

ARTICLE 27

Community Development and Affordable Housing

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NORTH CAROLINA'S CITIES and counties engage in a variety of programs to address the plight of economically distressed communities within their jurisdictions. Although the individual activities may include efforts to tackle inadequate levels of affordable housing, unemployment, underemployment, and diminished overall quality of life; collectively these attempts to enhance the physical, economic, and social conditions of disadvantaged communities are best defined as *community development*. The frequently cited benefits of community development are: (1) it is a comprehensive strategy, (2) it addresses stressful environmental conditions, (3) the process itself can be as important as the end result, (4) it expands resources for services, (5) it can be a successful strategy for poverty alleviation, (6) it can result in community compatible services and programs, and (7) it fosters community ownership and institutionalization.¹

1. D. Chavis and P. Florin. *Community Development, Community Participation* (San Jose, Calif.: Prevention Office, Bureau of Drug Abuse Services, 1990).

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The definition and often-cited benefits of community development suggest that its activities should be viewed in two different ways: as development *of* community and as development *in* community. Development of community refers to a local government's work to strengthen the relationships and networks within the community. Sometimes referred to as building *community capacity*, emphasis is on the creation and maintenance of organizations and activities that link citizens to one another and to the community. In contrast, development in community is intended to yield a tangible end product, such as jobs or housing. These end products are often considered *community capital*.

This article discusses North Carolina's local governments' attempts to build both community capacity and community capital. It begins with a focus on affordable housing. Community development activity often occurs in neighborhoods that have been ignored by homebuilders, realtors, lending institutions, and home insurers. Thus, public and private sector community developers regularly aim to create new and preserve existing affordable housing options in areas underserved by private markets. This article then looks at other community development activities, considers the statutory authority granted to local governments for community development activities, and explains the different ways that local governments organize to deliver community development programs. Finally, the article describes two of the major federal funding sources for community development.

Affordable Housing

Many people are understandably confused by the term *affordable housing*. The term refers to decent housing for those who, without some special intervention by a government or other providers of housing, could not afford to pay the minimal rent or mortgage that would be available ordinarily in the private marketplace. The term involves judgments about the proportion of income that a family should pay for housing. These judgments are expressed in a federal housing affordability standard, which defines affordable units as "units for which a family . . . would pay no more than 30 percent of their income."² This standard for affordability has changed over time. In 1969, the federal government set the housing affordability standard at 25 percent of income. It raised the standard to 30 percent in 1981. The federal government considers households paying more than 50 percent of their incomes for housing costs are experiencing severe affordability problems.

With the rising costs of housing, many upper-income persons may struggle to afford the housing they desire.³ However, as used in this article, affordable housing programs are those that are typically targeted to low- and moderate-income households. Low-income households are those with incomes that are at or less than 60 percent of the local area's average income. In comparison, moderate-income households have incomes at or below 80 percent of the area's average.

Local Government Involvement in Creating Affordable Housing Opportunities

Many of North Carolina's local governments are actively engaged in creating housing opportunities for families facing affordable housing challenges. These families live in diverse circumstances requiring diverse solutions. In some fast-growing communities, teachers, firefighters, and young families may lack the income or savings to buy, or sometimes even to rent, a home. These families often need only one-time or short-term housing subsidies. Other lower-income households require longer-term subsidy assistance to supplement their inadequate incomes. In some localities, families might need a broad range of housing choices, including mobile and manufactured housing. For other families, the eradication of discrimination in the private market would make available a host of housing opportunities.

2. According to HUD, housing is affordable when all housing costs (rent or mortgage, utilities, property taxes, and insurance) do not exceed 30 percent of total household income. This standard applies to any person or household regardless of their source or level of income.

3. See Charles G. Field, *Building Consensus for Affordable Housing*, 8 HOUSING POLICY DEBATE (1997).

Local governments possess no inherent powers to respond to these various circumstances. Whatever powers they possess must be granted to them by the state, even when all of the funds to support the housing activity come from the federal government. Since local governments have no inherent powers, without a grant of state authority they could not participate in a federally funded program. To do so would subject them to a charge of *ultra vires* activity—activity that exceeds the scope of the powers delegated by the state. It is important, therefore, to consider the specific grants of authority for affordable housing and other community development efforts. A description of some of the more often-used laws is found later in this article.

Within the authority granted by state law, local government affordable housing activity usually responds to one of the following dimensions of housing problems: affordability, physical adequacy, overcrowding, and accessibility. The data on the extent of affordable housing problems cited in this section comes from the decennial census, the American Housing Survey and information collected by the North Carolina Housing Finance Agency. Information of the extent of local government activities to respond to housing needs is derived from a community development survey of local governments in North Carolina conducted by the School of Government in March 2004.

