton, Robert Little, and Joe Ragland.

272. There were 17 projects in the February 25 document which mentioned either a CCC-CDA joint sponsorship alone or CCC sponsorship in cooperation with another named agency or organization. Each of these sponsorship designations was deleted by the city officials in their redrafting session.

273. The first three paragraphs of the provisions deleted by the city read as follows:

"Section 3.1—The North Nashville Citizens' Coordinating Committee will provide direct citizen participation activities which may be supplemented by any additional councils, committees or other groups the CDA-CCC Consortium may create or authorize. This provision applies to all projects under the jurisdiction of the Model Cities Program, and expressly takes precedence over any statements appearing under '9. Citizen Participation Provisions:' in each project description.

"Section 3.2—The phrase 'MCA Management and Evaluation Program,' wherever it is found in any part of this document is amended to read, 'The NNCCC-CDA Management and Evaluation Program. . . .

"Section 3.3—Wherever professional and/or non-professional services may be required to carry out any of the projects of the Model Cities Program, MNA resident firms and individuals, or such firms and residents as designated by the NNCCC, will be given first preference to provide these services."

Trial Transcript, vol. VII, at 33, NNCCC, Inc. v. Romney, *supra* note 43 (Horton testified that "I felt the CCC . . . wanted the . . . control of this entire . . . program").

and Development of Cumberland Park Project was eliminated, as were the statements that certain supplemental funds in Physical Environment Component programs would not be allocated for urban renewal matching funds.²⁷⁴ Every reference to the NNCCC, Inc. was changed to read merely "CCC." The Mayor's staff later told the citizens that the Mayor would not and could not recognize the corporate entity.

The city's motivation for the changes in the CCDP is not entirely apparent. One explanatory factor was probably the lack of good will between the CDA staff and the CCC leaders. The city's changes were mainly deletions of material inserted by the CCC Executive Committee and the Funnye consultants. Another factor was that the city officials felt that many CCC changes were contrary to HUD guidelines. This explanation represents a particularly uncompromising attitude, however, because the city officials had refused an offer by the HUD Regional Office to edit out all the unacceptable CCC provisions after submittal.

The CCC Executive Committee was invited to attend a meeting to approve the Program Administration Component²⁷⁵ on March 3.²⁷⁶ At this meeting the city officials presented the edited version of the CCDP to the citizens. According to later accounts,²⁷⁷ the city officials attempted to explain the alterations that had been made but never completed their presentation because of constant interruptions by the citizens. The citizens were visibly angered by what, at first glance, appeared to be a wholesale revision of the CCDP that had been approved. In reality, the city had made relatively few substantive changes, but some of these changes, such as substituting "CCC" for "NNCCC, Inc.," required alternations throughout the CCDP. The City committed the unfortunate tactical error of presenting the citizens with the freshly edited version of the CCDP which was covered with magic marker.

274. The phrase deleted was "These funds are not to be used as matching funds for any Urban Renewal project or program unless approved by the NNCCC, Inc."

275. The Executive Committee had been empowered to grant CCC approval to the Program Administration Component, which had not been finalized at the time of the February 25, 1970 meeting. CCC, Minutes of Called Meeting, Feb. 25, 1970, at 3.

276. There are apparently no minutes or official records of this "confrontation" meeting. The date is referred to in a letter from Mrs. George N. Bennett, CCC Secretary, to Beverly Briley. Letter from Mrs. George N. Bennett to Beverly Briley, Mar. 5, 1970. This letter complains of the changes made by the city officials between "the time of unanimous approval by the entire CCC (Feb. 25, 1970) and the next meetings of the Executive Committee (3-3/4-70)."

277. This meeting was described by one of the participants, Norman Moore, then of the CDA staff, as a shouting match. Interview with Norman Moore, in Nashville, Feb. 21, 1972. As Moore reports, only a few of the components were actually brought to the Executive Committee at this meeting, and the rest apparently had not yet been edited.

Moreover, the city's attitude apparently precluded negotiation with the citizens on the alterations. Had the city presented the revised CCDP differently and explained precisely the nature and extent of the changes to the citizens, the meeting might have been more productive. Instead, the March 3 meeting served only to anger the citizens and to perplex city officials who may have been genuinely surprised at the CCC reaction to what the officials had considered minor changes.

The CCC Executive Committee regrouped to consider the city's actions. The Program Administration Component, developed by the CDA staff, was approved on the condition that it include the citizens' sections on program control that had been deleted in the CCDP.²⁷⁸ At the general CCC meeting on March 10, the citizens voted 27-3 with 10 abstentions to reject the city version of the CCDP.²⁷⁹ The citizens may have hoped that the Metropolitan Council would be influenced by their rejection and refuse to approve the CCDP for submission to HUD. The Metro Council and its Model Cities Committee, however, had consistently rubber-stamped every proposal made to it by the City, critically examining only the outlay of local funds. A special session of the Council was called on March 11 to consider the proposed CCDP. The Model Cities Committee met in the afternoon, heard a presentation of the CCDP by the CDA Director and a general criticism by the CCC chairman, and voted 9-5 to approve the proposal.²⁸⁰ A synopsis²⁸¹ of the 700-page CCDP was presented to the members of the Metro Council on the afternoon of the 11th and that night the Council voted to submit the document to HUD. The intent and concern of the Council is most clearly expressed in a letter it received from the Mayor: "I recommend that you vote to submit this planning program to Atlanta. Otherwise,

278. CCC, Minutes of Executive Committee Meeting, Mar. 5, 1970, at 1.

279. CCC, Minutes of Called Meeting, Mar. 10, 1970, at 3. "Mr. Adams made the following motion and it was seconded by Mrs. McGruder:

"Because it is felt that this document [the last prepared proposal for submission to the Mayor, Metro Council, and HUD, March 9, 1970] does not safeguard the community's interest with regard to the necessity for the right of concurrent approval, throughout the planning year and subsequent years, and because there are discrepancies between this document and that which was approved by the NNCCC, Inc. on February 25, 1970, I move that this document be rejected."

280. Minutes of the Model Cities Council Meeting, Mar. 11, 1970, at 3.

281. The synopsis was an updated version of the summaries prepared in July and August of 1969 by newspaperman Dick Battle under contract to the CDA. Interview with Dick Battle, in Nashville, Feb. 14, 1970. Although there was nothing objectionable in the manner in which the programs were summarized, the CCC was greatly disturbed when it learned that the synopsis was sent to HUD along with the CCDP. The reason for the concern was that the synopsis included the obsolete five-year forecast as it applied to the first action year. The submission of the synopsis revived the citizens' fears that urban renewal was still being planned for the MNA.

we may lose it in its entirety."²⁸²

F. Reaction to the Submission

The approval of the Nashville CCDP by the Metropolitan Council fundamentally altered the context within which the CCC and the CDA had been interacting. Prior to Council approval and submission, each side had been vying to shape the CCDP in terms most favorable to its own view. After the submission of the proposal, however, the parties were contesting the proper status of a completed CCDP. Furthermore, presentation of the CCDP to HUD shifted the focus of the contestants toward Atlanta and Washington, each hopeful that the HUD disposition would vindicate its own position.

The initial response of the citizens' group to the submission of the altered CCDP was vigorous protest. Almost immediately the CCC sent telegrams to regional and national HUD officials informing them of the CCC's repudiation of the submitted document.²⁸³ Community meetings were organized in the Model Neighborhood Area to mobilize broadly based popular support for the CCC position.²⁸⁴ Although some personal criticism was inevitable at this stage of the conflict,²⁸⁵ the actions and language of the citizens were surprisingly calm. Indeed, the relative restraint exercised by the primary participants on both sides suggests that even at an early stage, both factions were consciously seeking to document all of their actions.²⁸⁶

On April 2, 1970, the full Citizens Coordinating Committee met to discuss long-range strategy. The first element in the strategy adopted at the meeting was familiar: once again, as it had done in 1969, the CCC

282. Letter from Beverly Briley to Vice-Mayor Jerry Atkinson and members of the Metropolitan Council, Mar. 11, 1970.

283. The telegrams, signed by the CCC Chairman, alleged that the CCDP proposal did "not represent the desires of the citizens of the community nor afford them adequate involvement in its operations." Further details were promised. Telegram from Edwin Mitchell to George Romney, Mar. 13, 1970; Telegram from Edwin Mitchell to Earl Metzger, Mar. 16, 1970. The texts of the 2 telegrams were identical.

284. Nashville Tennessean, Mar. 18, 1970, at 5, col. 1.

285. There were, for example, heated public exchanges between members of the CCC and some of the black Councilmen who voted to approve the CCDP. *See, e.g.*, Nashville Tennessean, Mar. 30, 1970, at 4, col. 1 (councilman called CCC leaders "greedy" and power hungry); Nashville Tennessean, Mar. 17, 1970, at 1, col. 2 (circular accused 2 MNA councilmen who voted for CCDP submission of "selling out" MNA).

286. This tendency of both the CDA and the CCC to document their positions and to demand written responses became more marked as the program progressed. The effort by each side to compile a "record" frequently seemed to color the written statements; therefore, written exchanges should be considered with this in mind.

voted to withdraw all participation in planning and implementation of the program.²⁸⁷ Although a few parts of the CCDP were still unfinished at this point,²⁸⁸ the second withdrawal was essentially symbolic. The 1969 withdrawal had been an effective maneuver primarily because the city had needed some form of citizen involvement in order to satisfy the requirements of HUD and the statute. During the intervening replanning process, however, the CCC had, in theory, rewritten the CCDP to its unanimous satisfaction. Thus, by the time of the second withdrawal, the citizen participation in the planning process had already taken place. Withdrawal at this stage merely served to emphasize the CCC's resentment toward the alteration that the city had made in the CCC-ratified program.

The second element of strategy selected by the CCC at the April 2 meeting was the drafting of a formal protest. Although the CCC had already notified HUD by telegram of its objection to the submitted plan, the CCC clearly anticipated a more formal presentation of its case, complete with documentation. To this end, the CCC requested copies of the CCDP as it had been submitted to HUD, as well as a reproduction of the plan that had been approved by the group on February 5.²⁸⁹ The citizens also requested copies of the Synopsis of the CCDP, which had included the controversial goals and objectives.²⁹⁰ Funds were sought from the CDA to finance a trip to Atlanta for a group of representatives to investigate HUD's attitude toward the CCDP and the status of the Nashville proposal.²⁹¹ Finally a motion was passed requesting the CCC's attorney to prepare "a formal complaint to be submitted to HUD."²⁹²

The response of the city to the CCC actions was marked by coolness and mechanical formality that could hardly have been expected to effect a reconciliation between the opposing groups. While the strained temper of city officials might have been understandable in light of all

287. CCC, Minutes of Called Meeting, Apr. 2, 1970, at 2. The vote on the motion to withdraw was 25-0.

288. Three portions of the CCDP remained to be completed: the relocation plan, the evaluation program, and the federal base statement. All of these were required by HUD regulations and the CDA Director was aware of their absence when the plan was submitted to the Council and to HUD. Interview with Norman Moore, in Nashville, Feb. 21, 1972.

289. CCC, Minutes of Called Meeting, Apr. 2, 1970, at 2; Letter from Edwin Mitchell to Buford Drake, Apr. 3, 1970. It should be noted, however, that copies of the CCDP and the Synopsis had been distributed to members of the CCC just prior to the March 11 Council meeting.

290. Materials cited note 289 *supra*. See also note 260 *supra* and accompanying text.

291. CCC, Minutes of Called Meeting, Apr. 2, 1970, at 2.

292. *Id.* The preparation of a formal complaint to HUD had been recommended by the CCC counsel, Avon Williams.

the circumstances, the attitudes of the two parties tended to breed further misunderstanding. Thus, for example, the CDA Director refused to supply the CCC with the requested copies of the submitted version of the CCDP.²⁹³ The explanation for this refusal was that the CCDP would be undergoing extensive revision to conform with HUD recommendations, and that copies of the plan would be made available to the CCC as the plan was revised.²⁹⁴ Similarly, the CDA refused to reproduce the CCC-approved version of the CCDP, contending that the expense was not an allowable item under HUD regulations.²⁹⁵ Aside from the questionable merit of this reasoning, the CDA's response could hardly have been better designed to enrage the citizen group.

It is clear that if any goodwill between the city and the CCC in fact had been cultivated during the replanning process, both parties readily abandoned any reconciliation effort in the wake of the hurried submission of the CCDP.

VII. HUD REVIEW OF THE NASHVILLE PROPOSAL

A. Initial Review

Immediately upon receipt of the Nashville CCDP in Atlanta, HUD officials distributed copies of the material to members of the Regional Interagency Coordinating Committee (RICC) for review.²⁹⁶ This procedure, which was standard for all Model Cities proposals, had a dual purpose. First, the RICC review was intended to permit an analysis of a completed CCDP that would lead eventually to a recommendation that the program be accepted and funded or that it be rejected. In reality, however, the rejection of a proposed CCDP was rarely considered.²⁹⁷ Thus, the approval process of the RICC was really directed toward identifying those weaknesses in a proposal that would require correction as a prerequisite to the funding of particular elements of the program.²⁹⁸

The second function of the RICC review of a CCDP was, theoretic-

293. Letter from Buford Drake to Edwin Mitchell, Apr. 6, 1970.

294. *Id.*

295. *Id.*

296. The departments that participated in the RICC evaluation of the Nashville program included: HEW, HUD (Equal Opportunity Office, FHA Area Insuring Office, Housing Assistance Office, Renewal Assistance Agency), Justice (Law Enforcement Assistance Administration), Labor (Manpower Administration), OEO, and the Small Business Administration. The RICC meetings were chaired by the HUD Assistant Regional Administrator for Model Cities.

297. See notes 370-95 *infra* and accompanying text.

298. Interview with Earl Metzger, in Atlanta, Mar. 3, 1972.

cally, to assure coordination between the various departments from whom funds were sought. Thus, any Model Cities package that contemplated an application for a grant-in-aid from the Department of Transportation (DOT), for example, would have to be submitted to the regional office of DOT for study and recommendations as a part of the complete RICC review. No structural mechanism was established, however, by which the RICC could ensure approval of meritorious applications for grants seeking non-Model Cities funds.²⁹⁹ Therefore, the success of a Model Cities program in obtaining the non-Model Cities funds requested in its CCDP depended largely on the city's initiative in pressing each of its separate grant-in-aid applications with the appropriate agency.³⁰⁰

The first meeting of the RICC to discuss the Nashville proposal was held on April 8, 1970.³⁰¹ At this meeting, a representative of each of the departments concerned gave his initial impression of the Nashville application. Most of the comments were very general and superficial. Indeed, it appears that the main purpose of the meeting was for the Model Cities representatives to familiarize the other RICC members with the controversy surrounding the Nashville program in preparation for the formal RICC review the following week, which would be attended by representatives of both the city and the CCC. After a fully detailed description of Nashville's problems, the chairman of the RICC informed the members that "the meeting with the city will probably be a very tense and sensitive one," and he suggested that "it would be best if the RICC refrained from any open debate of the issues while meeting with these people."³⁰²

By April 14, 1970, the date of the formal RICC review of the Nashville CCDP, most of the RICC agencies had submitted memo-

299. There has been some effort to coordinate interagency funding for local Model Cities programs by requiring each department to "earmark" a portion of its budget for Model Cities categorical grant-in-aid applications. In theory each department earmarked these funds and allocated a portion of them to its regional office. The RICC and WICC were then to apportion these earmarked funds among the various Model Cities proposals as a part of their review and approval process. The practice, however, has fallen far short of the theory. As Daniel Moynihan has noted, "Interdepartmental earmarking is always murky and ambiguous . . . and worst of all people are always sneaking out of them later on in the fiscal year." *Quoted in Lilley, Urban Report: Model Cities Program Faces Uncertain Future Despite Romney Overhaul*, 2 NAT'L J. 1467, 1476 (1970). This article presents an excellent discussion of both the earmarking problem and the broader question of interagency coordination.

300. Interview with Charles Straub, in Atlanta, Mar. 2, 1972; interview with Earl Metzger, in Atlanta, Mar. 3, 1972.

301. Information about this meeting is drawn largely from minutes taken by the RICC secretary. RICC Secretariat, Minutes of Meeting, Apr. 8, 1970.

