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HEARING

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BEFORE THE

COMMITTEE ON

THE DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

ON

H.R. 14507

TO ESTABLISH A DISTRICT OF COLUMBIA URBAN DEVELOPMENT CORPORATION, AND ON FORT LINCOLN NEW TOWN, TO REVIEW THE ACTIONS OF BOTH FEDERAL AND LOCAL AGENCIES RESPONSIBLE FOR THE EFFECTIVE DEVELOPMENT OF THE FORT LINCOLN PROJECT

MAY 7, 1974

Serial No. 93-27

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Committee on the District of Columbia



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URBAN DEVELOPMENT CORPORATION AND FORT LINCOLN

TUESDAY, MAY 7, 1974

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The Full Committee met, pursuant to recess, at 10 a.m., in room 1310, Longworth House Office Building, the Honorable Charles C. Diggs, Jr., presiding.

Present: Representatives Diggs (presiding), Rangel, Gude, McKinney and Clair W. Burgener.

Also Present: Robert B. Washington, Jr., Chief Counsel; James T. Clark, Legislative Counsel; John Hogan, Minority Counsel; Ms. Ruby Martin, Associate Counsel; and Ms. Jacqueline E. Wells and Leonard O. Hilder, Professional Staff.

STATEMENT OF HON. CHARLES C. DIGGS, JR.

The CHAIRMAN. Before beginning our proceedings this morning, I would like to introduce formally to the Committee and to the witnesses who are present the newest member of this body, Congressman Clair W. Burgener, from the 42nd District of California, which includes San Diego and Orange Counties. He first was elected to the 93rd Congress and comes to this Committee with a distinguished background in municipal government and also having served 10 years in the California state legislature. His other assignment is on Banking and Currency which adds even more dimension to a very impressive set of credentials. And we hope that we can make this assignment as interesting to him as we anticipate he will be interesting to the assignment.

OPENING REMARKS BY CHAIRMAN DIGGS

The innovative notion of a "new town" in-town to provide the District of Columbia and its residents a variety of new housing offerings, social services and job opportunities was conceived by President Lyndon B. Johnson in 1967 as part of his Great Society Program. President Johnson visualized that his idea would come to fruition through the combined efforts of the federal and local governments, private developers and the people of this city.

This idea of a "new town" in-town received further top-level executive support—substantial support—both in terms of verbal pronouncements and affirmative actions by President Richard Nixon, who, in his February 2, 1972, Bicentennial Message to Congress on the District of Columbia stated:

"I shall initiate immediate federal action to move ahead on plans for building a new town at Fort Lincoln in Northeast Washington. 'The city lives.' A rallying cry which meets with considerable skepticism in some quarters today—would be the assurance forcefully offered to Washingtonians and the world by a Fort Lincoln town occupied and operating in 1976. We are determined to make it happen."

Yet, today, as Eugene Meyer noted not so long ago in an article published in the New Leader, the 335-acre tract of Land near the Anacostia River in N. E. Washington, known as Fort Lincoln, the site of President Johnson's dream, stands almost empty.

It seems appropriate for this Committee, which has the ultimate responsibility to authorize any District of Columbia Government funds going into the Fort Lincoln Development, to ask why does the dream remain unfulfilled?

It is appropriate that this committee ask the Redevelopment Land Agency, which after July 1, 1974, will become a part of the District Government and under the general oversight and review jurisdiction of this committee, why is it that after nearly seven years have passed, there is not even a semblance of a new town at the 335-acre tract known as Fort Lincoln? When similar new towns across the country are substantially complete.

According to the information that has been made available to me, all of the ingredients necessary to proceed, and indeed succeed, in developing this new town, have existed and still exist; yet, the 335-acre tract remains, for the most part, a vast wasteland.

According to my information, the land is still available, the Department of Housing and Urban Development has determined that the Fort Lincoln new town concept is "feasible and in the public interest" and has pledged financial support to its development: the concept has been approved by the Mayor, the City Council, the National Capital Planning Commission, the District Redevelopment Land Agency and the citizens of the District of Columbia. There is information that over a million dollars has been spent on this project.