Affordability

Housing Cost Burdens for Renters

The affordable housing squeeze has led to a significant increase in housing cost for many renters. Between 1990 and 2000, the median rent and utility costs for renter households not living in subsidized housing in North Carolina rose from \$382 a month to \$548 a month after adjusting for inflation, an increase of 8.9 percent. The rising housing costs have forced many renters to spend a large percentage of their income on housing. Some 31.5 percent of renters—302,138 households—spent at least 30 percent of their income on rent and utilities in 2000. The statistics are starker when one considers just those renters who the U.S. Department of Housing and Urban Development (HUD) defines as low income. Some 52 percent of these poorer renters in North Carolina—or 110,485 households—spent more than half of their income on housing in 2000.

Local governments have sought to ease the rental burdens for residents by employing a number of strategies. Between 1999 and 2004, 46 percent of local governments report that they provided rent subsidies (which may be federal or local funds) to lower-income persons and 48 percent report providing support for the construction of rental housing for low and moderate-income households. In addition, ninety-nine of North Carolina's public housing agencies (often referred to as public housing authorities) own and operate multifamily rental housing units for low-income persons.

Housing Cost Burdens for Homeowners

Homeownership has long been a cherished part of the American dream. As one observer has noted, homeownership “. . . is important not only because of the potential for accumulation of wealth or ‘equity’ through monthly payments on a mortgage rather than monthly payments of rent, but also because of the deep psychological need for most Americans to ‘own’ their home as a sign of control over destinies.”⁴ In North Carolina in 2000, 69.4 percent of all occupied housing units were owned by their residents. This is slightly more than the 1990 ownership rate of 68 percent and it is greater than the national average of 52.3 percent.

For many potential homeowners who can afford the monthly mortgage payment, the downpayments and other financing requirements to secure a loan pose insurmountable barriers to home ownership. Some 41 percent of local governments reported in 2004 providing assistance to low-income households, usually first-time homebuyers. This assistance included down payment assistance, loan products, and the subsidization of private market interest rates. For other residents, local governments focused their efforts on subsidizing existing homeownership. Sixty-two percent of local governments indicated that, between 1999 and 2004, they provided some form of direct assistance to low-income homeowners to rehabilitate their homes.

Physical Inadequacy

As defined by the census, a housing unit has a complete kitchen facility if it has all of the following: (1) a sink with piped water; (2) a range or cook top, and an oven; and (3) a refrigerator. A housing unit with complete plumbing facilities must have (1) hot and cold piped water; (2) a flush toilet; and (3) a bathtub or shower. Housing units that fail to meet these standards are deemed to be physically inadequate. North Carolina's communities have made significant

4. Peter W. Salsich Jr., “Nonprofit Housing Organizations,” *Notre Dame Journal of Law, Ethics & Public Policy* 4 (1989): 227.

progress in reducing the number of physically inadequate units over the past thirty years. In 1970, 20.2 percent of the total housing units in the state were deemed inadequate. By 1980, that number had dropped dramatically to 7.9 percent. In 1990, the number again dropped to 3.9 percent where it remained in 2000.

In addition to inadequate kitchen and plumbing facilities, other conditions might make a home inadequate. For instance, in 2001, an estimated 2,221 housing units had no electrical wiring and 17,936 units had exposed wiring. Estimates from the 2001 American Housing Survey suggest that 8,063 units had no heating equipment of any type and in 91,160 units there was no room with air conditioning. Local governments can respond to physical inadequacy by requiring owners to comply with minimum standards housing codes and providing funds to subsidize the cost of improving the housing. The most dilapidated housing may be subject to demolition programs. According to the Institute of Government's 2004 survey, 46 percent of local governments engaged in demolition programs.

Overcrowding

An overcrowded unit can be thought of as one that contains more than one person per room. According to the Department of Housing and Urban Development's more technical definition, overcrowding is a unit that has more than 1.01 persons per room and severe overcrowding has more than 1.51 persons per room. In 1980, 4.5 percent of all occupied housing units in the state were overcrowded. By 1990, this figure had dropped to 2.9 percent. In 2000, 3.4 percent of households in North Carolina were overcrowded. While overcrowding rates are dropping across the state, the rates are rising in many places especially in urban areas. Orange County, for example, experienced a 398 percent increase in overcrowded units between 1990 and 2000. Local governments respond directly to overcrowding issues through occupancy standards that limit the number of people who can live in a unit. Recognizing that overcrowding is often symptomatic of a tight affordable housing market, local governments may also seek to respond to the issue by increasing the supply of affordable housing.

Accessibility

As used in this article, accessibility refers to the *access* that individuals have to the full range of housing choices available. The term covers (1) efforts to make housing physically accessible to the disabled; (2) activities to eradicate illegal discrimination in the housing markets based on race, religion, gender, familial status, and disability; and (3) efforts to affirmatively expand housing opportunities for groups that have traditionally been discriminated against. The best statewide source of information on barriers to housing access is the North Carolina Human Relations Commission (NCHRC), which was created in 1963 to promote civil rights and equal opportunities for the residents of North Carolina. In addition to other functions, the NCHRC enforces the State Fair Housing Act by receiving and investigating housing discrimination complaints. The NCHRC received housing discrimination complaints from 75 counties between 2000–4.