302. *Id.* at 2.

randa evaluating the proposal's relation to their departments.³⁰³ The evaluations of the non-Model Cities RICC agencies were generally quite brief and superficial. Although the non-Model Cities agencies praised the overall package, they were noncommittal or pessimistic in their attitude toward the specific projects in the CCDP that required funds from their own departments.³⁰⁴ The unenthusiastic tone of these non-Model Cities RICC evaluations was a clear manifestation of the shortsightedness of Nashville's decision to plan its program without the "interference" of federal technical assistance.³⁰⁵

The evaluations of the Nashville proposal prepared by the Model Cities RICC members were far more detailed and critical than their non-Model Cities counterparts.³⁰⁶ First, the Nashville proposal had been submitted with three essential elements of the CCDP missing alto-

303. Memorandum from John T. Edmunds, Assistant Regional Administrator for Renewal Assistance, to Earl Metzger, Mar. 20, 1970 (Renewal Assistance Administration); Memorandum from John T. Edmunds, Assistant Regional Administrator for Renewal Assistance, to Earl Metzger, Mar. 23, 1970 (Renewal Assistance Administration); Memorandum from Edwin H. Sims, Jr., Housing Assistance Officer, to Earl Metzger, Mar. 27, 1970 (Housing Assistance Office); Memorandum from Floyd Nichols to Melvin Randolph, Mar. 27, 1970 (Model Cities Regional Office); Memorandum from Roy C. Huskey, Director FHA Knoxville Insuring Office, to Harold Albright, Assistant Regional Administrator for FHA, Mar. 30, 1970 (FHA); Memorandum from Fred A. Frey, Technical Assistance Coordinator, to George M. Murphy, LEAA Regional Director, Mar. 31, 1970 (LEAA); Memorandum from Henry Bankston to Melvin Randolph, Apr. 1, 1970 (Model Cities Regional Office); Memorandum from William U. Norwood, Jr., Regional Manpower Administrator, to Earl Metzger, Apr. 8, 1970 (Manpower Administration); Letter from Norman Van Ness to Earl Metzger, Apr. 9, 1970 (Federal Highway Administration); Memorandum from Clyde E. James, Interagency Relations Coordinator, to Earl Metzger, Apr. 14, 1970 (OEO).

304. See, e.g., Memorandum from Roy C. Huskey, Director FHA Knoxville Insuring Office, to Harold Albright, Assistant Regional Administrator for FHA, Mar. 30, 1970 (FHA Insuring Office indicating doubts about the proposed large scale use of § 235 and § 236 housing development); Letter from Norman Van Ness to Earl Metzger, Apr. 9, 1970 (Federal Highway Administration suggesting that the proposed Cross Town Bus System should be developed by the privately owned Nashville Transit Company).

305. In an interview, the former CDA Director, William Reinhart, stated that he had generally avoided the use of federal technical assistance. Reinhart clearly felt that the city had sufficient grantsmanship expertise to get adequate amounts of federal funding without having to subject the planning process to what he viewed as federal interference. Interview with William Reinhart, in Nashville, Feb. 15, 1972.

306. At least 2 memoranda were prepared by the Model Cities Regional Office for the RICC review. Memorandum from Floyd Nichols to Melvin Randolph, Mar. 27, 1970 (review of physical projects by the Regional Office Urban Planning Adviser); Memorandum from Henry Bankston to Melvin Randolph, Apr. 1, 1970 (review of the CCDP by the Regional Office Citizen Participation Adviser). It is likely that additional memoranda were prepared by Joseph Fischer, the Regional Office Social Service Adviser, and Melvin Randolph, the Model Cities Coordinator (Leadman) responsible for Nashville. In any event, the regional officials for Model Cities worked closely with one another, and they frequently exchanged ideas about specific programs informally. A memorandum surveying social service oriented components was prepared subsequent to the RICC review. See note 326 *infra* and accompanying text.

gether.³⁰⁷ Secondly, there was no indication that Nashville could successfully secure the non-Model Cities federal grants necessary for the complete funding of many projects.³⁰⁸ Thirdly, the large number of individual projects proposed was criticized as presenting an unmanageable program, especially in light of the failure even to name many project sponsors.³⁰⁹ Finally, the proposal did not include a coordinating mechanism or outreach capabilities for the social services, health, and manpower programs.³¹⁰ None of the criticisms of the Nashville proposal, however, were directed toward the question of citizen participation. Indeed, HUD's Citizen Participation Adviser prepared a memorandum for the RICC review that stated conclusively that citizen participation in Nashville had been adequate.³¹¹ Although it mentioned the citizens' objection to the proposal under consideration, the memorandum indicated that the review would proceed, pending the receipt of more specific complaints.³¹²

It was against this background that the formal RICC review was

307. Although the available memoranda do not deal extensively with the omission of the relocation plan, the evaluation program, or the federal base statement, these omissions concerned the Model Cities regional office. See RICC Secretariat, Minutes of Meeting, Apr. 14, 1970, at 10-11; RICC Secretariat, Minutes of Meeting, Apr. 15, 1970, at 1.

308. See, e.g., Memorandum from Floyd Nichols to Melvin Randolph, Mar. 27, 1970. The improbability that Nashville would actually get grant-in-aid commitments from non-Model Cities agencies was noted by Earl Metzger when he wrote that the Nashville strategy "suffers from one glaring and improbable assumption, i.e., funds from other sources will materialize as scheduled." Memorandum from Earl Metzger to Edward H. Baxter, Regional Administrator, May 14, 1970, at 4.

309. E.g. Memorandum from Henry Bankston to Melvin Randolph, Apr. 1, 1970, at 3. The regional office's Urban Planning Adviser expressed special concern over the failure to name sponsors: "There are numerous projects with undesignated sponsors. As a general rule, funds cannot be released for those projects until a satisfactory operating entity is designated. This may prove to be more than administratively cumbersome in Nashville where there exist [sic] a strong conflict between the CDA and CCC." Memorandum from Floyd Nichols to Melvin Randolph, Mar. 27, 1970, at 6.

310. See Memorandum from Joseph Fischer to Melvin Randolph, Apr. 24, 1970. This lack of a coordinating mechanism has continued to date.

311. "There exists little or no doubt but what there has been Citizen Participation in the Model Cities Program in Nashville. To a great extent it is to this end that the planning of the program has lasted almost two years." Memorandum from Henry Bankston to Melvin Randolph, Apr. 1, 1970, at 1.

312. "The CCDP is being reviewed without the endorsement of the CCC (Citizens Coordinating Committee) also without the benefit of specific concerns of the CCC which led to its lack of endorsement. It is relevant to note, however, that comments have been solicited and a telegram dated March 16, 1970, from the Chairman of the CCC indicated that details would follow explaining why the Plan was not endorsed. To date, no further information has been received. The telegram as well as two letters from other sources state that the Plan does not represent the desires of the citizens of the community, nor afford them adequate involvement in its operation.

"Without the benefit of information from the CCC on specifics, the plan is being reviewed on the basis of its content." *Id.*

held on April 14, 1970.³¹³ From the very outset of the meeting, it was clear that the discussion was to proceed on two totally different levels.³¹⁴ On one hand, the RICC apparently intended the meeting as an evaluation session in which the city could be informed of the steps necessary to render the CCDP "approveable." To this end, the RICC Chairman had already urged members of the committee to maintain a hands-off attitude toward any debate between the city and the citizens' group.³¹⁵ Furthermore, an agenda had been prepared especially for the purpose of directing the discussion toward a component-by-component evaluation of the CCDP as submitted, rather than addressing the general question of citizen participation.³¹⁶ The representatives of the citizens' group, on the other hand, obviously expected some reaction from the regional Model Cities officials to the CCC objections to the whole program.³¹⁷ Although the CCC's representatives raised the question of their complaint, the issue was sidestepped³¹⁸ and the component-by-component agenda adhered to.

One very significant comment about citizen participation was offered, however, during the course of the programmatic evaluation. During the analysis of the housing component, the issue of sponsorships of

313. In addition to the normal RICC membership the meeting was attended by 2 members of the Washington Model Cities Central Office: Allen Polsby, the Atlanta Region's desk officer, and Anna Payne. The City of Nashville was represented by the CDA Director Buford Drake, 5 members of the CDA staff, Don O'Donniley of the Metropolitan Planning Commission, staff attorney Joe Ragland of the Metropolitan Legal Department, and an administrative assistant to the Mayor. The CCC was represented by its Chairman, Edwin Mitchell, and 2 other members of its Executive Committee, Mrs. C.E. McGruder and Mrs. JoAnn Bennett. It might be noted that the CCC's request for funds to send more members to the meeting was denied. Letter from Buford Drake to Edwin Mitchell, Apr. 6, 1970; *see* RICC Secretariat, Minutes of Meeting, Apr. 14, 1970, at 3.

314. Information concerning the meeting is drawn primarily from minutes taken by the RICC secretary, a report of the meeting prepared by the CCC's secretary, JoAnn Bennett, and from a tape recording of a substantial portion of the meeting.

315. *See* text accompanying note 302 *supra*.

316. RICC Secretariat, Minutes of Meeting, Apr. 14, 1970, at 2.

317. JoAnn Bennett, Report of the Regional Interagency Coordinating Committee, Atlanta, Georgia, Apr. 14, 1970, appended to CCC, Minutes of Regular Meeting, Apr. 24, 1970; RICC Secretariat, Minutes of Meeting, Apr. 14, 1970, at 2; Tape Recording, *supra* note 314.

318. The Chairman of the CCC "requested an indication of the HUD response as to the letter from the CCC which informed us that they planned to file an administrative complaint He asked Mr. Polsby to comment on the complaint. Mr. Polsby said that the complaint had been received in Washington. However, he said there was nothing in it to provide for taking any action on it but that they stand ready to take any complaints that the CCC may have." RICC Secretariat, Minutes of Meeting, Apr. 14, 1970, at 2. The tape recording of this exchange makes it clear that the complaint received in Washington was a telegram or letter notifying HUD of the CCC's intention to file a complaint. Tape recording, *supra* note 314. The administrative complaint was not filed until 2 months after the RICC review. For a discussion of the administrative complaint see notes 344 & 345 *infra* and accompanying text.

projects was raised. In discussing this question the Chairman of the CCC stated that the CCC *now* understood that the group could not sponsor projects; he continued, however, to assert the CCC's concern over who the sponsors would be.³¹⁹ There could have been no doubt in the minds of the HUD officials that the CCC's objections were not limited to its desires to run the program.

At the conclusion of the meeting the RICC Chairman summarized the programmatic review by informing the CDA that it must prepare and submit the three missing elements of the CCDP. He further urged the CDA to begin combining, reducing, and modifying projects in order to correct the problems revealed in the component-by-component evaluation. Finally, in response to questions from representatives of both the city and the citizens' group, the RICC Chairman stated that he did not know when the RICC would approve or disapprove the Nashville proposal. He did say that there was "a lot of information which [the RICC] must assimilate,"³²⁰ and that another meeting of the RICC would have to be held to determine the Committee's recommendations.³²⁰ What the RICC Chairman failed to inform the city and the citizens' group representatives was that the RICC meeting to discuss approval of the Nashville program was already scheduled for the following day.

On April 15, 1970, the RICC met to determine its recommendation for the Nashville program.³²² The Chairman opened the meeting by stating that Washington had requested the RICC "not to require additional paper from cities except on critical issues."³²³ The Chairman said that the three missing elements of the CCDP would have to be supplied by Nashville, but he suggested that the RICC recommend approval of the program to Washington pending receipt of the necessary documents. Correction of the remaining deficiencies in specific projects and components was to be achieved through approval of the Nashville program for the full supplemental grant reserved for the city,³²⁴ subject

319. "At this time another discussion regarding content of the document was initiated by the CCC. Mr. Drake said that only 4 out of 93 projects were changed. The CCC had wanted to co-sponsor all projects and this was not possible so they were changed. Dr. Mitchell said that the CCC is now aware that they cannot sponsor projects, but that they want to know who is going to sponsor them." RICC Secretariat, Minutes of Meeting, Apr. 14, 1970, at 7. This portion of the discussion is not included in the tape recording mentioned in note 314 *supra*.

320. RICC, Minutes of Meeting, Apr. 14, 1970, at 10.

321. *Id.* at 11. This comment was also reported in the CCC's report on the meeting. JoAnn Bennett, *supra* note 317, at 5.

322. Discussion of the meeting is drawn largely from the RICC minutes. RICC Secretariat, Minutes of Meeting, Apr. 15, 1970.

323. *Id.* at 1.

324. In the event HUD approved the program Nashville would receive \$5,451,000. Guar-

to "holds" placed on the expenditure of funds for troublesome projects.³²⁵ The RICC concurred in these suggestions and voted to approve the Nashville Model Cities program subject to programmatic holds on funds.

After this meeting, the Model Cities technical advisors in the regional office prepared background memoranda listing the holds that should be placed on the Nashville program.³²⁶ As the formal RICC recommendation was being prepared, a strong internal debate arose within the Model Cities regional office over the wisdom of approving the Nashville program at all.³²⁷ Although the debate was not directly disclosed by the memorandum prepared by the Model Cities Regional Office as the RICC recommendation, it was clearly reflected by the fact that every project in the program was subjected to some form of funding hold.³²⁸ On May 22, 1970, the RICC recommendations were forwarded to Washington.³²⁹

B. Aftermath of the Initial Review—Opposition and Ambivalence

When the representatives of the city and the CCC returned from the April 14 RICC review, both sides were still clearly committed to their opposing views. The meeting in Atlanta had not bridged the gap separating the two sides. The representatives of the citizens' group returned determined to complete preparation of their administrative complaint and thereby gain the opportunity for the full hearing they thought

anteeing a set amount had been intended by HUD to avoid the problems of planning that had been encountered in the traditional grant-in-aid applications, which tended to request exaggerated amounts in anticipation of a reduction by the funding agency. The subsequent funding would then cause a reshuffling of the plans to adjust the project to the reduced amount actually granted. See note 25 *supra* and accompanying text.

325. RICC Secretariat, Minutes of Meeting, Apr. 15, 1970, at 1.

326. Although only one of the memoranda is available, it is likely that there was at least one additional memo. The one available was addressed only to the social services aspects of the program proposal. Memorandum from Joseph Fischer to Melvin Randolph, Apr. 24, 1970.

327. Interviews with 5 of the Model Cities members of the RICC indicated that the debate was quite strong. In off-the-record comments, 2 officials stated that the written RICC recommendations favoring approval of the program may have been accompanied by oral comments suggesting that Nashville should be turned down for funding as a Model City.

328. Memorandum from Earl Metzger to Edward Baxter, May 14, 1970 (signed May 22, 1970).

329. The RICC had voted to approve the CCDP at the April 15 meeting. The final written approval was formulated by the RICC chairman, Earl Metzger, and circulated to the other RICC members for comments. The members were given 3 days to comment on the draft memorandum. Apparently, no objections were received and the memorandum was signed by the HUD Regional Administrator on May 22, 1970. See *id.*; RICC Secretariat, Minutes of Meeting, Apr. 15, 1970, at 2.

HUD was offering them. The representatives of the city, on the other hand, had completed the first step toward approval of the CCDP. The strategy of both sides necessarily demanded a significant further effort to achieve success.

The first task facing the CCC was the preparation of the administrative complaint and its submission to HUD as quickly as possible. The process of drafting the complaint encountered lengthy delay, however, because the CCC's attorney was at that time committed to preparing the defense in a controversial murder trial. The CCC's second task was simply the maintenance of an active membership despite the group's withdrawal from program participation. Although the group continued to hold meetings regularly,³³⁰ poor attendance was becoming a serious problem.³³¹ In some cases, members of the group had ceased to attend meetings regularly because of opposition to or frustration with the CCC's course of action. In other instances members had ceased regular attendance in order to avoid the high emotions and controversy that frequently were displayed at the meetings. Finally, many CCC members had become ineligible either due to employment in the CDA,³³² or because they had moved from the district they represented.³³³ The attendance problem was particularly acute because there were no provisions in the CCC bylaws for the replacement of inactive or ineligible elected members.³³⁴

330. Although the CCC frequently has held called meetings, it has been the group's general practice to hold executive committee meetings on the second Thursday of each month, and regular meetings of the entire group on the third Thursday of each month.

331. As one might expect, attendance at the CCC meetings had tended to be quite good during the period in which the program was submitted. Starting in the late spring, however, attendance declined noticeably. The available minutes indicate that a quorum—25 members—was not present at any of the CCC meetings from early May until mid-September. *See* CCC, Minutes of Meetings, May 21, June 4, June 25, July 16, and Aug. 20, 1970.