Yet, despite all of the approvals given, the funds committed and expended, the idea of the Fort Lincoln New Town has failed to materialize. There is no new housing on the 335-acre tract, except for a few public housing units for elderly citizens. There are no new social services or job opportunities as envisioned by Lyndon Johnson in 1967, and it seems unlikely that a Fort Lincoln new town will be in existence as the show place model of social planning in 1976 for our Nation's Bicentennial Celebration as envisioned by President Nixon in 1972.

Again, I must ask why? Is the sad state of affairs the result of bureaucratic bungling or political interference, or private manipulation, or inept management, or calculated planning or what? I also must ask when this nightmare that is resulting in denying to the people of this city much-needed housing, social services and job opportunities is going to come to an end.

This hearing is not to affix blame on anyone or any agency but is designed to find out for this Committee, the Congress and the com-

munity exactly where we are with respect to this development project.

This Committee wants to know:

(1) Whether in fact there is a developer or developers for this project, and if so, who is it or who are they, whatever the case may be, and what they have been doing;

(2) If there is no legal developer or developers; what is the timetable for getting one;

(3) What will be the basic ground rules for the developer or developers; and

(4) What are the projected timetables for developing the Fort Lincoln project?

Another purpose of this hearing is to determine how something that was conceived and begun with such hope can come to such shambles. The primary goal, however, of this hearing is to get the facts so that the project can get moving in the right direction as quickly as possible.

Before calling the first witness, it should be noted, for the record, that the Committee requested the appearance of the Office of Management and Budget at this morning's proceedings to provide an important overview on the multitude of federal agencies and relationships involved in this project. That request was declined. It is our understanding that the Department of Housing and Urban Development is authorized to speak for the executive agencies and we trust will provide this critical perspective on Federal involvement in the Fort Lincoln process.

The first witness is Mr. James G. Banks, Special Assistant to the Mayor for Housing Programs, Government of the District of Columbia and he will step to the witness table and our information is that he is accompanied by Robert Lewis, Coordinator for Fort Lincoln New Town Staff Unit in the Office of Housing Programs and Len Lewis, Deputy to Coordinator for Fort Lincoln New Town Staff Unit in the Office of Housing Programs and Emanuel Lipscomb, Chairman, the Mayor's Advisory Committee on Fort Lincoln.

Are your colleagues properly identified?

STATEMENT OF JAMES G. BANKS, SPECIAL ASSISTANT TO THE MAYOR FOR HOUSING PROGRAMS, GOVERNMENT OF THE DISTRICT OF COLUMBIA ACCOMPANIED BY: ROBERT LEWIS, COORDINATOR FOR FORT LINCOLN NEW TOWN STAFF UNIT IN THE OFFICE OF HOUSING PROGRAMS AND LEN LEWIS, DEPUTY TO COORDINATOR FOR FORT LINCOLN NEW TOWN STAFF UNIT IN OFFICE OF HOUSING PROGRAMS AND EMANUEL LIPSCOMB, CHAIRMAN, THE MAYOR'S ADVISORY COMMITTEE ON FORT LINCOLN AND WILLIAM SPAULDING, VICE CHAIRMAN, THE MAYOR'S ADVISORY COMMITTEE ON FORT LINCOLN

Mr. BANKS. We also have with us Mr. William Spaulding, who is the Vice Chairman of the Mayor's Advisory Committee on Fort Lincoln. That completes the roster.

The CHAIRMAN. Let the record show that the gentleman is present.

Mr. Banks, I assume you have a prepared statement that you are prepared to proceed with this morning?

Mr. BANKS. Yes, sir.

Mr. Chairman, and Members of the Committee, I am James G.

Banks, Assistant to the Mayor for Housing Programs. I appear before you this morning in my capacity as the Public Coordinator for Fort Lincoln.

I would like to thank you for the opportunity to offer testimony today on behalf of the Mayor and the District Government, regarding Fort Lincoln New Town.