The School of Government survey did not ask questions about local governments' efforts to provide housing for the disabled or other specific populations. The single accessibility questions asked whether local governments had engaged in studies of the impediments to fair housing or actions to affirmatively further fair housing. The majority of local governments reported that they had not engaged in either studies of the impediments to fair housing or actions to affirmatively further fair housing opportunities.

Additional Community Development Activities

Building a Physical Infrastructure

In the context of community development, the physical environment refers to *buildings* (including houses, retail stores, and factories) and *infrastructure* (including roads, water, sewer, and telecommunication). These resources are essential to attracting private investment to a community and the implications of absent or inadequate physical capital can be far reaching. For example, there is some evidence of a link between the built environment in a community and public health outcomes.⁵ Residents who live in a "walkable" neighborhood or have convenient access to health food

5. The Prevention Institute has profiled eleven examples of predominantly low-income communities that have been transformed by changes in the physical environment, particularly in terms of health outcomes. See Manal J. Aboelata, *The Built Environment and Health: Eleven Profiles of Neighborhood Transformation*, available at www.preventioninstitute.org/builtenv.html.

grocers are more likely to engage in greater physical activity and have a healthier diet. By contrast, a physical environment permeated by liquor stores and fast food restaurants with few venues for exercise and recreation tends to facilitate negative and unhealthy lifestyles.

In response to the distressed physical environment that often characterizes lower-income neighborhoods, physical revitalization is a traditional focus of community development activities. Indeed, beginning in 1949, many states, including North Carolina, created a redevelopment process for blighted areas.⁶ Examples of blight include:

- high vacancy rates
- vacant lots
- unsafe building conditions
- aging, deteriorating, and poorly maintained buildings
- poor structure quality that requires significant improvements to buildings in order to safely occupy them
- inadequate infrastructure to support development (i.e., utilities, storm drainage, sewers, street lighting)

Under redevelopment programs, local governments seek to revitalize blighted areas through the acquisition, replanning, clearance, rehabilitation, or rebuilding of areas for residential, recreational, commercial, industrial, or other purposes.

In addition to housing, the most common physical infrastructure programs for local governments involve sidewalk and street repairs, water and sewer projects, and open space improvements.

Building an Economic Infrastructure

Affordable credit, basic financial services, and investment of capital are critical to the health of communities. Unfortunately, private capital markets and traditional financial services often do not adequately meet the needs of low-income people, minorities, and small firms in distressed urban and rural areas. The reasons for this are varied and include discrimination, suburbanization, and consolidation of the banking industry.⁷ As a responsive strategy, community development focuses on creating access to capital to purchase homes, start businesses, and provide community amenities in economically distressed places. There are two basic approaches to increasing access to capital. The first forces the existing private market to make financial capital available in these communities. The second creates alternatives to the private market to serve the specific needs of community residents.

The primary regulatory approach for increasing access to financial capital in underserved communities is implemented through the federal Community Reinvestment Act (CRA). The CRA was enacted in 1977 to prevent banks from engaging in the practice of “redlining” or refusing to make loans in low-income and/or minority areas. Local governments have no direct oversight of CRA activity.

Most public sector activity in the creation of financial capital involves tools that either provide incentives for private financing or create new sources of capital outside the private market. These mechanisms include the special tax credits, the creation of community development financial institutions (CDFIs), microenterprise loan programs, and individual development accounts (IDAs). Local governments are mostly engaged in the latter two strategies.

The U.S. Congress passed the New Markets Tax Credit as part of the federal Community Renewal Tax Relief Act of 2000. Designed to stimulate \$15 billion of new investments over a ten-year period, the NMTC allows taxpayers to receive a credit against their federal income taxes for investing in Community Development Entities (CDEs). Eligible CDEs are required to invest commercial and economic activities that will benefit low-income communities. There have been other federal tax credit programs, such as the empowerment and enterprise zones. In addition, North Carolina has developed similar programs at the state level that aim to stimulate private investment of distressed places. The state development zones, for example, allow companies to claim tax credits for locating in the highest poverty areas of the state. Local governments are usually active partners in seeking to have qualified areas of their communities designated for special tax treatment.

6. See William H. Simon, *The Community Economic Development Movement: Law, Business, and the New Social Policy* (Durham, NC: Duke University Press, 2001).

7. Lehn Benjamin, Julia Rubin, and Sean Zielenbach, “Community Development Financial Institutions: Current Issues and Future Prospects,” *Journal of Urban Affairs* 26 (April 2004): 177–78. See also Melvin Oliver and Thomas Shapiro, *Black Wealth/White Wealth* (New York: Routledge, 1995); Michael Stegman, *Savings for the Poor: The Hidden Benefits of Electronic Banking* (Washington, D.C.: Brookings Institution Press, 1999).

The Community Development Financial Institutions (CDFI) Fund was established in 1994 and is administered by the U.S. Treasury Department.⁸ CDFIs, some of which existed before the fund was established, have the primary mission of improving economic conditions for low-income individuals and communities. These entities provide a range of financial products and services that often are not available from more mainstream lenders and financiers. One of the largest CDFIs in the nation, the Self-Help Credit Union, is headquartered in Durham, North Carolina.