332. At least 3 members of the CCC have been employed by the Model Cities program. One elected member was hired to work on the CDA citizen participation staff. The other 2 members were hired by the Concentrated Employment Program (CEP). Although the effect of hiring CCC members on the total membership was not large, it was resented by many CCC members as an effort to co-opt the group's leadership. The CCC requested that the 2 recently hired CEP employees involved resign their CCC memberships. CCC, Minutes of Meeting, Apr. 2, 1970. In a memorandum, the CDA Director informed 2 CCC members who were employed by CEP that the Labor Department had "made it very clear that persons on the citizens participation structure may, in fact, be employed in the CEP program providing that the citizens participation structure does not have the authority to hire and fire." He continued that there was "no reason for you to relinquish your membership on the CCC." Memorandum from Buford Drake to Delores Gordon and Herb Collier, Apr. 3, 1970.

333. It is not possible to measure accurately the number of elected members that had become inactive or ineligible. An examination of the minutes for the period reveals, however, that attendance by more than half of the elected members was rare.

334. The replacement of elected members later became a source of major concern. *See* notes 398-401 *infra* and accompanying text.

The first task confronting the CDA after the RICC review was the preparation of the three documents that the RICC had identified as essential to the approval of the CCDP. After these documents were completed, there remained the entire process of combining and modifying projects as recommended by HUD. Furthermore, the city had not yet commenced soliciting support from federal agencies for the various projects in the CCDP that depended on non-Model Cities federal funding.³³⁵

Despite the evident rift separating the CCC and the city, there were some factors that tended to mitigate the hostility between the two sides. First, the leadership of the CCC had become convinced that no urban renewal activity was planned for the first action year.³³⁶ Secondly, much of the initial concern over the city's deletion of the CCC from sponsorship of particular projects had subsided.³³⁷ Thirdly, many CCC members and CDA staff members continued to enjoy cordial personal relationships, despite their apparently opposing points of view.³³⁸ Fourthly, the CCC had a strong interest in participation in the preparation of the relocation plan and the evaluation program. Finally, the CDA was in perilous financial straits and was most anxious to expedite funding of the CCDP. During the weeks immediately following the RICC review the combination of these factors injected an element of ambivalence into the formal opposition separating the CCC and the CDA. The most interesting example of this ambivalence centered upon the preparation of the relocation plan.

Following its return from the RICC review in Atlanta, the CDA had requested the Relocation Director of the Nashville Housing Authority to draft a relocation plan. A plan was prepared and submitted to the Metropolitan Council for approval on May 19, but city officials recognized that this plan contained several technical deficiencies.³³⁹

335. Interview with Charles Straub, in Atlanta, Mar. 2, 1972. The First Quarterly Report of the Nashville CDA indicates that applications for non-Model Cities funds for projects in the CCDP were not made until after the proposal was approved. See CDA, Quarterly Report for Period Ending March 31, 1971, attachment I.

336. Throughout the period following the submission of the CCDP city officials stressed the fact that no urban renewal was planned for the first action year of the program. See, e.g., Nashville CDA, Comprehensive City Demonstration Plan iv (Mar. 11, 1970) (memorandum from Buford Drake to the Citizens Coordinating Committee and the Assistant Regional Administrator for Model Cities).

337. See note 319 *supra* and accompanying text.

338. Interview with Norman Moore, in Nashville, Feb. 21, 1972.

339. Interview with Robert Little, former Urban Development Coordinator for Mayor Beverly Briley, in Nashville, Jan. 14, 1972. The plan did not even mention the replacement housing payment which was required by CDA Letter No. 5. Furthermore, the five-year and one-year forecasts for relocation required by CDA Letter No. 5 were missing.

More importantly, the CCC was concerned over the designation of the Nashville Housing Authority to serve as the sponsor. Despite its announced policy of withdrawal, the CCC appeared in opposition to the proposal when it came before the Metropolitan Council Model Cities Committee. The Model Cities Committee voted to defer action on the proposed plan indefinitely and appointed a special committee to formulate a new plan. The membership of the committee consisted of the CDA Director, the Chairman and Attorney of the CCC, the Relocation Director of the Nashville Housing Authority, and the committee was chaired by a member of the Model Cities Committee. Ostensibly, the CCC representatives on the committee limited their involvement to detached observation. The lack of involvement was more apparent than real, however, since the actual drafting of the new relocation plan was accomplished by two attorneys who had worked with Legal Services of Nashville and had been contacted for the job by the CCC.³⁴⁰ The new plan was more protective of the citizen's rights, replaced the NHA with the Metropolitan Welfare Commission as sponsor, and received full CCC approval. On June 10, 1970, the Metropolitan Council voted unanimously to pass the substitute plan, and it was submitted to Atlanta without modification.³⁴¹

Despite the ambivalence that characterized the CCC-CDA relationship, which was exemplified by the preparation of the relocation plan, the rigid roles of opposition were never fundamentally altered. With both sides frozen into positions of opposition, it was inevitable that the factors tending to ameliorate the conflict would retain only minimal importance. Thus, for example, the cooperative preparation of the relocation plan indicated moderation of the parties' attitudes, but its completion and submission apparently was not followed by an effort to consolidate the progress that had been made. The parties simply receded into their long-accustomed roles of conflict. By late May a wave of petty quarreling had erupted, which culminated in a futile demand by the CCC that the CDA Director be removed.³⁴² Shortly thereafter the CDA staff was drastically reduced, ostensibly on the grounds of financial necessity. There were strong indications, however, that the termina-

340. Interviews with Jerry Black and Grayfred Gray, drafters of the revised relocation plan, in Nashville, Jan. 11, 1972.

341. Metropolitan Nashville and Davidson County Council, Substitute Res. No. 70-979 (passed June 10, 1970).

342. The CCC resolution demanding Drake's ouster cited lack of concern for the MNA and its residents, deliberate misconstruction of communications, denial of meaningful participation for citizens, refusal to recognize the CCC's right to direct access to HUD, and Drake's alleged attempts to disrupt the CCC. *See* CCC, Minutes of Called Meeting, June 4, 1970.

tions were largely due to the staff members' "disloyalty" to the CDA.³⁴³ Finally, on June 12, 1970, only two days after the relocation plan had been passed by the Council, the CCC filed its administrative complaint, thereby institutionalizing the roles of opposition.

The administrative complaint filed by the Citizens Coordinating Committee was a lengthy document that outlined in detail the citizens' group's grievances against the proposed program.³⁴⁴ The complaint alleged generally that the CCDP failed to satisfy the statutory goals of citizen participation and innovation, and that the plan would have no significant impact on the living conditions in the MNA. The complaint further charged that the Nashville Model Cities program violated the Act because it contemplated the replacement of a residential neighborhood with extensive commercial and industrial development. The complaint also alleged that the CCDP violated statutory and constitutional protections of the MNA residents' civil rights. The relief requested in the complaint was rejection of the CCDP, recognition of the citizens group in its corporate status as the citizen participation structure, and provision for an opportunity to replan the Nashville Model Cities program. The complaint also requested a prompt hearing and an opportunity to submit documentary evidence in support of the allegations made.

Although the expectations of the citizens' group regarding the complaint are not altogether clear, at least two observations are possible. First, it is unlikely that the citizens actually expected HUD to reject the CCDP and order another year for planning.³⁴⁵ It is more likely that the citizens hoped to establish a strong role for the CCC in the future

343. Two former staff members of the CDA indicated in interviews that the CDA Director, Buford Drake, was extremely upset over the fact that copies of CDA correspondence "frequently found their way over to Hubbard Hospital," the business address of the CCC chairman. He felt that "spying for the CCC" was intolerable. Interview with Norman Moore, in Nashville, Feb. 21, 1972. Interview with Robert Meadows, in Nashville, Feb. 26, 1972. The co-chairman of the Metro Council Model Cities Committee at the time felt the firings were unfair and termed a later investigation of the dismissals by the Committee a "whitewash." Interview with Councilman Tom Sharp, in Nashville, Feb. 14, 1972.

344. This administrative complaint was a 21-page sworn document addressed to the Secretary of Housing and Urban Development. HUD had been advised by the CCC Chairman over 2 months earlier that such a formal complaint was being prepared for filing. Letter from Edwin Mitchell to George Romney, Apr. 3, 1970.

345. In a letter to the chairman of the CCC, the HUD Deputy Assistant Secretary for Model Cities, Robert Baida, stated that "[t]he city of Nashville has been in planning for two years. While no decision has been reached as to whether to approve Nashville's program, we doubt that further planning would be beneficial. In this connection, the Model Cities program strongly emphasizes continued planning and evaluation in the development of approved local programs, and you should recognize that if it is approved, the signing of a grant agreement between HUD and a city does not freeze the development of the city's program." Letter from Robert Baida to Edwin Mitchell, Apr. 24, 1970.

operation of the program and to modify some of the more objectionable elements of the first year CCDP before it was accorded HUD approval. Secondly, the citizens' group expected a formal determination of the merits of their complaint. The complaint had been drawn in the stylized format of trial pleadings and evidently contemplated advocacy proceedings.

As noted, the filing of the administrative complaint marked a stage at which the opposing stances of the city and CCC had become extremely uncompromising.³⁴⁶ This inflexibility was compounded by the fact that by early June the future plans of the CDA and the citizens' group depended substantially on the decisions to be made by HUD. On one hand, the CCC had withdrawn its participation and filed an administrative complaint. The course of further action by the citizens' group depended largely on HUD's handling of the complaint. The CDA, on the other hand, had completed all of the major paperwork required by the RICC to make the CCDP approvable. Although extensive work remained to be done to ready the projects for implementation, the CDA decided to postpone substantial work on the projects until the program was officially funded. Thus, during the summer months of 1970, the CDA made no significant effort to solicit the non-Model Cities federal funds requested in the CCDP.³⁴⁷ Furthermore, no substantial attempt was undertaken to combine and modify projects within the CCDP as had been suggested in the April 14 RICC review.³⁴⁸ The staff of the CDA had been reduced to the bare minimum, and the city appeared content to wait for HUD's decision on funding of the program.³⁴⁹

346. See notes 343 & 344 *supra* and accompanying text.

347. One example of this lack of interest in pressing the applications for non-Model Cities funds occurred in mid-July when the leadman for Nashville, Melvin Randolph, visited the city to promote funding of projects by the Department of Transportation. Although DOT had suggested the trip and had sent 3 representatives to accompany Randolph, city officials were unreceptive. In his Field Trip Report, Randolph stated that the Transportation officials were "exposed to Nashville's problems in a straight-forward manner and had clearly impressed upon them by Director Drake that transportation T[echnical] A[ssistance] has low priority relative to solving the CCC mayor problem and getting a grant out of HUD." Memorandum from Melvin Randolph to H.D. Harrison and Earl Metzger, July 16, 1970.

348. Apparently the only effort to combine and modify projects before the Letter of Readiness was received in the fall was made by the Metropolitan Planning Commission. Don O'Donniley, a staff member of the Commission, presented a tentative draft of the combinations and modifications to the Model Cities Regional Office in July. At this meeting, however, the regional officials suggested that further work was necessary.

349. Following the dismissals in early June 1970, the CDA staff apparently was limited to 5 or 6 employees, including clerical staff. Interview with Norman Moore, in Nashville, Feb. 21, 1972.

C. HUD Action on the Nashville Proposal

The dependence of both parties at this point on action by HUD magnified the importance of the Department's decisions. During the summer and early fall of 1970 there were three separate issues in the Nashville Model Cities program with which HUD had to deal: the relocation plan, the administrative complaint, and the approval of the CCDP. In its approach to each of these issues, HUD failed to provide the kind of leadership that was essential to move the Nashville Model Cities program off dead center.

1. *Relocation Plan.*—The question of the relocation plan was perhaps the simplest of the three issues with which HUD was faced. This document was the *only* portion of the Nashville proposal that has ever been submitted with the full approval of both the city officials and the CCC. The problem confronting the Model Cities Regional Office was that there were still basic technical deficiencies in the plan.³⁵⁰ Despite the fact that no displacement had been projected for the first action year,³⁵¹ the Regional Office, quite inexplicably, decided to reject the relocation plan as submitted.³⁵² Not only did HUD reject the plan, but it also required the substitution of the Nashville Housing Authority for the citizen-designated sponsor, the Metropolitan Welfare Commission.³⁵³ Thus, HUD not only showed remarkable insensitivity—or ignorance of local conditions—by its rejection of the relocation plan,³⁵⁴

350. Interview with Henry Bankston, in Atlanta, Mar. 3, 1972. The deficiencies were largely documentary in nature, such as the absence of descriptions of the available rehousing and overall vacancy rates.

351. The CCDP made it clear that no clearance or displacement was included in the Model Cities projects for the first action year. *See, e.g.*, Nashville CDA, Comprehensive City Demonstration Plan iv (Mar. 11, 1970). Nevertheless, a relocation plan was required by HUD to cover displacement in non-Model Cities programs that might occur in the MNA. HUD, CDA Letter No. 5, Revised HUD Handbook MC 3165.I (Feb. 1970).

352. With certain modifications the relocation plan was accepted on an interim basis only. Memorandum from Relocation Division, June 24, 1970. At least one of the grounds relied upon by the Relocation Division in rejecting the relocation plan was factually incorrect. The memorandum states that the Nashville plan does not indicate the quality of housing required as temporary relocation housing. *Id.* at 2. The Council-passed plan, however, specifically indicates that "any dwelling used for temporary relocation must be standard housing." Substitute Res. No. 70-979, at 16 (passed June 12, 1970). The plan also specifically defines "standard housing." A subsequent offer almost a year later by the city to make the interim plan acceptable by amendment was rejected by HUD. Letter from Buford Drake to Earl Metzger, Apr. 5, 1971; Letter from Earl Metzger to Buford Drake, Apr. 23, 1971.

353. Letter from Earl Metzger to Buford Drake, Aug. 26, 1970.

354. An alternative explanation of HUD's rejection is that HUD previously had agreed with Nashville city officials in private to demand certain changes in the relocation plan. This would have freed the city to feign cooperation with the CCC, while HUD would take the blame for altering the end product. An arrangement of this sort had been offered to the city at least once before by

but it also returned the issue to Nashville without the sort of clear definition of the requirements that would make any future dispute unlikely.

2. *Administrative Complaint.*—The second issue that confronted HUD during the summer of 1970 was the CCC administrative complaint. Once again the Department's apparent insensitivity tended to compound the problem. In the period immediately following the submission of Nashville's CCDP, HUD had avoided answering the CCC's objections to the proposal by stating, both orally and in writing, that the citizens should more fully document their complaints.³⁵⁵ To the citizens' group this response suggested, or possibly even required, the submission of a formal administrative complaint and perhaps some form of adversary hearing. Although HUD apparently never intended to dignify the complaint with any formal determination of its merits,³⁵⁶ this was never conveyed to the citizens' group. Apparently the Model Cities officials had hoped to avoid the issue by requesting "documentation," which hopefully would never be forthcoming, or, at worst, to hold an informal meeting in Atlanta, at which the citizens could air their grievances in person.³⁵⁷ The CCC did persist, however, in "documenting" its objections and in demanding some form of hearing. Finally, the CCC was invited to attend a meeting in Atlanta on July 23, 1970 to "clarify and explain certain aspects of the complaint to HUD."³⁵⁸

The July 23 meeting was opened by the HUD Assistant Regional Administrator for Model Cities with a statement emphasizing that the meeting was to be informal and not an adversary hearing.³⁵⁹ The discus-

HUD with respect to the changes made in the CCC-approved CCDP. Interview with Earl Metzger, in Atlanta, Mar. 3, 1972. At least one of the drafters of the relocation plan believes that such an arrangement was behind the relocation decisions made by HUD. Interview with Grayfred Gray, in Nashville, Jan. 11, 1972. Such an explanation of the relocation plan rejection does not seem likely, however, in light of internal HUD correspondence. See, e.g., Letter from Joe Behrens to Earl Metzger, Aug. 1970.

355. See, e.g., Letter from Robert Baida to Edwin Mitchell, Apr. 24, 1970; RICC Secretariat, Minutes of Meeting, Apr. 14, 1970, at 2.

356. Interview with Allen Polsby, in Washington, Mar. 17, 1972. The question of responding to the complaint became a source of embarrassment for HUD when approval of the Nashville CCDP was announced before HUD revealed the status of the complaint. See note 396 *infra* and accompanying text.

357. When questioned about the procedure employed to process the administrative complaint, Earl Metzger, former Assistant Regional Administrator for Model Cities, indicated that it was not uncommon for meetings to be held between citizens' groups and city officials. Metzger stressed the therapeutic effects of such meetings, as well as the benefit of serious exchanges of views. Interview with Earl Metzger, Mar. 3, 1972, in Atlanta.

358. Letter from Allen Polsby to Edwin Mitchell, July 16, 1970.

359. Information concerning the meeting is drawn from minutes taken by the RICC secretary and the secretary of the CCC.

sion that followed never directly addressed the allegations of the CCC's administrative complaint. Although citizen participation and the citizens' fears about urban renewal were mentioned in general terms, the issue of the CCC's incorporation was the only topic dealt with in detail. Given the nature of the discussion, it is not surprising that no issues were resolved at this meeting.³⁶⁰ Once again, the more interesting meeting was held by HUD on the following day.

On the day following the meeting with representatives of the city and the CCC, HUD held a private meeting attended only by representatives of the city.³⁶¹ A portion of the meeting was devoted to the question of CDA staffing and the progress that had been made in combining and modifying projects in the CCDP.³⁶² The question of citizen participation was then raised. More specifically, the regional officials questioned the CDA Director, a staff attorney of the Metropolitan Legal Department, and an Administrative Assistant to the Mayor about the city's refusal to recognize the CCC in its corporate status. In response to these questions, two basic arguments were offered to justify the city's refusal to recognize the group's corporate status. First, the city officials argued that the North Nashville Citizens Coordinating Committee, Inc., tended to emphasize the role of Model Neighborhood residents, while the Mayor insisted that the CCC should represent the entire Nashville community. This argument was largely specious because the two groups had identical membership, membership selection, bylaws, and officers.³⁶³ The second argument propounded was that corporate status would facilitate easier access to the courts for the organization in the event of litigation. Because of well established precedent, however, this argument was also unpersuasive.³⁶⁴ It is clear that the Model Cities

360. One method of resolving the CCC's objections had already been suggested by the RICC. This procedure was for the CCC to submit a list of the individual projects to which the group had specific objections. The RICC could then act to resolve the difficulties. RICC Secretariat, Minutes of Meeting, Apr. 15, 1970, at 1. This procedure, however, apparently was never attempted.

361. The only available records of the meeting are the minutes prepared by HUD and a 3-page internal HUD memorandum summarizing the July 23 and the July 24 meetings. HUD, Minutes of Meeting of HUD Model Cities Personnel and City Officials of Nashville, Tennessee on July 24, 1970; Memorandum from Jennifer Lantrip, Program Assistant to Henry Bankston, Aug. 5, 1970.

362. For a discussion of this portion of the meeting see notes 386-87 *infra* and accompanying text. See also material cited note 361 *supra*; Memorandum from Allen Polsby to Earl Metzger, July 22, 1970 (outlining the staffing and programmatic problems to be discussed July 24 with Nashville officials).

363. Although there are some minor disparities between the original bylaws and the bylaws of the corporation, there has never been any functional difference between the 2 groups.

364. The standing of a citizen participation structure to obtain judicial review of a Model

officials were unconvinced by the city's arguments, and the meeting concluded with the recommendation that the city recognize the CCC in its corporate status.³⁶⁵

The July 23 and 24 meetings were hardly satisfactory to either the citizens' group or the city. None of the CCC's basic objections to the program had been resolved, and very few of them were even discussed. The city was unable to gain any better indication of the prospects for approval of the CCDP, and had been pressed firmly by HUD to recognize the incorporation of the citizens' group.

After returning to Nashville, city officials did, in fact, offer to accept the incorporation of the CCC. In an exchange of letters with the CCC chairman,³⁶⁶ the CDA Director offered to recognize the NNCCC, Inc., if five conditions were met: (1) scheduling annual elections of the 30 unaffiliated members; (2) appointment by the Mayor and the universities of 11 members each; (3) appointment of 23 members by organized groups; (4) status as director for each CCC member; and (5) deletion of the North Nashville part of the title to "reflect its community wide structure."³⁶⁷ These conditions amounted basically to a demand that the membership selection process of the CCC remain unchanged. The CDA Director emphasized that open-ended participation was desired. The CCC, however, did not respond positively to this offer within the time limit specified by the CDA Director. The only response elicited from the CCC to the offer amounted to petty criticism, suggesting that the CDA Director lacked the authority to demand a change in the citizen participation structure.³⁶⁸ A more likely explanation of this in-

Cities program had been a subject of no small amount of litigation from 1968 through 1970. Although the issue was not faced by a federal appellate court until the summer of 1970, no cases have been reported in which incorporation of the citizens' group affected the outcome. Only 10 days prior to the July 24, 1970 meeting, the Third Circuit Court of Appeals specifically held that a citizens' group does have standing to contest the adequacy of citizen participation in a Model Cities program. *North City Area-Wide Council, Inc. v. Romney*, 428 F.2d 754 (3d Cir. 1970). Although the citizen participation structure was incorporated, this factor did not affect the court's decision. *Id.* at 757. Indeed, incorporation of the CCC conceivably could have made access to the courts more difficult, since the court might have to be shown that the group's corporate status had not affected its official status as the recognized citizen participation structure.

365. See HUD, Minutes of Meeting Between HUD Model Cities Personnel and City Officials of Nashville, Tennessee on July 24, 1970, at 2-3; Letter from Earl Metzger to Beverly Briley, July 30, 1970, at 2. It should be noted that HUD never took an official position demanding that the city recognize the incorporation of the citizens' group. The HUD recommendation was more in the nature of an insistent but friendly suggestion.

366. Letter from Buford Drake to Edwin Mitchell, July 31, 1970; Letter from Edwin Mitchell to Buford Drake, Aug. 4, 1970; Letter from Buford Drake to Edwin Mitchell, Aug. 5, 1970; Letter from Buford Drake to Edwin Mitchell, Aug. 18, 1970.

367. Letter from Buford Drake to Edwin Mitchell, July 31, 1970.

368. Letter from Edwin Mitchell to Buford Drake, Aug. 4, 1970.

transigent response is the suspicion and inflexibility that had characterized each side's attitude since early June.³⁶⁹ Ironically, the result of this exchange was the prolongation of the only dispute that HUD had sought to resolve during the two July meetings.

3. *Approval of the CCDP.*—The third major issue with which HUD was confronted during the summer of 1970 was the question of approving the Nashville CCDP. Although the RICC's recommendation to approve the program subject to various holds had been sent to Washington in late May 1970,³⁷⁰ the progress toward official approval of the Nashville program was painfully slow. After the RICC recommendation was received in Washington, it was circulated among various Model Cities Central Office officials for review.³⁷¹ Although the mechanical procedure employed in the review of the Nashville proposal is unclear, the RICC recommendation evidently did not resolve all of the Central Office's doubts. Indeed the only major issue that the RICC memorandum laid to rest was whether the past involvement of citizens in developing the plan had been sufficient to justify approval.³⁷² Even the adequacy of past involvement, however, did not guarantee acceptable citizen participation in the future.

The decision confronting the Model Cities Central Office was not an easy one. The CCDP, as it stood, was of very questionable quality. A massive effort on the part of Nashville was necessary to get the program underway, and there were grave doubts about the city's capacity to provide that effort.³⁷³ The administrative effort was com-

369. In reading this exchange it must be remembered that the CDA Director's letters subsequently were used to document the city's argument for refusing to recognize the NNCCC, Inc. There may have been some confusion over the deadline by which a response was expected from the CCC. In any event, there apparently was no effort to convene a called meeting of the CCC to consider the offer of recognition, and the next regularly scheduled meeting of the CCC was held August 20, 3 days after the deadline for responding.

370. See note 329 *supra* and accompanying text.

371. The Regional Interagency Coordinating Committee (RICC) structure originally was paralleled by the Washington Interagency Coordinating Committee (WICC), which reviewed Model Cities proposals in light of RICC recommendations. The WICC structure, however, apparently has been deemphasized, and it is not clear exactly what format was used in reviewing the Nashville proposal. Interview with Donald Dodge, Director of Evaluation, HUD-Community Development, in Washington, Mar. 17, 1972.

372. See footnotes 307 & 327-29 *supra* and accompanying text.

373. The RICC memorandum recommending approval of the Nashville program clearly indicated concern about the city's commitment. Despite the fact that the memorandum tended to minimize the RICC's doubts, see note 327 *supra* and accompanying text, its approval of the commitment of city officials was lukewarm at best: "[W]hen examined closely the commitment of high ranking city officials ranges between passive indifferences [sic] to mild interests [sic]. The mild interest level is exceeded only when a major crisis develops or the very formidable citizens organization is pushing for action." Memorandum from Earl Metzger to Edward Baxter, HUD Regional Administrator, May 14, 1971, at 4-5.

plicated by the necessity of planning around the massive funding defaults that were expected to occur in the non-Model Cities federal programs.³⁷⁴ The nature of HUD's role in the Model Cities program exacerbated these difficulties. The emphasis in the program on local planning and responsibility made it unlikely that the Department could supervise the Nashville program closely once the proposal was approved.³⁷⁵ Furthermore, this stage of the program represented a point of no return for HUD. Until then, the only funds expended had been for planning, but any future funding would be primarily for project implementation. Thus, while HUD technically could refuse to fund Nashville Model Cities in future action years if the program did not improve, that course of action would necessarily require the termination of ongoing projects, many of which, taken individually, might be quite good.

On the other hand, many factors militated strongly in favor of funding Nashville's program. To a certain extent, many of the problems of quality evident in the CCDP were attributable to honest efforts by Nashville to comply with HUD's complex planning requirements.³⁷⁶ Furthermore, HUD had already invested over 200,000 dollars in the Nashville program, and it was hoped that this investment might still be salvaged.³⁷⁷ The program was, after all, a five-year program, and the Department had had experience with other cities pulling themselves together after initial "growing pains."³⁷⁸ North Nashville itself was also an eloquent argument for approval. The area was in desperate need of significant improvement, and it had strong potential for a successful program because of the presence of the three universities in addition to a favorable economic mix. Finally, there were political factors to be considered. Only two Model Cities programs had been terminated by HUD, the largest of which was approximately one-tenth Nashville's

374. In discussing the Nashville program, the RICC praised the city's reliance on non-Model Cities funds but was forced to conclude that the strategy "suffers from one glaring and improbable assumption, i.e., funds from other sources will materialize as scheduled. No further comment is required." Memorandum from Earl Metzger to Edward Baxter, HUD Regional Administrator, May 14, 1970, at 4.

375. Interview with Earl Metzger, in Atlanta, Mar. 3, 1972. In discussing the Model Cities program, HUD officials at all levels emphasized that Model Cities is "the city's program" and that the HUD staff is simply inadequate to monitor closely the quality of any city's efforts.

376. "Looking back at the staggering number of projects, the conclusion is inescapable that there was a conscious attempt at the comprehensiveness required of all first round cities." Memorandum from Earl Metzger to Edward Baxter, May 14, 1970, at 2.

377. As of December 30, 1970 the total Model Cities funds expended on the Nashville program was \$232,951. Nashville City Demonstration Agency, Monthly Model Cities Financial Management Report for the Month of January 1972 (submitted Feb. 15, 1972).

378. Interview with Earl Metzger, in Atlanta, Mar. 3, 1972.

size.³⁷⁹ Termination of a program in a city Nashville's size would almost invariably focus massive political pressure on the Department.³⁸⁰ The circumstances were complicated further by the fact that the Mayor of Nashville was a close personal acquaintance of the Assistant Secretary of HUD for Model Cities.³⁸¹

By mid-July, HUD officials in Washington had concluded tentatively to follow the RICC recommendation and approve the Nashville program subject to holds on specific projects. Immediately prior to the meetings in Atlanta on July 23 and 24, the Model Cities Central Office sent a memorandum to the Regional Office outlining the status of the Nashville program.³⁸² The memorandum adopted the basic position that the RICC had recommended, and it set forth a strict timetable for Nashville to follow in implementing the program.³⁸³ Failure to meet the timetable was designated as "cause for suspension or termination of the grant on grounds that the carrying out of the grant agreement is improbable or infeasible."³⁸⁴

Although the representatives of the city at the July meetings appar-

379. The 2 programs terminated were North Little Rock, Arkansas and Danville, Kentucky. In North Little Rock, the city requested termination of the project. In Danville, there apparently was a substantial failure to comply with the basic structure of the Model Cities legislation and regulations. Interview with Steve Vilvens, in Knoxville, Feb. 1, 1972. One more program has terminated since the date of the approval of the Nashville program. The termination was of a relatively small city, Atlantic City, New Jersey. Letter from David Grossman, Acting Assistant Regional Administrator for Model Cities, Region II, to Allan Gates, Special Projects Editor, *Vanderbilt Law Review*, July 15, 1971.

380. Even under normal conditions, one would expect termination of a Model Cities program to have political consequences. In the case of Nashville, however, more was at stake than the mere continuance of the program. The Nashville program had been funded from June 1969 through September 1970 by means of a "Letter to Proceed." Under this arrangement, the City of Nashville paid all of the costs incurred with a refund of 80% only if HUD approved the Nashville CCDP. The remaining 20% of the costs represented Nashville's one-fifth matching share of the funds. The funds that were made available by the Metropolitan Council to finance the Nashville program under the Letter to Proceed arrangement were appropriated as loans only. Thus, rejection of the Nashville CCDP by HUD would have placed Nashville's Mayor Briley in an extremely embarrassing position only months away from the date he was to start his campaign for reelection.

381. Nashville's Mayor, Beverly Briley, and Floyd Hyde became acquainted through their work together in the National League of Cities. During Briley's tenure as president of the organization, Hyde served as vice-president.

382. Memorandum from Allen Polsby to Earl Metzger, July 22, 1970.

383. *Id.* The memorandum stated that an acceptable interim relocation plan had to be submitted before execution of the grant agreement. The city would be required to set up a planning work program within 60 days after contract execution. Within 90 days of the agreement, a final relocation plan had to be formulated and a competent CDA staff hired. Citizen participation was also to be addressed in this 90-day period. Projects were to be combined and eliminated within the first 120 days so that the final program would have less than 50 projects.

384. *Id.*

ently were informed of the Central Office's position,³⁸⁵ the memorandum was not a final approval of Nashville's proposal. Instead, the city was informed of three additional requirements to be met.³⁸⁶ First, the city was instructed to begin enlarging the CDA staff in order to be ready to implement the program when the grant was approved. The staffing problem in the CDA was especially important for Nashville because the massive gearing-up process would have to be accomplished without the benefit of most of the experienced staff that had been dismissed at the beginning of the summer. The second requirement imposed by HUD was the reduction of the number of projects in the program by at least one-half. The reduction requirement did not imply the elimination of particular projects. Instead, HUD suggested that projects be combined in order to organize the same overall project effort into a more manageable number of separate operations. The final requirement mandated a statement from the Mayor concerning the method by which he planned to assure adequate citizen participation in the event of HUD approval of the program. The final requirement was accompanied by a strong indication that recognition of the CCC's incorporation would satisfy much of HUD's concern for citizen involvement in the future.³⁸⁷

Although the three requirements were expressed as preconditions to approval of the Nashville program, it was readily apparent that little real progress would be made toward resolving any of the problem areas. In response to the citizen participation requirement, the Mayor sent a letter August 21 to the regional office outlining the conditional offer extended by the CDA to recognize the incorporation of the citizens' group.³⁸⁸ As previously noted,³⁸⁹ the offer of recognition had been rebuffed by the CCC. Because of that refusal, the Mayor informed HUD that he would not recognize the incorporation of the citizens' group and stated that the original citizen participation structure would remain unchanged. The letter did not specify, however, how the Mayor

385. The memorandum began by stating that "[t]he following concerns along with any the Region may have should be communicated to the city in writing." *Id.*

386. The requirements were outlined in a letter to Mayor Briley, and apparently were discussed in the meeting July 24. Letter from Earl Metzger to Beverly Briley, July 30, 1970. *But see* HUD, Minutes from Meeting of HUD Model Cities Personnel and City Officials of Nashville, Tennessee on July 24, 1970.

387. Although the letter from Metzger carefully avoided requiring the City of Nashville to recognize the incorporated citizens' group, it did state that "[s]ince the incorporation seems to be the critical issue, it is inevitable that the city will have to sit down with the citizen structure, acknowledge leadership, and cope with it." Letter from Earl Metzger to Beverly Briley, July 30, 1970.