Microenterprise lending originated in Bangladesh, India, in the late 1970s when the Grameen Bank began making loans to groups of poor women villagers to finance small enterprises and self-employment ventures.⁹ Variants of microenterprise development have subsequently emerged in the United States. Though providing microcredit is an important part of the U.S. approach, economic literacy training is becoming the primary feature of the strategy.¹⁰ By combining financial capital and business skills training to low-income people, microenterprise programs seek to accomplish both social policy and development goals and to promote economic self-reliance among the disadvantaged.¹¹ A recent study of microenterprise development in the United States suggests that program participants realize noneconomic benefits such as increased pride and self-esteem, and a sense of ownership that often outweigh tangible economic outcomes.¹²

Individual Development Accounts (IDAs) are another asset-building strategy designed to increase access to financial capital and expand economic opportunities for low-income people. In contrast to income maintenance programs, IDAs provide a mechanism for poor people to save cash to use for buying a home, starting a business, or higher education and job training.¹³ The public sector is often the source of funds used to match the agreed upon savings goals of program participants using a ratio of 1:1 up to 1:8.¹⁴ North Carolina has one of the leading statewide networks of IDA programs. By 2006 there were thirty-two local IDA sites present in fifty-five counties. These thirty-two programs, which are housed in county governments, not-for-profit organizations, and community colleges, supported more than 500 low-income account holders.

Building a Human Infrastructure

Beyond access to capital, community developers recognize that their work must include a focus on linking residents to jobs. This focus is often called “workforce development.” Education and formal training, on the job training, and family and nonfamily mentoring are all sources of workforce development that must be made available to community residents if they are to be competitive for jobs in the new economy.

Two federal laws have raised the significance of human capital development or “workforce development,” as it is now more commonly called. The first law, the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), made job training and placement efforts for low-income people particularly important as federal welfare reform sought to eliminate the long-term eligibility for welfare benefits of employable applicants. People being moved from welfare to work require opportunities to develop needed skills.

8. See Benjamin, Rubin, and Zielenbach, “Community Development Financial Institutions.”

9. See David Bornstein, *The Price of a Dream: The Story of the Grameen Bank and the Idea That Is Helping the Poor Change their Lives* (Chicago: University of Chicago Press, Reprint edition, 1997).

10. Margaret A. Johnson, “An Overview of Basic Issues Facing Microenterprises in the United States,” *Journal of Developmental Entrepreneurship* 3 (1998): 5–21.

11. Lisa J. Servon, “Microenterprise Programs in U.S. Inner Cities: Economic Development or Social Welfare?,” *Economic Development Quarterly* 11 (1997): 166–80.

12. Margaret Sherraden, Cynthia Sanders, and Michael Sherraden, *Kitchen Capitalism: Microenterprise in Low-Income Households* (Albany: State University of New York Press, 2004).

13. See Michael Sherraden, *Assets and the Poor: A New American Welfare Policy* (Armonk, N.Y.: M.E. Sharpe, 1991); Thomas Shapiro and Edward Wolff, eds., *Assets for the Poor: The Benefits of Spreading Asset Ownership* (New York: Russell Sage Foundation, 2001).

14. William Rohe, Lucy Gorham, and Roberto Garcia, “Individual Development Accounts: Participants’ Characteristics and Success,” *Journal of Urban Affairs* 27 (December 2005): 505.

The second law, the Workforce Investment Act (WIA), passed in 1998, reflects the need to train people for jobs. Under the WIA, Workforce Investment Boards of private-sector businesses and employer representatives must work in concert with public-sector representatives to design effective workforce development services for job seekers and employers alike. The WIA addresses three types of job seekers: adults, dislocated workers, and youth, providing each with basic support services. Services include job search assistance, assessment and case management, and job training provided by local one-stop job centers. Although the WIA focuses on a broader population than welfare reform does, the confluence of the two laws is obvious. One has created an unprecedented need for job training for poor people, many of whom live in economically distressed communities, and the other has created a fresh approach to job training needs.

Building a Social Infrastructure

Community-based development organizations, particularly community development corporations, are important institutional actors in efforts to build the social fabric of communities while enhancing physical and economic well-being. Incorporated under Article 44 of the North Carolina General Statutes, and consistent with the goals of community development, they typically have broad community betterment missions and engage in a wide variety of activities. By establishing the rules and norms by which the community functions, these internal institutions reflect the community's attitude toward change, experimentation, entrepreneurship, and success. They are often formed by neighborhood residents and, almost always, have residents on their boards and as members. As such, they are considered to be credible voices for and accountable to the communities they serve.