388. Letter from Beverly Briley to Earl Metzger, Aug. 21, 1970.

389. *See* notes 366-69 *supra* and accompanying text.

would assure effective participation in the original structure. The Mayor's response to the questions of staffing and project combination was contained in a letter sent six days later.³⁹⁰ In this letter, the Mayor noted that two new CDA staff members had been hired since the July 24 meeting. The Mayor stated that recruiting other staff members had begun, but he stressed that it would be financially impossible to hire additional staff members until the program was funded. Concerning the requirement of reducing and combining projects, the Mayor pointed out that a tentative plan for consolidating projects had been prepared by the Metropolitan Planning Commission and given to the regional office at the July 24 meeting. The Mayor expressed the hope that this plan would satisfy HUD's requirements. The Mayor closed the second letter by emphasizing the critical financial conditions of the Nashville CDA, and by noting that HUD's current review had been underway for five and one-half months.³⁹¹

Immediately upon receipt of the Mayor's second letter, the regional office reported that Nashville had complied satisfactorily with all three of the supplementary requirements, and approval of the Nashville program was recommended.³⁹² The Washington Central Office delayed its decision to recommend approval for two weeks.³⁹³ On September 15, 1970, approval of the Nashville program was issued by the Assistant Secretary for Model Cities.³⁹⁴ Once again, however, delay ensued. Finally, Secretary Romney approved the program and on October 7, 1970, the City of Nashville was tendered a grant to begin the first action year of its Model Cities program.³⁹⁵

390. Letter from Beverly Briley to Earl Metzger, Aug. 27, 1970.

391. After stating that all available funds for the CDA would be exhausted by September 30, 1970, Mayor Briley closed his letter with some fairly sharp language about the lengthy delay which had been experienced during the review of the CCDP by HUD: "I am sure you also read that our CCDP was submitted to your office on March 12, 1970. Since that time all requests by HUD for revisions have been met. I therefore see no reason why an early answer to our funding is not forthcoming." Letter from Beverly Briley to Earl Metzger, Aug. 27, 1970.

392. Memorandum from Earl Metzger to Floyd Hyde, Sept. 1, 1970.

393. In interviews with various HUD officials, it was revealed that part of the delay in the review process resulted from a time-consuming effort to release more of the holds on specific projects before approving the program. Although the effort may have been partially responsible for the delay from September 1 to September 15, if the effort was made, it was unsuccessful. As the program progressed through the review process, it tended to collect more holds instead of having holds released.

394. Memorandum from Floyd Hyde to George Romney, Sept. 15, 1970; Memorandum from Allen Pilsby to Floyd Hyde, Sept. 15, 1970.

395. HUD Press Release, No. 70-739 (Oct. 7, 1970); Memorandum from Allen Pilsby to Earl Metzger, Oct. 7, 1970 (Authorization to Execute a Grant Agreement with Nashville-Davidson County, Tennessee).

VIII. FIRST ACTION YEAR

A. *Impact of Funding on the Citizens' Group*

The decision by HUD to fund the Nashville Model Cities program for its first action year altered neither the basic position nor problems of the CCC. The citizens' group had long since voted to withhold formal participation from the program in order to avoid lending legitimacy to the CCDP that had been submitted by the city over vigorous citizen group objections. The policy of withdrawal was continued after the funding for precisely the same reason. By this point, however, the citizens had realized that pressing their administrative complaint upon HUD would not produce satisfactory resolution of their grievances. Indeed, HUD's tender of a grant to Nashville for the first action year was followed, belatedly, by a letter from the HUD Assistant Secretary for Model Cities explaining that the relief requested in the administrative complaint would not be granted.³⁹⁶ Because of the apparent futility of appealing to HUD, the citizens voted to direct their attorney to file suit against both the city and the Department in order to obtain redress of the CCC's grievances.³⁹⁷ Thus, in the month following the decision by HUD to fund the Nashville program, the CCC had reaffirmed its policy of withholding participation and of seeking some sort of judicial resolution of its objections to the program.

The CCC also was still plagued by a problem that had appeared shortly after the CCDP had been submitted, that of dwindling membership and attendance. In the months following the April 1970 vote to withdraw participation, the CCC had rarely been able to convene a quorum—one third of the membership—at its meetings. Even before the public announcement that the Nashville program had been funded, the CCC Executive Committee had begun preparations for an election to replace the inactive and ineligible elected members.³⁹⁸ Although the election would directly affect only 30 "grass roots" membership posi-

396. The timing of the letter from Assistant Secretary Hyde was more revealing than its substantive content. Although HUD had consistently professed strong interest in the CCC's objections to the Nashville CCDP, the letter informing the CCC's attorney of the Department's rejection of the administrative complaint was not written until a week after the decision to fund the Nashville program had been made public. Indeed, this letter was not mailed until 5 days after it had been prepared. Letter from Floyd Hyde to Avon Williams, Oct. 19, 1970 (letter dated Oct. 14, 1970 and dated again Oct. 19, 1970); *see* Letter from Avon Williams to George Romney, Oct. 19, 1970 (requesting statement on the status of the administrative complaint); Letter from Floyd Hyde to Avon Williams, Nov. 19, 1970 (responding for Secretary Romney to Williams' letter of Oct. 19, 1970).

397. CCC, Minutes of Regular Meeting, Nov. 20, 1970.

398. *See, e.g.*, CCC, Minutes of Regular Meeting, Aug. 20, 1970 at 2.

tions, it was apparently hoped that this step would have the indirect effect of reviving interest among the inactive appointed members. Almost immediately, however, implementation of the election plans encountered delay.

The original bylaws of the CCC were rather indefinite and included no provision for replacement or reelection of members. As the citizens' group began to formulate specific plans for the election, the CDA Director questioned the propriety of the election and balked at assisting the group in its efforts.³⁹⁹ To avoid challenges to the legitimacy of the planned election, the CCC requested that the HUD Regional Citizen Participation Adviser visit Nashville and assist the group in making its election plans.⁴⁰⁰ Although the Regional Office responded favorably to the CCC's request for a visit by the Citizen Participation Adviser, the group was also informed that the bylaws would have to be amended before an election would be held.⁴⁰¹

On October 14, 1970, the HUD Regional Citizen Participation Adviser visited Nashville and conferred with the citizens' group and the CDA Director about the revision of the CCC bylaws. During these meetings the CCC agreed to revise its bylaws to establish a procedure for replacement of members prior to the election. Initially it appeared that the revision could be accomplished easily. Instead, however, the CCC launched into a lengthy process of entirely rewriting its bylaws that continued for fifteen months. It is not entirely clear why the revision required more than a year to accomplish, but it is probable that a major factor contributing to the delay was the inability of the group to infuse its membership with renewed vigor during a period when the official organization position was that of deliberate inactivity. Another factor that tended to undermine any sense of urgency about reviving membership spirit was that the CDA generally refrained from identifying the group's inactivity as a basis for criticism. Finally, the CCC Executive Committee probably was confident that if an important question should arise, a sufficient number of members could be roused from their apathy. The end result of the extensive delay was that the CCC regular meetings repeatedly failed to attract a quorum, and, as a consequence, the conduct of the CCC's business was handled increasingly by the Executive Committee.

399. See Letter from Buford Drake to Edwin Mitchell, Sept. 8, 1970, at 2; Letter from Edwin Mitchell to Henry Bankston, Sept. 18, 1970.

400. Letter from Edwin Mitchell to Henry Bankston, Sept. 18, 1970.

401. Letter from Earl Metzger to Edwin Mitchell, Sept. 25, 1970.

B. *Impact of Funding on the CDA*

While it had only limited impact on the CCC's position, the decision to fund the first action year of the Nashville program required fundamental restructuring of the CDA role. Prior to funding, the CDA had been a relatively small agency that coordinated program planning and negotiated differences that arose over various plans. After funding, however, the CDA became responsible for the total administrative effort necessary to effect implementation of the projects by the various sponsoring agencies.

The most immediate and visible change in the CDA was its increase in staff. From an initial complement of six, the size of the CDA staff grew almost immediately to 25 and ultimately as high as 40 employees. Quite naturally, the agency experienced some confusion during the initial gearing up process. The difficulties encountered were further complicated by marked variation in the qualifications of the newly hired staff members. Although many of those hired were very capable, other positions were filled on the basis of political considerations or without adequate scrutiny of the applicant's qualifications. The effectiveness of the staff was also hampered by vacancies in several key administrative positions and by the high job turnover rate that apparently resulted from the program's controversial nature. Finally, the agency's administration difficulties were compounded by the CCC's decision to file suit, after which the delegation of normally simple tasks became a matter that required unusual caution.

The procedure that the CDA was to follow for implementing the projects in the CCDP was outlined in detail by HUD in a nine-page letter commonly known as the Letter of Readiness.⁴⁰² Each of the 93 projects was discussed in this letter, but only eleven were approved for immediate funding. Holds were placed on the expenditure of funds for the remaining projects until certain designated conditions were met. The most important hold provided that none of the projects involving non-Model Cities funds could be implemented until the city had received a definite commitment from the outside funding sources. There were also general requirements such as the combination and reduction of the number of projects and the submission of a permanent relocation plan within 90 days of the execution of the grant agreement. These requirements were to be satisfied according to a timetable that amounted to a watered down version of the very strict schedule prepared in July by the Model Cities Central Office.⁴⁰³

402. Letter from Earl Metzger to Beverly Briley, Oct. 28, 1970.

403. See notes 382-84 *supra* and accompanying text.

The mechanical procedure of implementing a project, once all the holds on it had been released, was fairly simple. The project description was merely rewritten into the prescribed contract format. Once the project's contract was drawn, it was submitted to the Nashville Metropolitan Council in the form of a resolution for approval.⁴⁰⁴ After the resolution was passed by the Council and signed by the Mayor, the contract was executed between HUD, the CDA, and the sponsoring agency.

Although the process of implementing projects was relatively mechanical, progress toward actual implementation was painfully slow for several reasons. First, although the Letter of Readiness required modifications in almost all of the projects, the CDA was hesitant about making any changes in the previous plans. The CDA Director argued that the projects, as submitted in the CCDP, had received full citizen participation during the replanning process. Given the CCC's policy of withdrawal, the CDA Director feared that any further project changes necessarily would have to be unilateral, and therefore would be vulnerable to attack by the citizens' group on the ground that the alterations were made without involving the citizens in the decision-making process. The second reason for delay in implementation was the city's inability to secure the non-Model Cities funding on which many projects relied. Finally, and perhaps most importantly, the CDA Director frequently encountered problems in motivating project sponsors to act. Many projects had been planned without specific sponsors in mind, and the process of obtaining sponsors for these projects often proved to be very difficult. Even when sponsors had been designated, the proposed sponsors frequently manifested reluctance to associate themselves with the program after it became the subject of so much controversy. Furthermore, many of the original sponsors had experienced changes in circumstances during the hiatus between the original project planning and the first action year funding⁴⁰⁵ that made implementation of the project without alterations undesirable.⁴⁰⁶

The pattern that emerged from this background of administrative difficulty and project delay contrasted sharply with the intensive

404. See HUD, CDA Letter No. 8, HUD Handbook MCGR 3100.8, at 13 (June 1969).

405. The delay between the original planning and the effort at implementation in most cases was in excess of 18 months.

406. The most extreme example of changed circumstances for sponsoring agencies occurred in the education component. Almost all of the education projects were based on working with the students in the MNA schools. During the summer of 1971, however, the student bodies of these schools were radically altered by a school desegregation order that involved a large amount of inter-district busing.

administrative effort that the Letter of Readiness timetable seemed to demand. By the end of June 1971, the half-way point of the first action year, only six of the 93 projects in the CCDP were fully operational.⁴⁰⁷ Although the pace at which the various projects were brought before the Council accelerated somewhat during the summer of 1971, the degree of success in implementing an individual project tended to vary directly with the interest and persistence of the sponsor. It should be noted that the delays in implementing projects, at least in the first six months of the action year, were not the product of opposition from either the Council or the CCC. The CCC had adopted an informal policy of not opposing a project unless it would cause displacement or serve as the basis for a housing program that the citizens had not approved.⁴⁰⁸ The Council's attitude, at least until August, tended to be one of general disinterest. As long as the proposed project involved no local funds and generated no opposition from the CCC, approval tended to be automatic.

A second major concern of the CDA—in addition to project implementation—was the problem of citizen participation. Although the CDA Director had been able to ally himself with a few members of the CCC, the constant opposition of the group as a whole and, more specifically, of the Executive Committee had convinced him that the group was an obstacle that had to be circumvented if the program was to succeed. Shortly after the first action year funding was announced, the Director began formulating plans for an alternative citizen participation structure.⁴⁰⁹

Although the Director's tentative plans did not elicit strenuous opposition from HUD,⁴¹⁰ two factors made a full scale ouster of the CCC strategically undesirable. First, an election for Metropolitan offices was to be held in August 1971, in which the Mayor would be seeking reelection. Although North Nashville had not been a traditional source of electoral strength for the Mayor, the early appearance of a strong anti-busing candidate increased the possibility that the vote of

407. Nashville CDA, Quarterly Report for Period Ending June 30, 1971.

408. Interview with Edwin Mitchell, April 13, 1972, in Nashville. This policy was never formally articulated or passed upon by the group.

409. An unsigned and undated plan for a structure to replace the CCC was delivered to the HUD office as early as February according to HUD regional officials. Different plans for the replacement of the CCC were frequently discussed by the CDA Director with the HUD Regional Office throughout 1971. *E.g.*, Memorandum from Ernest Marsolan to Wallace Cheatwood and Earl Metzger, March 24, 1971.

410. Interview with Earl Metzger, March 3, 1972 in Atlanta. The position stated by regional officials on the replacement of the CCC was simply that the citizen participation must be adequate in the present and future operations of the program.

the North Nashville residents might be crucial to the Mayor's reelection.⁴¹¹ The CCC's leadership, of course, already had been alienated by the Mayor's conduct of the Model Cities program, but the group's opposition had rarely taken the form of public appeals for mass support from the North Nashville community. If an overt effort to oust the CCC had been undertaken prior to the election, it could have turned the CCC's low-key opposition into a major attack capable of jeopardizing the election.

The second factor that made the ouster of the CCC strategically undesirable was the group's decision to file suit against the city over the program. Although the city was confident that its legal position was strong, the complicated factual background of the program would not have been easy for the court to understand fully. Since citizen participation was a major issue in the case, there was a clear danger that an ouster of the CCC might diminish the city's effectiveness in presenting its defense. Furthermore, if the city ousted the CCC prior to the termination of the suit, the court could easily order the group's reinstatement pending a decision on the merits. Indeed, even if the suit were won by the city on the adequacy of citizen participation in the past, an ouster might still result in an order prohibiting the replacement of the CCC in the future.

Given the strategic limitations of the election and the lawsuit, the CDA Director decided against a direct replacement of the CCC and instead began what appears to have been a process of indirectly undermining the CCC's influence. While attendance at CCC meetings had declined for reasons intrinsic to the group itself, notices of meetings—mailed by the CDA—began to reach members only shortly before, or even after, the meetings had been scheduled.⁴¹² Telephone reminders of CCC meetings and offers to provide transportation increasingly were limited to those members who were sympathetic to the CDA. Private meetings between the CDA Director and sympathetic members

411. The North Nashville vote for Mayor Briley did prove to be extremely important in his successful reelection campaign.

412. Through the courtesy of the CDA, the participants of this study were placed on the regular CCC mailing list in mid-May of 1971. During the year in which this study was conducted, the problem of short notice or late notice frequently was apparent. The late receipt was especially suspect because the only postmark date available was the date that had been set on the CDA's postage meter. Frequently, the date of receipt and the postage meter date indicated a delay of a week or more in the delivery of the materials. It is possible that clerical inefficiency caused some of the delay, but it is unlikely that the CDA Director would have allowed any unintentional alienation of the CCC to continue for any extended period of time. The CCC, of course, objected to the late receipt of notices and claimed that they were a major factor in the low level of attendance at the group's meetings. It should be noted, however, that the group did not make any organized effort of its own to solicit member attendance.

of the CCC frequently preceded CCC meetings. While the full effect of these efforts cannot be measured, the CCC continued to experience remarkably poor attendance at its meetings.

The most important aspect of the CDA's efforts to undermine the CCC was the introduction of a series of block clubs. The clubs were organized on a geographic basis, each club representing a very small fraction of the total area of the MNA.⁴¹³ In organizing these clubs the CDA staff first contacted one or more "recognized community leaders" who were invited to coordinate the club meetings.⁴¹⁴ The leaders were asked for a list of names of persons in the immediate neighborhood who might be interested in participating in the meetings. The people recommended by the leaders, along with the others contacted on a door-to-door basis, were then invited to club meetings. CDA staff members helped to organize the meetings and to solicit new participants until the groups became self-sustaining. At that point, the CDA tended to let the group operate as independently as it wished. The programs at these block club meetings were usually low-key and informal. Moreover, the dispute between the CCC and the CDA was not normally discussed. Instead, the members of the clubs were given presentations concerning Model Cities projects and plans in a relaxed social atmosphere. Participants were urged to offer their own ideas about the proper scope and focus of the Model Cities program. To the extent that it was possible, high ranking officials from the CDA, the Mayor's office, and other agencies appeared and made general presentations to the active clubs.

Although the importance of any single individual block club meeting was probably minimal, the significance of the overall network of block clubs was clearly reflected by the full-time assignment of roughly one-third of the entire CDA staff to organizing the clubs.⁴¹⁵ The advantages of the block club structure from the city's viewpoint are not difficult to perceive. The creation of a broadly based network of clubs generally sympathetic to the city's position would enable the CDA to replace the CCC with a viable citizen participation structure as soon as the election and the suit were no longer restraining factors. Because of

413. The MNA was divided into approximately 16 separate areas for the purposes of block club organization.

414. Interview with Zelma B. Waller, CDA Citizen Participation Supervisor, March 9, 1972 in Nashville.

415. As of March, 1972 the CDA staff included 32 employees. Of this number, 10 were assigned to the CDA Citizen Participation Unit. It should be noted that in addition to organizing the block clubs, the Citizen Participation Unit did perform a small amount of clerical work for the CCC.

the large number of people participating in the clubs, the CDA could argue that the CCC was no longer responsive to or representative of the residents of the MNA who were truly interested and involved in Model Cities. Furthermore, given the large number of separate clubs, it would be difficult for the CCC to meet with each to discuss the CCC's point of view on the program. Similarly, the relatively small size of each block club and the informal and frequently social atmosphere of the meetings made it unlikely that the membership of any particular club would mount a serious challenge to the course of action proposed by the CDA. The independent and isolated nature of each club also tended to preclude efforts by rebellious block clubs to mobilize community-wide opposition to the CDA. Finally, the nature of the organizing efforts afforded the CDA employees an excellent opportunity to urge block club members to support the Mayor in his reelection campaign.⁴¹⁶

Given the intensive organizing effort by the CDA in forming the block clubs and the clear threat that they posed to the CCC, it is somewhat surprising that the citizens' group did not vigorously oppose their creation. Several factors may explain the CCC's noncombative attitude. The initial concept of the block club was an outgrowth of the efforts by an elected CCC member to involve the area residents in the program. When the CDA followed up on the concept, the full potential of the clubs may not have been immediately apparent. It is also quite likely that much of the organizational effort may have been viewed by the CCC as merely campaign efforts on behalf of the Mayor. Furthermore, the CCC was not generally aware of the full intensity of the CDA's organizational effort, and the group simply may have been ignorant of the scope of the threat. Furthermore, vigorous criticism of the block clubs by the CCC might have led to disputes with the block clubs over the representativeness of the inactive CCC. The CCC may have preferred to forestall any controversy over the adequacy of representation until it had completed the bylaw revision and had revived the activity of its full membership.

416. It is an open secret that employees of many Metropolitan agencies have directly engaged in political campaign activities in support of Mayor Briley. Indeed, the predictable newspaper criticism commonly tends to focus less on the practice itself than on discharge of municipal employees allegedly for refusal to work in the Mayor's behalf. Interviews with 3 CDA staff members indicated that the CDA's campaign efforts were vigorous, and there was apparently at least one termination in the CDA staff for refusal to campaign. See *Nashville Tennessean*, Aug. 26, 1971, at 5, col. 1 & 2. It is also interesting to note that one successful councilmanic candidate who has since proven very sympathetic to the Mayor was employed by the CDA for the 2 months immediately preceding the election.

C. *Nature of the Continuing Controversy*

By the end of June 1971, the Nashville CDA had evolved into what appeared to be a stereotypical political machine; that is to say, the Agency had become an operation that sought to achieve its goals primarily through the distribution of material rewards rather than through appeals to political ideas. The CCC, on the other hand, had developed into a relatively small group of articulate spokesmen whose strength depended on their ability to rally support through public appeals to a variety of ideologically sympathetic constituencies in the community. The continuing struggle between the CCC and CDA can be fully understood only when the fundamentally different character of these sources of strength is appreciated.

The strength of the CDA rests firmly on the efficacy of its distribution of material rewards. The most obvious of these benefits is money to subsidize projects. The measure of flexibility that is allowed in the allocation of Model Cities funds makes the program an ideal vehicle for conferring benefits in the form of projects. Not only may Model Cities funds be spent for virtually any type of legitimate endeavor, but the Model Cities regulations also require that the cities plan new projects to absorb any Model Cities funds that were originally allocated to programs that never become operative.⁴¹⁷ In the case of Nashville's Model Cities program, this requirement meant that the CDA had more than two million dollars available with no specific restrictions limiting the scope of possible uses. A related source of strength for the Nashville CDA was its capacity to provide employment opportunities. Since most of the projects that were implemented by the CDA contemplated the delivery of social services, most of the funds were budgeted for salaries,⁴¹⁸ and the Model Cities regulations required that MNA residents be given employment preference in all Model Cities-funded projects.⁴¹⁹ In addition to the direct recipients of Model Cities project funds or salaries, the CDA is further supported by the large group of project service recipients. This constituency is paralleled by the block club organizations whose members, while they do not receive direct material benefits, enjoy a sense of satisfaction through the interest expressed by CDA officials in their ideas and suggestions.

417. HUD, CDA Letter No. 6, HUD Handbook MC 3140.7 10-12 (May 1970).

418. In a statement before the Metropolitan Council Model Cities Committee, the CDA Director stated that 393 people were currently employed by projects of the Nashville Model Cities program. Statement of Buford Drake before the Metropolitan Model Cities Committee, March 1, 1972 (tape recording).

419. HUD, CDA Letter No. 11, HUD Handbook MC 3160.1 (Nov. 1970).

The constituencies from which the CCC derives its strength are much less well defined than those supporting the CDA. First, the CCC draws substantial support from a pervasive fear in the MNA of displacement by government projects. Secondly, the group is ideologically allied with a variety of groups throughout the city that share an intense hostility to urban renewal and high-density public housing. Thirdly, the plight of the CCC has proved to be a strong magnet for public support from both liberals and blacks who automatically tend to be suspicious of what is viewed as an insensitive white city bureaucracy. Finally, the CCC receives some sympathy from a broad spectrum of individuals who suspect that federal poverty programs generally, or the Model Cities projects specifically, are wasting tax dollars through mismanagement or impropriety. The strength of the CCC is not represented, however, by a constant or direct manifestation of support from these ideological allies. Instead, the CCC's strength rests in its ability to arouse intense public opposition among these loosely allied constituencies at strategic points, thereby forcing the city on occasion to postpone proposed action.

The most surprising aspect of the struggle between the CDA and the CCC has been the CDA's inability to solicit interested sponsors for Model Cities projects. As noted, the CCC had adopted an informal policy of limiting its opposition to projects that involved major displacement or proposed large scale housing efforts not approved by the group. Indeed, it seems clear that the CCC could not oppose some social services projects without risking the alienation of many of its potential constituents.⁴²⁰ Despite the lack of CCC opposition to social services projects, the CDA continued to experience difficulty in the implementation of projects of any type. Although HUD granted a six-month extension to Nashville for the first action year, the CDA has been unable to utilize the full five and one-half million dollar grant. The spending problem is of particular concern to the CDA since all funds that are not spent by the end of any action year are to be carried over and credited as a portion of the next action year grant.⁴²¹

Whatever the causes of this lack of project support, the result has

420. Thus, for example, if the CCC opposed a day care project or a supplemental food program it would risk alienating the potential beneficiaries of those programs. If the CCC later raised criticism of proposals that involved displacement or urban renewal, the credibility of its opposition would thereby be diminished, even though the program beneficiaries might fear displacement.

421. This concern was clearly expressed by CDA Director Buford Drake in an apparent Freudian slip when he stated to the Metropolitan Council Model Cities Committee that there was a large uncommitted portion of the Model Cities grant that the CDA had to "get rid of" before the end of the first action year.

been an ad hoc assortment of unrelated projects. Planning and evaluation of the best methods for utilizing the Model Cities grant has been almost completely overshadowed by efforts merely to obtain project sponsors. As the CDA Director explained to HUD officials, "His admitted strategy for the first action year is to spend funds (all funds) on the projects which are either already approved or can easily get approval, quality notwithstanding."⁴²² The purpose of this strategy, the CDA Director added, "was to spend [the first action year] funds as quickly as possible to avoid a loss or reduction of funding [in the second action year]."⁴²³

The attitudes of interested parties who were not directly involved in the CCC-CDA struggle understandably have been ambivalent. The August election introduced three new councilmen to the cast of characters involved in the program. The new councilmen were extremely interested in the patronage potential that the Model Cities program represented, but they were also wary of alienating the CCC leadership, which had contributed indirectly to their successful election campaigns.⁴²⁴ Although these councilmen did attempt to utilize the Council's power to investigate and to approve projects in order to coerce the CDA into cooperation, they were quickly confronted with hostile reactions from project sponsors and beneficiaries, Model Cities employees, and block club members. Potential project sponsors also encountered this sort of resistance when they proposed to resolve disputes over physical development and housing. Thus, for example, a proposal by the presidents of the three MNA universities to sponsor the major portion of the housing component was quickly abandoned, at least for the moment, in the face of icy reception by the CCC. Similarly, recent informal presentations by the Nashville Housing Authority at block club meetings have begun to raise fears among citizens of the MNA that the CCC's early warnings about residential displacement were not unwarranted.

The failure of HUD to take an active role in the guidance and regulation of local Model Cities programs facilitated the unfortunate deterioration of the Nashville Model Cities program to an essentially political contest that pitted the ideological support for the CCC position against the capacity of the CDA to distribute material benefits. During

422. Memorandum from Earl Metzger to Floyd Hyde, June 16, 1971, at 1 (report on second quarterly review of Nashville program).

423. *Id.* at 2.

424. The CCC took no formal position and played no direct role in the election. The chairman of the group, Edwin Mitchell, however, also served as chairman of the Davidson County Independent Political Council, a black nonpartisan political organization. This group opposed 2 of the incumbent MNA councilmen, and urged a boycott of the Mayor's race.

the planning stages of Model Cities, HUD frequently exerted influence on the formulation of local programs. The close monitoring function at this stage was implemented through a review by the regional offices of the detailed material that HUD required each city to submit and through frequent visits by regional officials, known as leadmen, who were to provide a liaison between HUD and the local programs. Since 1969, however, several factors have combined to impair the monitoring process. First, the difficulty that the cities experienced in complying with the detailed submission requirements forced their virtual elimination. Secondly, the organization of HUD was shifted from a design built around an individual program approach to a broader categorical structure. Thus, officials who had been responsible solely for Model Cities were now expected to administer a broad spectrum of HUD programs under the administrative rubric of Community Development. Thirdly, the bureaucratic structure of HUD underwent major modifications in the direction of greater decentralization, thereby reducing drastically the personnel complement of each regional office. The rearrangement of staff and function placed the primary program responsibility in Area Offices created for each state. The decentralization, by reducing regional office manpower, effectively eliminated the capacity of regional offices to conduct detailed reviews of Model Cities programs and confused the formerly established lines of authority. Finally, as the program progressed, the HUD Model Cities staff inevitably lost its enthusiasm. When the bright hopes of the early planners encountered the harsh realities of the inner cities, bureaucratic frustration was the natural consequence. Furthermore, the change of national administrations brought the entire program perilously close to termination in 1969. Only after several influential mayors rallied behind it did the program survive.

In the end, the Department's function consisted of little more than self-justification and self-perpetuation. To satisfy demands that something be done to improve the quality of life in the cities, the Department answered that substantial funding had been directed toward improvement of the inner city. Particularly successful local projects were publicized as examples of the beneficial effects of the program expenditures. Unsuccessful programs were either ignored or dismissed as exceptional. The fixed amount of the Model Cities grant for each action year and the practical impossibility of terminating a program meant that HUD was virtually powerless to impose its policy determinations on the ci-

ties.⁴²⁵ Furthermore, the interagency coordinating role of HUD that was designed to ensure a comprehensive array of federal funding for each Model Cities program quickly disintegrated in the face of interdepartmental jealousies. Thus, the local Model Cities programs tended to rely on the Model Cities grant as the primary source of funding rather than as supplementary funding to ensure comprehensiveness, coordination, and innovation.

The future of the Model Cities program in Nashville is difficult to predict. As of this writing, the program is approaching the end of the first of five action years. The suit filed by the CCC in April 1971, is, more than a year later, still pending. It is, of course, possible that the program may eventually prove successful, but such a result is unlikely. Even if the CCC is replaced as the official citizen participation structure for the program, the ideological constituency from which the group derives its strength will remain. Furthermore, as the CDA continues to build an ad hoc constituency of social service project sponsors and beneficiaries dependent on sustained Model Cities funding, the amount of uncommitted Model Cities funds available for coordination and planned development diminishes. Most importantly, however, the questions of land use and residential development in North Nashville remain unanswered.

IX. POSTSCRIPT

At the completion of a study of this type there is a strong temptation to close with a series of broad conclusions and several proposals for sweeping reform. Unfortunately, a case study rarely offers the breadth of perspective needed for such conclusions or supplies the requisite wisdom for solutions with any certainty of success. The most that can be hoped for in this study is some understanding of the complexity of the problems involved. Having stated these limitations perhaps the indulgence of a few general observations is permissible.

Perhaps the most noticeable aspect of the Nashville Model Cities experience is the inherently negative function of the citizen participation structure. This is not to say that the citizens' impact on the program was necessarily wrong or bad, but rather to say that the only independent power that the citizen participation structure had at its disposal was

425. An interesting exception to this general rule is apparently found in the very small communities that have Model Cities programs. In interviews with regional Model Cities officials, frequent reference was made to the successes that had been enjoyed where the Model Cities grant represented a large percentage of the city's total budget.

that of opposition. In this light it must be noted that unless a citizens' group is given some form of veto power or proportionate voting control in the decision-making process, its strength will nearly always rest on its capacity to rally public sentiment. Thus, while the nature of the constituencies that a citizens' group represents may be criticized, a truly effective citizen participation structure is almost by definition never "unrepresentative." Criticism that a citizens' group is not representative in some sort of electoral sense is, of course, almost always true and is almost always a mask for some other sort of attack on the legitimacy of the group.

A second general observation that can be drawn from the Nashville experience is that federal urban programs appear to ignore the fundamental differences between policies and programs. The presumption seems to be that if something is being done, especially if it is being done fairly expensively, then the result is bound to be beneficial. Unfortunately, the mere expenditure of funds to solve urban ills, while essential, is not by itself enough. Both federal and local governments have displayed an apparently limitless capacity to absorb funds while very little change is effected. Programs without clearly defined policies seem inevitably to result in massive bureaucratic staffing, coordination, reporting, duplication, and evaluation, but only incidentally—and perhaps accidentally—in tangible results. The creation of a program, even a well designed program, does not ensure that the program will be administered well. While the existence of a clearly defined policy cannot ensure good administration, it can serve as a standard against which a program's administration constantly can be evaluated.

The final observation is perhaps more a reflection on the portents that Model Cities holds for the current vogue of the New Federalism. Put in somewhat oversimplified terms, the New Federalism assumes that the cities are becoming ungovernable because they do not have the resources with which to govern themselves. The solution proposed is that funds be supplied to the cities with no strings attached so that the viability of city governments can be restored. With adequate resources, it is argued, the city governments will prove their value as the level of government most responsive to the desires of the governed. In its final development the Model Cities program has closely paralleled the New Federalism concept. Given this fact, two problems seem worthy of note. First, in allocating their resources city governments apparently have developed something of a dual standard. The apportionment of local funds is treated almost invariably as a matter for serious consideration. The use of federal categorical grant-in-aid funds, however, seems frequently to have induced a conditioned reflex of approval simply because

the money traditionally requires only a minimal local match and the uses to which the funds may be put have been predetermined by the federal government. This has tended to focus the consideration of the local governments on maximum federal dollar return, rather than on analysis of the city's problems and allocation of resources to meet these problems. It is quite possible that the availability of federal funds with no allocative restrictions attached will cause city governments to give more serious consideration to the most effective method of utilizing these funds. The removal of these strings from federal funds, however, raises the second problem. In attempting to eliminate the bureaucratic red tape and complexity of regulation, the Model Cities program was generally successful. The elimination of the red tape and regulations, however, was accomplished at the cost of surrendering the authority of the federal government to intervene when the funds delivered to the cities were being squandered. There is, of course, no necessary correlation between the relinquishment of control and the impropriety of expenditure, but the gravity of the decision to relinquish that control is clear.

RICHARD W. CRESWELL

ALLAN GATES

PAUL M. KURTZ

PAUL R. REGENSDORF

SAMUEL W. BARTHOLOMEW, JR.

RICHARD K. GREENSTEIN.