CDCs have grown in numbers, variety, and sophistication in recent decades. In 1967, the first CDC was born in the Bedford-Stuyvesant neighborhood in Brooklyn, New York.¹⁵ The most recent national survey of CDCs indicated that about 3,600 of the organizations operated in communities across the nation in 1999.¹⁶ In comparison, in the mid-1970s the estimated number of CDCs was 200.¹⁷ Today, there are estimated to be 200 CDCs in North Carolina alone. For the majority of CDC's housing production is the primary activity. In fact, nationally, the organizations boast a development and rehabilitation record of more than 550,000 housing units, nearly half of which was produced between 1994 and 1997. However, it is important to note that, in addition to housing, CDCs engage in business enterprise development, commercial and industrial real estate development, and an impressive array of social programs. Indeed, very few CDCs engage solely in activities to improve the physical or economic infrastructure of communities without also offering complementary social programs.

The increased prominence of these organizations present challenging issues for local governments, which are being asked by the public to evaluate their own records on making low- and moderate-income communities better places to live. In answering the call for evaluation, many local governments have concluded that governments, acting alone, cannot revitalize these communities. While governments may provide the brick and mortar, they are unable to build communities in the comprehensive way that is the trademark of CDCs. Recognizing this limitation, many local governments have entered into successful joint ventures with CDCs.¹⁸

Statutory Authority for Community Development Activities

There is considerable statutory authority for local governments to engage in community development activities, including affordable housing. Because these statutes were enacted at different times and in response to different programmatic needs, a local government's authority to undertake various activities under the rubric of housing and community development is not laid out neatly in one place.

15. David Holtzman, "The Emergence of the CDC Network," *Shelterforce* 144 (November/December 2005).

16. National Congress for Community Economic Development (NCCED). *Coming of Age. Trends and Achievements of Community-Based Development Organizations* (Washington D.C.: NCCED, 1999).

17. Rachel G. Bratt, and William Rohe, "Organizational Changes among Community Development Corporations: Assessing the Impacts and Navigating the Challenges," *Journal of Urban Affairs* 26 (April 2004).

18. Anita R. Brown-Graham, "Thinking Globally, Acting Locally, Community-Based Development Organizations and Local Governments Transform Troubled Neighborhoods," *Popular Government* 61 (Winter/Spring 1996): 2-18.

The General Assembly passed the Housing Authorities Law in 1935 to enable communities to take advantage of federal grants for public housing. This law, as amended, appears as G.S. Article 157. In 1951, responding to the broader purposes of the federal Housing Act of 1949, the General Assembly passed the Urban Redevelopment Law, which, as amended, appears as G.S. Article 160A, Article 22. Finally, in response to the Housing and Community Development Act of 1974, the General Assembly passed and later amended G.S. 153A-376 and G.S. 153A-377 (counties) and 160A-456 and 160A-457 (cities) to permit local governments to engage in Community Development Block Grant (CDBG) activities authorized by the federal act, subject to the provisions of other state laws. These statutes authorize all counties and cities to engage in programs concerned with “employment” and “economic development,” using either federal and state grants or local funds.

There are additional laws that provide important grants of authority to local governments engaged in community development activity. For instance, North Carolina local governments often use housing codes, more commonly known as *minimum housing ordinances*, to combat blight in existing neighborhoods. The tool allows the local government to require that a property owner rehabilitate his or her property without the benefit of any public financing.

In order to enact a local housing code, a city or county must rely upon the authority granted to them by G.S. 160A-441, which authorizes cities and counties to adopt “housing ordinances” that establish the minimum standards a dwelling must meet in order to be judged fit for human habitation.¹⁹ Enforcement options under the statute vary according to the classification and size of the city or county and the extent of structural disrepair of the property in question.

Under the authority granted by G.S. 160A-441, minimum housing ordinances may address issues relating to:

- structural dilapidation and defects
- general disrepair
- lighting
- sanitary facilities
- fire hazards
- ventilation
- general cleanliness

Many local governments have nuisance ordinances that prevent one person’s use of their land from harming neighbors. For example, nuisance lot ordinances typically set minimum standards to prevent lots from becoming overgrown or becoming repositories for unsightly and unhealthy collections of refuse. These nuisance standards are an exercise of a local government’s police powers.

Finally, local governments are authorized to deal with displacement problems that might be created by their community development activities. When extensive rehabilitation is under way or when a house that is beyond repair is to be demolished, residents may have to be relocated either temporarily or permanently. G.S. 133-5 through -17 originally enacted in 1971 in accord with the federal Uniform Relocation Assistance and Real Property Acquisition Act allows the local government to help relocated residents with moving expenses, temporary or permanent rental payments, a down payment on the purchase of a house, or a lump sum to buy another house if the permanently displaced family owns the house to be demolished. The law also contains procedural requirements that give reasonable protection to a person or family displaced by the program.

Organizing Local Governments for Community Development Program Delivery

Whether a local community development program consists of only federally funded and directed activities or a broad range of federal, local, and private activities, it requires effective coordination and management. Meeting legal requirements as well as community needs and expectations to conduct an effective program requires widespread community involvement, on one hand, and concentrated executive control of a complex set of activities on the other. Neither the federal government nor the General Statutes mandates any specific form of organization to carry out a community development strategy, although there are specifications and options for the component activities discussed earlier. Each

19. G.S. 160A-441.

local government, then, must use the options available in the General Statutes to accomplish its community development objectives in a way that satisfactorily balances community involvement and executive control, and best suits its local program and circumstances.