APPENDIX I

The Nashville Model Cities program has produced a remarkable amount of studies, plans, and proposals relating to North Nashville. Much of this material has been generated by the CDA in the normal course of fulfilling the HUD planning and reporting requirements. Other research and planning has been conducted in coordination with the CDA by consultants and governmental agencies. Finally, the Nashville Model Cities program's performance itself has been the subject of several studies. This appendix attempts to organize this material in a manner that will be helpful to future students of North Nashville or the Model Cities program. The materials listed in this appendix are available in the Vanderbilt Urban and Regional Development Center library.

I. NASHVILLE CITY DEMONSTRATION AGENCY

All of the materials noted in this section, with the exception of the *Model Cities Responder*, are documents that HUD required the local CDA's in each city to prepare. The HUD regulations requiring these documents are noted along with the description of each document because the form and information used are frequently the result of the detailed HUD requirements.

1. *Planning Grant Application*. Metropolitan Nashville City Council Res. No. 67-209 (passed Apr. 27, 1967). Pp 205, appendices, tables. This document is Nashville's request for a Model Cities planning grant. The format follows the very detailed requirements set out by HUD. HUD, *Improving the Quality of Urban Life, A Program Guide to Model Neighborhoods in Demonstration Cities*, HUD PG-47 (Dec. 1966); see HUD, CDA Letter No. 1 (Oct. 30, 1967); HUD, CDA Letter No. 4, HUD Handbook MCGR 3100.4 (July 1968).

2. *Problem Analysis*. Undated. Pp. 268, appendices. The Problem Analysis is Part I of the 3-part documentary planning process required by HUD. HUD, CDA Letter No. 1 (Oct. 30, 1967); HUD, CDA Letter No. 4, HUD Handbook MCGR 3100.4 (July 1968). The document presents an analysis of the problems of the MNA in each of the ten program component categories. Each component section was prepared independently by a Technical Task Force of city agency personnel or consultants. The Problem Analysis also contains an Appendix that includes eight of the studies listed elsewhere in this bibliography. The studies that were included are so noted in their individual discussions.

3. *Comprehensive City Demonstration Plan*. The Comprehensive

City Demonstration Plan is basically a compilation of the specific project proposals planned for the execution phase of the Model Cities program. Originally HUD required two distinct parts in a CCDP: a detailed set of goals and objectives for the entire five year execution program, and a specific set of project proposals for the first action year. HUD, CDA Letter No. 1 (Oct. 30, 1967); HUD, CDA Letter No. 4, HUD Handbook MCGR 3100.4 (July 1968). The requirement of goals and objectives was eliminated for second round Model Cities programs, however. Although the CCDP of any Model Cities program is in a constant state of evolution, there are four distinctly identifiable stages in the development of Nashville's plan. First, an initial draft CCDP was completed by the city by the summer of 1969. Although this draft was informally transmitted to HUD, it lacked adequate citizen participation in its preparation and was eventually declared to be "Working Papers" only. The second stage of Nashville's CCDP was a "Revised Issue" dated February 12, 1970. This draft was apparently never intended for submission, but was reproduced in order to have relatively current copies of a draft for the replanning process that was underway at that time. The third stage is that of official submission. This document was presented and passed by the Metropolitan Council and served as the basis for the first action year. The fourth and, to date, final stage of the CCDP is a drastically simplified version which reflects the massive number of projects that have been deleted or combined. Thus, while the first three drafts all exceeded 700 pages in length, the current CCDP is a relatively scant 200 pages.

4. *Synopsis of Nashville CCDP*. Mar. 11, 1970. Pp. 78. This document, prepared by the Nashville CDA, summarizes the basic elements of the CCDP submitted to HUD on March 11, 1970. The Synopsis aroused a certain amount of hostility because it included a modified version of the goals and objectives prepared for the initial draft of the CCDP. The citizens were not consulted about the inclusion of these goals and objectives and they feared that their submission violated the working agreement with the Mayor and presaged a return to the discarded plans for an urban renewal project in the MNA.

5. *Periodic Reports*. Through the Model Cities Program HUD has required cities to complete periodic reports on the progress of their local Model Cities program. During the planning year, at least for the first round Model Cities, there were two separate reports required: a Bi-Monthly Planning Progress Report and a Work Program Status Report. The regulatory authority requiring these reports is no longer clear and, in the case of Nashville, the reports were submitted only sporadically. During the execution phase of a Model Cities program different

reporting requirements are involved. HUD, CDA Letter No. 9, HUD Handbook MCGR 3100.9 (Apr. 1969). The most important of these execution phase reporting requirements is the Quarterly Program Status Report. Each Quarterly Report includes not only a narrative of major events, but also a set of tables indicating project and budget status. Although the preparation of these reports has occasionally been behind schedule, a report for each quarter of Nashville's program has thus far been submitted to HUD.

6. *Project Contracts*. Each project of a Model Cities program must be approved by a resolution of the local government body. HUD, CDA Letter No. 8, HUD Handbook MCGR 3100.8 ¶ 13 (June 1969). Thus, the contract under which each Model Cities project is implemented is enacted as a resolution and is filed with the city clerk as a matter of public record.

7. *Model Cities Responder*. The *Responder* is a newspaper dealing with Model Cities that is published monthly by the Nashville CDA. The *Responder* has been the subject of occasional criticism due to the amount of funds (\$20,000 annually) budgeted for its publication, and because of the criticism that the paper has frequently directed at the CCC and, somewhat less frequently, at uncooperative MNA councilmen. The *Responder* began publication in December 1970.

II. CONSULTANT REPORTS

A. *Funnye Associates, Brooklyn, New York*. This consulting firm was engaged by the CCC to assist that group in its replanning of the CCDP in the winter of 1969-70. The firm was selected by the citizens group and was responsible directly to the citizens, but for the purpose of compensation the contract was between the Nashville CDA and the National Committee against Discrimination in Housing, Inc., New York, New York (NCDH). Funnye Associates served as the planning consultants for the NCDH Department of Field Services.

Although the Funnye Associates work consisted primarily of fifteen days of personal consultation with CCC standing committees, three reports were issued.

1. *Highway Planning and Urban Opportunity in Nashville, Tennessee*. June 20, 1970. Pp. 15. This report is an analysis of plans for connector and Interstate highway frontage roads in North Nashville. The report criticizes the highway planners' prediction of local traffic volume that would be generated by I-40 as too high and recommends that the planned construction be delayed indefinitely.

2. *Model Cities Planning and Urban Opportunity in Nashville,*

Tennessee. June 22, 1970. Pp. 13. This is the final report of Funnye Associates on the services rendered in consultation with the CCC. The report describes in very helpful detail the activities of the consultants during their involvement in the Nashville Model Cities program. Because the report discusses the activities of the consultants, substantive planning commentary is discussed only indirectly.

3. *Model Cities Planning and Urban Opportunity in Nashville, Tennessee*. July 10, 1970. Pp. 5. This addendum to Funnye Associates' final report discusses the criteria utilized in reviewing the CCDF with the CCC standing committee.

B. Marcou, O'Leary & Associates, Washington, D.C. This planning firm was engaged by the Nashville CDA in the late summer of 1968 to prepare a detailed physical development plan for the Nashville Model Cities program. The task of planning the proposed air rights deck over I-40 was added to the consultants' tasks in the wake of the I-40 controversy in late 1968.

1. *Nashville Model Neighborhood Area: Alternatives for Housing and Industrial Development*. April 1969. Pp. 114. This study is the basic report of Marcou, O'Leary & Associates on the physical planning alternatives possible under the Nashville Model Cities program. After briefly reviewing the economy of Nashville and the physical and socio-economic conditions in the MNA, the study proposes three planning alternatives for physical development in the MNA. The proposals presented in this study represent virtually all of the initial physical planning conducted in the first year of the Nashville program and became a focal point for the controversy over physical development in North Nashville. An early draft of this study was included in the Problem Analysis submitted to HUD by the Nashville CDA.

2. *Interstate Highway 40 Air Rights Project, Nashville, Tennessee* January 1970. Pp. 64. This study was prepared for the Nashville CDA, the Tennessee Department of Highways and the United States Bureau of Public Roads to study the economic and design feasibility of an Air Rights Project or deck over a section of Interstate 40 that had been depressed below ground level for this purpose. This deck was proposed as a development that could ameliorate the disruptive impact of Interstate 40 in the MNA.

C. Simmons, Ussery, Streets & Associates, Berkeley, California. This consulting firm was selected by the CCC to assist the group's standing committees in reviewing the proposed projects that were being prepared by the CDA. The firm's contract called for 30 days of personal consultation starting April 3, 1969. The role of the CCC in the planning

process, however, was unclear at this point in time. As a consequence, much of the consultants' time was spent in advising the citizens on role definition rather than in evaluating project plans. Thus, while the reports submitted are generally brief and superficial, they constitute the bulk of the planning recommendations made by the firm.

1. *Recommendations on the Nashville Model Cities Proposed Physical Environment and Housing Components*. NMC-PEH Paper No. 1. May 1, 1969. Pp. 10. This report reviews very superficially the Model Cities projects proposed for the physical development of the MNA and recommends that a Community Development Corporation be formed to sponsor the projects finally selected. This corporation is stressed as an essential element in assuring MNA residents both continued involvement in the planning and economic benefit from the implementation of projects.

2. *Housing and Economic Development: Suggestions for a Planning Approach Applicable to the Nashville Model Cities Area*. NMC-HED Paper No. 2. May 12, 1969. Pp. 31. This report presents a more detailed set of goals, proposed structure, and suggested first year program for the Community Development Corporation proposed in the firm's initial report.

D. Alan M. Voorhees & Associates, McLean, Virginia. This firm was engaged by the Nashville CDA in the late summer of 1968 to prepare a problem analysis and project proposals for the Transportation Component of the Nashville Model Cities program.

1. *Transportation Accessibility from the Model Cities Area*. March, 1969. Pp. xvi, 66, figures. This study was prepared under a contract with the Nashville CDA as the primary planning for the Model Cities program's Transportation Component. The study emphasizes the heavy dependence of MNA residents on public transportation and the insufficiency of mass transit routes and scheduling to service these needs. The study recommends three basic projects to solve these problems: a circumferential bus route to connect the existing radial routes; a radio-dispatched Mini Bus service similar to taxi service; and a public relations campaign to increase public awareness of the transit services available.

E. Western Management Consultants, Inc., Phoenix, Arizona. Unlike the other four consulting firms discussed in this section, Western Management Consultants was not involved in the planning for Model Cities. Instead, this consulting firm was the contractor for implementation of a first action year project. The report discussed below is the result of that project.

1. *Public Opinion Survey in Nashville-Davidson County About Metro Center*. January 1972. Pp. xiii, 30, appendices. This study is a marketing survey of public attitudes throughout Nashville toward a large private residential and commercial real estate development planned for the North Nashville area. The information in the report is of only limited interest because it is a fairly standard market survey. The real significance in this study is the fact that it was paid for by the Model Cities program. The project had initially been planned to study the engineering and economic feasibility of using the vacant 700-acre floodplain of the Cumberland River, which is located in the MNA, for the construction of housing for MNA residents. Metropolitan Nashville City Council Res. No. 71-1193 (passed May 4, 1971). Shortly after the passage of this project it was announced that the floodplain had been acquired for a private planned community development. Nashville Tennessean, May 16, 1971, at 1, cols. 7-8. When this study was published, it provoked a minor controversy over the use of the 40,000 dollar project to benefit so directly a private real estate venture.

III. *Governmental Agency Studies*

A. Metropolitan Planning Commission of Nashville-Davidson County, Tennessee. The MPC has been intimately involved in Model Cities planning from its earliest stages. The studies listed below represent only the studies that are clearly identifiable as projects prepared entirely by the MPC Staff.

1. *Model City Area: Community Facilities Inventory*. December 1968. Pp. vii, 65. This staff memorandum describes the physical characteristics of each park, public school, public health facility, library and university building, and community center in the MNA. The memorandum was included as an appendix to the Problem Analysis submitted to HUD by the Nashville CDA.

2. *Model City Area: Evaluation of Neighborhood Livability*. December 1968. Pp. vi, 58. This staff memorandum begins with a general overview of the sewage, fire protection, educational, and recreational facilities in the Model Neighborhood Areas. The second and largest part of the memorandum evaluates the housing quantity and quality, the land use conflicts, the traffic patterns, the services and facilities, and the aesthetic characteristics in each of the six planning areas in the MNA. The memorandum concludes with a set of suggested goals for resolving the problems identified. This memorandum was included as an appendix to the Problem Analysis submitted to HUD by the Nashville CDA.

3. *Model City Area: Socio-Economic and Residential*

Development. December 1968. Pp. v, 30. After a brief discussion of the general characteristics of the population taken from the 1940, 1950, and 1960 censuses, this staff memorandum discusses the quality and quantity of housing in the MNA and the characteristics of tenancy. This memorandum was included as an appendix to the Problem Analysis submitted to HUD by the Nashville CDA.

4. *Model City Survey Research Evaluation and Preliminary Data System Design*. March 1970. Pp. 227. (HUD § 701 Project: Tenn. P-67). This is a three part study designed to survey the existing literature on conditions in the MNA and to describe a computer data system into which these studies and other data might be organized. The first part of this report is a 190-page annotated bibliography of some 32 studies that deal entirely or in part with conditions in North Nashville. The remaining two parts of the report briefly describe a computer data system design into which this material could be incorporated and suggests potential uses of the described system.

5. *Model Cities in Perspective: An Analysis of Model City Area Plans and their Consistency with the Policies of the Metropolitan Government of Nashville-Davidson County, Tennessee*. April 1970. Pp. x, 252. (HUD § 701 Project: Tenn. P-67). This study briefly reviews land use patterns in the MNA, discusses in detail the three alternative approaches proposed by the consulting firm of Marcou, O'Leary, and relates these planning approaches to the countywide planning process as well as the inner city urban renewal effort.

B. Mid-Cumberland Comprehensive Health Planning Council, Nashville, Tennessee.

1. *Policy Implications of Health and Hospital Programs Relating to Model Cities Studies and Planning*. July 1970. Pp. xi, 123. (HUD § 701 Project: Tenn. P-67). This staff report was conducted under a contract with the Metropolitan Planning Commission of Nashville-Davidson County, Tennessee to examine the health care services and policies, including the Model Cities Health Component, as they relate to North Nashville.

IV. MISCELLANEOUS STUDIES

1. *A Case Study of Metropolitan Nashville and Davidson County, Tennessee's Application for a Model Cities Grant: The Decision-Making Process in Selecting a Model Cities Neighborhood*. By Ronald Don O'Donniley. Knoxville, Tenn., 1969. Pp. iv, 151. This study is a thesis presented to the University of Tennessee in partial fulfillment of the requirements for the degree of Master of Science in

Planning. The first part of the study is devoted to examining decision-making theory in urban planning. The second part of the study described in detail the narrative of events involved in the selection of Nashville's MNA. The final section of the study applies the decision-making theories to the events in Nashville and concludes that the selection process was best described by nonrational decision theory due largely to the political constraints involved.

2. *Employment, Housing & Transportation Problems in the MNA of Nashville*. By Flournoy A. Coles, Jr. Nashville, 1969. This survey, prepared for the Nashville Concentrated Employment Program, is a compilation of data on employment and housing in North Nashville. The study was included as an appendix to the Problem Analysis submitted by the Nashville CDA to HUD.

3. *Nashville's Model Cities Program: An Unborn Partnership*. By Jack E. White, Jr. Nashville, 1971. (Race Relations Information Center Special Report, RRIC-14). This study is a strongly pro-citizens group narrative of the citizen participation controversy in the Nashville Model Cities program.

4. *Project Operation Northtown*. By Middle Tennessee Business Association. Nashville, 1969. Pp. 144. This study was conducted under a grant from the Small Business Administration to the Middle Tennessee Business Association, a private non-profit organization of black businessmen in the Nashville area. The grant was received in the wake of the serious disruption of a major black business district caused by the construction of Interstate Highway 40 through North Nashville. The study was intended as a compilation and presentation of factual information relative to the Negro and small businesses in North Nashville, their market and trade areas and was included as an appendix to the Problem Analysis submitted by Nashville to HUD. The report is comprised of seven independent studies and two general commentaries:

—A Survey of Negro-Owned and Operated Business Enterprises in Nashville, Tennessee. By R. Gran Lloyd. Pp. 52.

—Market and Trade Analysis of Afro-American Communities in Metropolitan Nashville. By MTBA staff. Pp. 11.

—Land Use and Urban Analysis of Afro-American Communities in Metropolitan Nashville. By Yale Rabin. Pp. 23.

—Architectural Analysis of Eleven Selected Negro Businesses in Metropolitan Nashville. By L. Quincy Jackson. Pp. 13.