Board of County Commissioners/City or Town Council

The organizational starting points for community development must be the board of county commissioners and the city or town council. Each has the authority either to undertake directly or to appoint an appropriate body to undertake on its behalf, all of the local-government community development activities discussed in the earlier articles of this book.

Public Housing Authorities

In North Carolina, the General Assembly set out the requirements by which cities of more than 500 in population and counties may create traditional housing authorities. Under G.S. 157-4 and 157-33, any twenty-five residents of a county or twenty-five residents of a city (or its environs within ten miles) may file a petition with the clerk to the governing board declaring that there is a need for a housing authority. The clerk will then give notice of the time, place, and purposes of a public hearing at which the governing board will determine the need for the authority. At the hearing, the governing board must determine whether people in the jurisdiction are living in unsanitary or unsafe homes or whether there is a lack of safe or sanitary dwellings in the community.²⁰ If the board determines that either is true, a housing authority may be duly organized. Thereafter, the mayor will appoint the members of the board for a city's housing authority and the board of county commissioners will appoint the members of the board for a county's housing authority.

Alternatives to the Traditional Housing Authority

Across the country public housing authorities (PHAs) have been at the center of significant controversy. Today, under the weight of long waiting lists and fiscal prohibitions against the construction of new units, public housing has lost favor even among some former supporters. As a result of public displeasure, some public housing authorities are trying to reform themselves and some are being abolished by their local governments.

Most local housing authorities have traditionally operated quite independently of the local government. With most of their funding coming from the federal government (except for some rental income), PHAs' operations rely primarily on federal rules and policies. In recent years however, especially as federal support for housing programs has decreased, a number of local governments, primarily cities, have taken a more assertive role in the operation of their housing authorities. There are two main reasons for this change. First, PHAs have been charged recently with operating complicated and comprehensive programs that require more active participation with local governments. For example the HOPE VI program, which was developed to respond to the criticism that PHAs were warehousing poor people in massive high-rise projects, requires significant involvement by the local government in order to demolish and rebuild new public housing units. Second, some local governments have simply tired of what sometimes seems the intractableness of PHAs' bureaucracy.

G.S. 157-4.1 and G.S. 157-4.2 offer several alternative organizational arrangements to the traditional independent housing authority. First, under G.S. 157-4.2, a local government may retain a separate housing authority, but integrate that authority's budgeting and financial administration activities into its own. Under this arrangement the housing authority remains a separate organization with personnel and operating responsibilities under the control of the appointed housing authority board, and is treated like a local government department only for purposes of budgeting, accounting, and expenditure control.

20. In making these determinations, the governing board must take into consideration the physical age and condition of the buildings, the degree of overcrowding, the percentage of land coverage, the light and air available to the inhabitants, the size and arrangement of rooms in these dwellings, the sanitary conditions, and the extent to which conditions exist in the dwellings that pose a threat to life or property by fire or other causes (G.S. 157-4 and 157-33).

Two organizational alternatives eliminate the housing authority altogether: the governing board may assign the powers of the housing authority to a redevelopment commission, or the local government staff may be given those powers.²¹ Any designation of the local government as the housing authority should be done by passing a resolution adopted in accordance with the procedures set out in G.S. 157-4 and outlined above. In the event that an action of the housing authority requires recommendation or approval by both the housing authority and the governing board, then under the new arrangement action by the governing board will be deemed sufficient. Brunswick, Caswell, Columbus, Harnett, Madison, Orange, and Pender counties have all assumed direct responsibility for their public housing authorities. Cities that have assumed this responsibility include Albermarle, Ayden, Chapel Hill, Concord, East Spencer, Edenton, Mount Holly, Murphy, North Wilkesboro, and Shelby.

Professional Staff

Coordinators, Departments, and Task Forces

Local governments with professional community development staff have organized themselves using one of three major approaches: a coordinator, a department, or a task force.

Communities that need few specialized staff may use a *coordinator*. This one person is responsible for initiating, negotiating, monitoring, and evaluating the planning and execution of development activities by several departments—usually planning, public works, and inspection departments, and sometimes the rehabilitation staff of a redevelopment authority. Where the coordinator is placed in the administration can be an important consideration. If the person is a member of the planning staff, he or she can certainly integrate the community development program with other planning activities, but might have little influence on operating departments that carry out the program. If the person is a member of the chief administrator's staff, he or she has more potential clout, but usually only as much as the chief administrator chooses to support.

A city or county can form a community development *department* with status equal to that of the more traditional departments that might have a part in the program: public works, inspection, recreation, and so on. This arrangement is found in Forsyth County, for example. The arrangement may originate in a community's decision to abolish its separate redevelopment authority or housing authority and to bring the staff into its administration. The multifunctional department might be formed from an existing planning department and from existing building inspection staff, housing inspection staff, engineering staff, housing and redevelopment staffs, economic development staff, or various combinations of all of these. Obviously the more functions that the department includes, the more powerful the community development director's influence will be over the performance of tasks that are critical to the program.