—Record and Bookkeeping Analysis of Eleven Selected Negro Businesses in Metropolitan Nashville. By Ernst & Ernst, Public Accountants. Pp. 15.

—Analysis of Resources and Economic Feasibilities for Black-

Owned Business and Industry in Metropolitan Nashville and Middle Tennessee. By Robert N. Moore. Pp. 28.

—State of Major Problems of Black Businesses. By Inman E. Otey and R. Gran Lloyd. Pp. 6.

—Notes and Suggestions for Concern and Consideration in Economic Development of the Ghetto. By Vivian Henderson. Pp. 6.

V. OTHER MATERIALS

1. *HUD Memoranda*. Written correspondence frequently is a valuable tool in unraveling the complex history of the Nashville Model Cities program. Unfortunately, most of the correspondence between the local participants was written "to build a record" and cannot always be entirely trusted. The internal memoranda written by HUD officials, however, seem to be very helpful in balancing the other documentary evidence. Although other biases are exhibited by HUD officials, the frequent memoranda on field trips and minutes of meetings offer valuable insights into both the Nashville Program locally and HUD's treatment of the problems it raised.

2. *Minutes of CCC Meetings*. Although the Minutes of the CCC meetings are neither detailed nor uniform in their accuracy, they are helpful in at least three respects. First, an attendance list of each meeting is usually appended to the Minutes. Secondly, the Minutes are frequently the only source in which an official position of the CCC is precisely stated. Finally, the Minutes are usually detailed enough to indicate the types of topics that were discussed at any particular meeting.

3. *Trial Record*. The Model Cities program in Nashville has been involved in a lengthy court battle over the adequacy of both the citizen participation and the substantive projects planned for implementation. *North Nashville Citizens Coordinating Committee, Inc. v. Romney*, Civ. No. 6121 (pending in M.D. Tenn.). The pleadings and documentary evidence introduced in the trial have been extensive and the transcript of the oral testimony is thirteen volumes in length. Needless to say, this record is a fruitful, if not overwhelming, source of data on the history of the Nashville Model Cities Program.

APPENDIX II

The Model Cities program was created by Title I of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, 42 U.S.C. §§ 3301-14 (1970). The statutory language was vague, however, and the task of establishing the detailed structure of the program was delegated to the Secretary of Housing and Urban Development. This Appendix attempts to serve as a bibliographical guide to the administrative regulations by which HUD has defined the scope and structure of Model Cities.

Four basic types of administrative material have been used by HUD in defining the nature of the Model Cities program: CDA Letters, Circulars, Technical Assistance Bulletins (TABs), and Model Cities Management Series Bulletins. In the material that follows an effort has been made to compile as complete a bibliography as possible of the materials published by HUD in each of these four categories.

Several points should be noted about this bibliography. First, in an effort to be historically complete many materials have been included that have been revised or supplemented by subsequent issuances. Secondly, the date of issuance of an administrative regulation may not reflect the precise date on which the policy or requirement was implemented by HUD. Frequently policies are implemented informally by HUD before any written statement is promulgated. Furthermore, an unofficial written statement of impending policy changes often is circulated to CDA directors and HUD Model Cities officials well in advance of its official issuance. Thirdly, changing policies in the Model Cities program may have different impacts on individual local Model Cities programs. Thus, a revision of the planning requirements made in 1969 had its primary impact on the second round Model Cities programs and did not affect the first round programs that had already completed their planning year. Finally, it should be noted that this list may not be complete. Each issuance is distributed informally by HUD and is not reproduced in the *Federal Register* or the *Code of Federal Regulations*. Furthermore, the extent of distribution of an issuance will vary depending upon its subject matter. For example, regulations governing the HUD Regional Office policies are normally distributed only to the Regional Offices affected. Persons interested in obtaining these materials should correspond directly with the Department of Housing and Urban Development.

I. CDA LETTERS

The basic procedures for the Model Cities program have been outlined by the Department of Housing and Urban Development in

eleven CDA Letters, issued between October 1967 and November 1970. These documents detail the required procedure for the local CDA office for all phases of the program, from planning grant application to execution. The CDA Letters were issued under the authority of 42 U.S.C § 3303(a)(5) (1970).

CDA Letter No. 1 (October 30, 1967): Model Cities Planning Requirements.

CDA Letter No. 2 (May 1969): Administrative Policies and Procedures (this is the 3rd version of this letter).

CDA Letter No. 3 (November 1967): Citizen Participation.

CDA Letter No. 4 (July 1968): Comprehensive Program Submission Requirements.

CDA Letter No. 5 (February 1970): Policies and Requirements for Model Cities Relocation (this is the 2nd version of this letter).

CDA Letter No. 6 (May 1970): Budget Submission Requirements (this is the 3rd version of this letter).

CDA Letter No. 7 (November 1968): Computation of the Base for the Supplemental Grant.

CDA Letter No. 8, Part I (June 1969): Administrative and Legal Policies and Procedures for the Execution Phase.

CDA Letter No. 8, Part II (June 1969): Accounting and Financial Management Procedures for the Execution Phase of the Model Cities Program.

CDA Letter No. 9 (April 1969): Model Cities Program Execution Phase Program Reporting.

CDA Letter No. 10A (December 1969): Administrative Performance and Capability.

CDA Letter No. 10B (March 1970): Joint HUD-OEO Policy for Citizen Participation in Model Cities.

CDA Letter No. 10C (November 1970): Policy Statement on Economic Development for Model Cities.

CDA Letter No. 10D (November 1970): Separation of Responsibilities.

CDA Letter No. 11 (November 1970): Model Cities Resident Employment and Training Requirements.

II. TECHNICAL ASSISTANCE BULLETINS

There are four Technical Assistance Bulletins (TABs) which have been issued by HUD. Unlike the required policies and procedures out-

lined in the CDA letters, the TABS are merely advisory and attempt to give assistance to the local CDA office in troublesome areas.

Technical Assistance Bulletin #1 (October 1967): Use of Planning Grant Money and Staffing.

Technical Assistance Bulletin #2 (July 1968): Measures of Living Quality in Model Neighborhoods.

Technical Assistance Bulletin #3 (December 1968): Citizen Participation in Model Cities.

Technical Assistance Bulletin #4 (March 1971): Guidelines for Relocation Grievance Mechanism.

III. MODEL CITIES MANAGEMENT SERIES BULLETINS

The Model Cities Management Series Bulletins were prepared by consultants for issuance by HUD. These Bulletins describe successful procedures observed in a study of several local City Demonstration Agencies and suggest methods by which a CDA could implement these procedures.

Bulletin #1—Organization 70 pp. [1971].

Bulletin #2—Personnel 86 pp. [1971].

Bulletin #3—Financial Management 118 pp. [1971].

Bulletin #4—Project Implementation & Coordination 72 pp. [1971].

Bulletin #5—Policies and Procedures 136 pp. [1971].

Bulletin #6—Citizens Organizations 83 pp. [1971].

Bulletin #7—[Not Issued to Date].

Bulletin #8—Information Systems 130 pp. [1971].

Bulletin #9—[Not Issued to Date].

Bulletin #10—Citizens Training 66 pp. [1971].

Bulletin #11—Using Consultants 58 pp. [1971].

IV. CIRCULARS

The Circulars issued by HUD are of two types. Some are required policy and represent modifications and/or explanations of the CDA letters. Others are purely informational and provide an opportunity for local CDA offices to learn of available programs for inclusion in the Model Cities effort. The Circulars are organized in topical categories which are indicated by the first four digits of the issuance number.

*Classification**Title**A. General*

MC 3130.0, Chg. 2 & 3	.....	Comprehensive Subject Index and Numerical Index to the Model Cities Manual
MC 3130.1	.....	Summary of Comprehensive Programs
MC 3130.2	.....	Utilization of GSA Supply Sources by CDA's

B. Submission Requirements

MC 3140.1	.....	Description of Projects in One-Year Action Program—Modification of CDA Letter No. 4.
MC 3140.3, Chg. 1	.....	Submission Requirements for First Year Comprehensive Plans
MC 3140.4	.....	Establishing the Beginning of the First Action Year
MC 3140.5, Chg. 1 & 2	.....	Submission Requirements for Second Year

C. Action Plans

MC 3140.8	Public Service Careers Financial Procedures
-----------	-------	---

D. CDA Structure, Function and Administration

MC 3145.1	.....	Conflicts of Interest
MC 3145.2	.....	Contracting Procedures
MC 3145.3	.....	Contracting Procedures
MC 3145.4	.....	Letter to Proceed for Third Party Contracts
MC 3145.5	.....	Audits of Model Cities Operating Agencies and Citizen Participation Organizations
MC 3145.6	.....	Principles and Standards for Costs Applicable to Model Cities Grants & Contracts with Local Governments
MC 3145.7	.....	Restrictions on Political Activities
MC 3145.8	.....	Funding of Continuing Activities Between Action Years

E. CDA Relationships and Coordination

- MC 3150.1 Local Government Participation in CAMPS
- MC 3150.2 Local Approval of Interim Submissions
- MC 3150.3 Letters to Proceed for Administrative Costs Incurred after Submission of Comprehensive City Demonstration Program

F. Relocation

- MC 3165.2 Model Cities Relocation Plans
- MC 3165.3 Relocation Grievance Procedure

G. Program Components

- MC 3170.1 Minority Construction Contractor Assistance Program
- MC 3170.2 Appalachian Housing Assistance
- MC 3170.3 Financial Assistance for Sponsors of Low and Moderate Income Housing
- MC 3170.4 Resources for Day Care Program
- MC 3170.5 Group Practice Facilities—Non-Profit Hospitals
- MC 3170.6 Involvement of U.S. Army Corps of Engineers in the Model Cities Program
- MC 3170.7 Food and Nutrition in Model Cities
- MC 3170.8 Community Coordinated Child Care (4-C) Program
- MC 3170.9 Income Maintenance in Model Cities
- MC 3170.10 Transportation Grants, Technical Assistance, and Coordination with Highways
- MC 3170.11 Legal Services for Public Welfare Clients
- MC 3170.12 Urban Investment Program of the Life Insurance Business
- MC 3170.13 Utilization of the National Corporation for Housing Partnerships

H. Planning, Monitoring and Evaluation

MC 3180.2	.....	CDA Evaluation Requirements
MC 3180.3	.....	Responding to CDA Letter No. 9 Reporting Requirements
MC 3180.4, Supp.	.....	701 Planning Assistance
MC 3180.5	.....	Interim Reporting Requirements

I. HUD Organization

MC 3185.0	.....	Comprehensive Subject Index and Numerical Index to the Model Ci- ties manual (Federal and State Agencies Section)
MC 3185.1	.....	Distribution of MC Materials to Citizen Organizations
MC 3185.2	.....	Data on Executed Contracts and Amendments, Model Cities Plan- ning Grants
MC 3185.3	.....	Reporting on Obligation of Model Cities Planning Funds
MC 3185.4	.....	Report Compliance
MC 3185.5	.....	Procedure for City Council Vote on Comprehensive Plans
MC 3185.7	.....	Model Cities Audit Procedures
MC 3185.8	.....	Distribution, Processing and Con- trol of Reports Required by CDA Letter No. 9
MC 3185.9	.....	701 Program Funding for Model Cities (State Participation)
MC 3185.10	.....	Assuring City Government Respon- sibility During the Planning Process
MC 3185.11	.....	Instructions to Leadmen Regarding Model Cities Relocation Plans
MC 3185.12	.....	Workable Programs for Com- munity Improvement (WPFCl) in Model Cities
MC 3185.13	.....	Relation of Technical Assistance Contractors to Model Neighbor- hood Residents and Local Resource Deliverers
MC 3185.14	.....	Quarterly Progress Meetings —Assistant Regional Administra- tor's Report

MC 3185.15	Review of Amendments to Comprehensive Programs
MC 3185.16	Procedure for Securing and Distributing Copies of Model Cities Comprehensive Programs
MC 3185.17	Regional Recommendations of City Comprehensive Plans
MC 3185.18	Recording Approved Programs and Amendments to Approved Programs
MC 3185.19	Regional Fiscal Monitoring Procedures (Supplemental Phase)—Model Cities Program
MC 3185.20	Approval of Expansion of Model Neighborhoods
MC 3185.21	Potential Voluntary Assistance Available
MC 3185.22	Utilization of GSA Supply Sources by CDA's
MC 3185.23	Execution Application Numbers
MC 3185.24	Relationship with Model Neighborhood Groups
MC 3185.25	Revocation of Letter of Credit
MC 3185.26	Evaluation Review Package for Regional Staff
MC 3185.27	Certification of Base for Model Cities Supplementary Grants
MC 3185.28	Urban Technical Assistance Program
MC 3185.29	Distribution of Regional Issuances to Citizens
MC 3185.30	Review Process for Second and Succeeding Year Action Programs
MC 3185.31	Responsibilities and Procedures for Moving into the Execution Phase—the First Action Year
MC 3185.32	Procedures for Moving Into the Execution Phase—Second Action Year
MC 3185.33	Target Allocations for Supplementary Grants for Second and Subsequent Action Years

MC 3185.34	.....	Regional Review of Program Budget Submissions
MC 3185.35	.....	Monthly Financial Management Report
MC 3185.36	.....	Modification of Second and Succeeding Year Review Process to Reflect Opening of Area Offices
MC 3185.37	.....	Area Office Review and Approval of Amendments to Model Cities CCDP's
MC 3185.38	.....	Review and Approval Process for Second and Succeeding Years Model Cities Action Programs and Amendments

APPENDIX III

Through this study, many shorthand labels have been used to designate governmental agencies and programs. Also, many of the persons connected with the Nashville Model Cities program are referred to by name without any further identification. This appendix identifies the labels used most often and the major actors in the Nashville Model Cities drama.

I. AGENCIES AND PROGRAMS

CAA—Community Action Agency. This is the operating agency of a CAP.

CAMPS—Cooperative Area Manpower Planning System. The CAMPS is a device for coordination and the exchange of information on manpower programs on an area-wide basis.

CAP—Community Action Program. The CAP is the local anti-poverty program undertaken by OEO.

CCC (also NNCCC, Inc.)—Citizens Coordinating Committee. The CCC is the official citizens participation structure of the Nashville Model Cities program.

CCDP—Comprehensive City Demonstration Program. This required submission by the CDA to HUD is a complete compilation of projects proposed for funding under the city's Model City grant.

CDA (also MCA)—City Demonstration Agency. The CDA is the coordinating agency on the local level that oversees the planning and operation of Model Cities-funded projects.

CEP—Concentrated Employment Program. This Department of Labor program is a coordinating mechanism at the local level for employment development.

MCA (see CDA)—Model City Agency. A synonym for City Demonstration Agency.

MNA—Model Neighborhood Area. The MNA is the target area that the local Model Cities program attempts to improve.

NNCCC, Inc. (see CCC)—North Nashville Citizens Coordinating Committee, Inc. This is the corporate form of the CCC.

RICC—Regional Interagency Coordinating Committee. This regional committee, made up of representatives from several federal agencies, was charged with the responsibility of reviewing and approving a city's CCDP before the proposal could be approved.

WICC—Washington Interagency Coordinating Committee. The Washington counterpart of the RICC. This committee's approval was originally a pre-requisite for funding of a local CCDP.

II. INDIVIDUALS

Henry Bankston—Regional Citizen Participation Adviser for the Atlanta region.

JoAnn Bennett—Secretary of the CCC.

Beverly Briley—Mayor of Nashville.

Buford Drake—Nashville CDA Director (technically, the Administrative Assistant to the Mayor in charge of the Model Cities Program).

Floyd Hyde—Assistant Secretary of HUD for Model Cities.

Ernest Marsolan—Third HUD leadman assigned to the Nashville Model Cities program.

Robert Meadows—Former Assistant to the CDA Director.

Earl Metzger—Assistant Regional Administrator of HUD for Model Cities for the Atlanta region.

Edwin Mitchell—Chairman of the CCC.

Norman Moore—Former socio-economic analyst in the Nashville CDA.

Allen Polsby—Former desk officer in Washington HUD for the Atlanta region.

Melvin Randolph—Second HUD leadman assigned to the Nashville Model Cities program.

William Reinhart—Former Nashville CDA Director.

George Romney—Secretary of HUD.

Charles Straub—Regional Interagency Liaison Officer for the Atlanta region.

H. Ralph Taylor—Former Assistant Secretary of HUD for Model Cities.

Dean Tucker—First HUD leadman assigned to the Nashville Model Cities program.

Steve Vilvens—Fourth and current HUD leadman assigned to the Nashville Model Cities program.

Robert Weaver—Former Secretary of HUD.