A community that takes the broadest possible view of community development—as an endeavor involving many local agencies as well as private-sector organizations from time to time—might adopt a *task-force* approach to planning and managing its programs. Often, primary responsibility for the program goes to a deputy or assistant manager who, by his or her position, clearly and often acts with the full authority of the manager. This person organizes and supervises department and agency heads who will be responsible for various aspects of program planning and implementation, and he or she serves as a critical link to organizations outside the government. The composition of task forces might change over time as the community development program goes through different stages or changes its character. This process tends to be most successful when the manager delegates effectively and department heads and other staff are comfortable and competent in using team-management techniques.

Citizen Boards, Commissions, and Committees

Although the governing board holds most of the ultimate authority for community development activities, it can make efficient use of citizen interest and expertise by appointing a variety of citizen boards, commissions, and committees for advice or for implementation of program mandates. In fact, to help in planning and administering activity funded by the federal Community Development Block Grant (CDBG) program, the board is required to have a citizen advisory body through which to channel public opinion.

21. G.S. 157-4.1; G.S. 157-33. See also G.S. 153A-376(b) and G.S. 160A-476.

Many local governments find these bodies to be extremely helpful. First, such a body can focus its full attention on the community development strategy, whereas the board has many other responsibilities. Second, the board can effectively delegate to the advisory group the time-consuming task of gaining widespread citizen participation in planning. Third, the professional staff can secure from this body a fairly continuous flow of informal comment and information during planning. Fourth, consultants and Councils of Governments working with the local government will look to this body to provide a meaningful frame of reference on the community to be served. Finally, the advisory body can supplement professional staff advice with a lay point of view when a program is recommended to the governing board.

Because the local government's planning board and its housing authority, if one exists, usually have something to offer, the governing board should consider what role (if any) it expects these agencies to play in planning and executing the community development programs. The planning board's work with comprehensive planning and capital improvement planning can be very closely related to the formulation of the program. The governing board should also consider whether to seek advice from other boards and commissions, such as parks and recreation, streets, and public works.

Contracting with Others

The state constitution contains a general authorization for contracts with private entities. In addition, parallel statutes for cities and counties authorize them to contract with any private entity to carry out any public purpose in which they have statutory authority to engage. For North Carolina local governments, the authority to contract is directly related to the basic authority to spend money. A local government may contract for any purpose for which it may spend money if the expenditure is for a public purpose; the activity to be supported is one in which the local government has statutory authority to engage; and the expenditure is not inconsistent with the laws²² or the constitution of the state or federal government.

Councils of Governments

Regional Councils of Governments often assist local governments in the preparation and administration of federal or state grants when there is no local government staff to carry out these functions. Councils of Governments are particularly active in community development in the western region of the state.

Consultants

Many local governments delegate responsibility to private, for-profit consultants for completing applications for and administering state grants. A consultant typically works closely with a member of the local government (usually the manager, mayor, or clerk to the board) and the citizen advisory body to develop and implement the project. The board should be kept informed of important policy decisions such as program amendments because it retains ultimate responsibility for the grant.

Consultants are used most often in the eastern counties of the state. A primary advantage of using consultants is that the community does not have to provide gap funding for personnel costs in between grants. A disadvantage may be that consultants are less familiar with the other aspects of the government that may bear on a project.

Nonprofits

Nonprofit organizations have long worked with governments to respond to community needs. The resulting partnerships have been powerful, combining the flexibility and service-delivery capabilities of the nonprofit sector with the financial and direction-setting capabilities of the public sector. They have resulted in improved local services in many areas, including community development.

22. State law makes it unlawful for a public official to benefit from a contract with the unit he or she represents. G.S. 159-40. For a detailed analysis of the conflict-of-interest laws and of ethics for public officials, see A. Fleming Bell, II, *Ethics, Conflicts, and Offices: A Guide for Local Officials* (Chapel Hill, N.C.: Institute of Government, University of North Carolina at Chapel Hill, 1997).

Local governments may support nonprofit community development efforts in a number of ways beyond the provision of direct funding and tax exemptions.²³ For example, a local unit might include nonprofit staff in its training programs or use its purchasing power to purchase goods or services on behalf of the nonprofit for use in programs that the local government has authority to fund. Further, a local government may make the expertise of its staff available to a nonprofit as a form of in-kind assistance that can save money for both the local government and the nonprofit. In each case, subject to requirements of public purpose and statutory authority, local governments may provide in-kind support of whatever nature they choose. Although the state constitution generally prohibits a local government from giving public money or property to a private person or entity, North Carolina court cases have recognized that a promise to use property for a public purpose is legally sufficient consideration to support its conveyance. This means that as long as the proposed use is one for which the local government has authority to spend money, the local government may provide in-kind support as an outright donation in lieu of or in addition to a cash appropriation.

Faith-based Organizations

Faith-based nonprofit organizations have been involved in community development on behalf of lower-income persons since the eighteenth century, and local government agencies have long funded religiously affiliated organizations such as Catholic Charities, Lutheran Family Services, the Salvation Army, and others. Recent laws and federal policies go beyond this, however, mandating that local governments must make their federally funded programs available to religious organizations, even those programs with a primary purpose of providing religious instruction and spiritual support to their members rather than social services to clients.²⁴ Such laws and policies (including HUD policies) make clear that:

- faith-based organizations are eligible for federal funding on an equal basis with other organizations;
- faith-based organizations are no longer required to form a separate, secular organization to receive federal funds;
- faith-based organizations that receive public funding remain independent in matters relating to governance and expression of beliefs;
- direct federal funds may not be used to support inherently religious activities such as worship, religious instruction, or proselytization;
- federal provisions apply to state or local funds in cases where a state or local government commingles its own funds with the federal funds covered by the regulations.

Funding for Housing and Community Development

The primary sources of direct funding for community development activities in North Carolina are the Community Development Block Grant (CDBG) and HOME programs.

The CDBG program is the largest and most flexible source of federal community development funds. Created in 1974 as an offshoot of several different existing community development programs, the CDBG program is designed to (1) benefit low- and moderate-income persons, (2) help to prevent or eliminate slums or blight, and (3) meet urgent needs.

With the participation of their citizens, communities have devoted CDBG funds to a wide range of activities: including the creation of affordable housing, improvements in infrastructure, the expansion of economic opportunities, and the enhancement of community facilities and services. Notwithstanding the program's flexibility, that is, the wide range of activities that are deemed appropriate under it, Congress and the U.S. Department of Housing and Urban Development (HUD) have mandated that, at a minimum, no less than 70 percent of CDBG funds must be used for activities that directly benefit low- and moderate-income persons.

23. See generally Frayda Bluestein and Anita R. Brown-Graham, "Contracting with Nonprofits," *Popular Government* 67 (Fall 2001): 32.

24. Substantial arguments exist to suggest that some of these "Charitable Choice" provisions may be unconstitutional under current Supreme Court jurisprudence. See, e.g., Alan Brownstein, Constitutional Questions about Charitable Choice, in *Welfare Reform and Faith Based Organizations* ed. Derek H. Davis and Barry Hankins, 219 (Waco, Tx: Baylor University J.M. Dawson Institute of Church-State Studies, 1999). The Court's interpretation of the Establishment Clause is an evolving doctrine, however.

The formulas for distributing federal CDBG funds to states and local governments are based primarily on the local government's housing problems and the number of persons in that community who have incomes below the poverty level.

The CDBG program is divided into two sections, the Entitlement Program (for large cities and urban counties) and the States and Small Cities Program (for small cities and rural areas); 70 percent of CDBG funds are awarded through the Entitlement Program. Communities that are eligible for Entitlement Program CDBG funds are municipalities (excepting certain central cities) that have 50,000 or more residents and urban counties (generally those with populations of 200,000 or more, excluding any entitlement cities contained within the county). In North Carolina, twenty-three municipalities and two counties participate in the CDBG Entitlement Program. The entitlement counties are Wake and Cumberland; the entitlement cities are Asheville, Burlington, Cary, Chapel Hill, Charlotte, Concord, Durham, Fayetteville, Gastonia, Goldsboro, Greensboro, Greenville, Hickory, High Point, Jacksonville, Kannapolis, Lenoir, Morganton, Raleigh, Rocky Mount, Salisbury, Wilmington, and Winston-Salem.

The other CDBG section, the Small Cities Program, provides North Carolina and most other states with annual direct grants, which the states in turn award to local governments in small communities and rural areas. Receiving CDBG funds as an annual block grant, the states must develop a method of distributing funds to eligible local governments. To ensure that Small Cities Program funds are used appropriately and distributed in amounts that are large enough to have an impact, most states hold annual funding competitions for nonentitlement communities. States may reflect statewide priorities by earmarking funds for specific activities (e.g., economic development). States also may keep a small percentage to cover administrative costs and to provide technical assistance to local governments and nonprofit organizations.

North Carolina received \$50 million in CDBG funds for the Small Cities Program in 2005. In addition, other funds are often made available to the state's Small Cities program from additional HUD allocations; recapture, reversion, or carryover of prior year funds; and program income. Entitlement communities received a total of \$117.00.

The Home Program: Home Investment Partnerships

The Home Program (HOME) is a federal program designed to increase the supply of housing for low-income persons. HOME provides funds to states and local governments to implement local housing strategies, which may include tenant-based rental assistance, assistance to homebuyers, property acquisition, new construction, rehabilitation, site improvements, demolition, relocation, and administrative costs. After certain mandated set-asides, the balance of HOME funds is allocated by formula with 60 percent going to cities, urban counties, and consortia (contiguous units of local government) and 40 percent for states to be reallocated to remaining jurisdictions through the state program operated by the North Carolina Housing Finance Agency. In 2005, the federal government allocated \$14 million HOME funds to the Housing Finance Agency. These state funds are allocated regionally within the state based on each region's housing needs and are available through both competitive and open funding cycles.

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