Although I have been designated as the Public Coordinator for Fort Lincoln, I should like to point out that my office is separate and distinct from the Redevelopment Land Agency which is not a part of the District Government. RLA will become a part of the District Government July 1st of this year.

One of the major objectives of Fort Lincoln is the creation of an attractive and racially, socially, economically and functionally integrated community of approximately 16,000 persons.

Near 4,600 badly needed dwelling units of all income ranges will also be provided at Fort Lincoln.

From the outset, one of the major objectives was to have community participation. There was community participation as early as 1968, which took an inordinate amount of time. Basically this was the case because two citizens groups were competing for control in the Fort Lincoln project. For over six months, the issue of citizen participation dominated the planning and politics of Fort Lincoln.

FORT LINCOLN CITIZENS PLANNING COUNCIL

In June of 1968, the Mayor announced the formation of the Citizens Planning Council for the Fort Lincoln Project, composed of eight city-wide members named by him in addition to the 15 from the Fort Lincoln neighborhood.

The citizens council had no sooner elected officers than it began to take an inordinate amount of time making plans to secure funds.

Having started with a request for more than \$800,000, the committee had received only \$8,000. The Council, in fact, spent \$2,000 more than its allocation and RLA found itself forced to make up the deficit by paying delinquent bills for office rent and equipment. In February 1971, the Mayor transferred to the Assistant to the Mayor for Housing Programs the responsibility of bringing an end to citizen participation battles. Because the structure was unworkable, the Mayor, on advice of the Assistant for Housing Programs, thanked the Citizens Planning Council for their efforts and created through Commissioner's Order No. 71-32 dated February 10, 1971, the Mayor's Advisory Committee on Fort Lincoln.

THE MAYOR'S ADVISORY COMMITTEE ON FORT LINCOLN

The Committee is composed of representatives designated by the Chief Executive Officer of the following organizations:

- The Upper Northeast Community Organization
- The Federation of Civic Associations of the District of Columbia
- The D.C. Chamber of Commerce
- The D.C. Branch, National Association for the Advancement of Colored People
- The Washington Planning and Housing Association
- The League of Women Voters of the District of Columbia
- The Washington Urban League

The Brookland Area Coordinating Council
 The Gateway Community Association
 The Upper Northeast Group Ministry
 The Ward Five Education Committee
 The Three-A Council of Northeast
 The Woodridge Civic Association
 The Greater Washington Central Labor Council

In addition, the Mayor requested the Chairman of the Board of Directors of the Redevelopment Land Agency and the Chairman of the National Capital Planning Commission to each designate a representative to be associated with the Advisory Committee on a liaison basis.

The Fort Lincoln Advisory Committee was established to serve as the official vehicle for:

1. Transmitting the views of the citizens of the District of Columbia concerning the proposed development of Fort Lincoln directly to the persons or agencies responsible for implementing and preparing the development proposals for Fort Lincoln.

2. Insuring that full consideration be given the views and recommendations of the citizens concerning the proposed development of Fort Lincoln.

3. Reviewing all development proposals, proposed contracts, and miscellaneous activities related to Fort Lincoln, and making recommendations on same according to the desires of the citizens represented by this Committee.

4. Insuring that the views and interests of the adjacent and surrounding communities be given paramount consideration, since they will be more directly affected by the development of Fort Lincoln by:
 - a. Keeping the citizenry informed of all activities pertinent to the development of Fort Lincoln;
 - b. soliciting the help of all interested person to serve on special committees of the Advisory Committee, and
 - c. holding public hearings on major issues concerning Fort Lincoln.

6. Insuring that the minority community derives maximum economic benefits from the development of Fort Lincoln.

7. Working closely with the Board of Education, Special Projects Division and General Learning Corporation in establishing policies for the educational process at Fort Lincoln.

8. Reviewing all educational proposals, proposed contracts relating to the educational program, and any other activity relating to the development of the educational process at Fort Lincoln, and making recommendations on same.

9. Actively participating in the screening and selection of all persons, contractors, and organizations to be utilized in the development process for Fort Lincoln, including the educational process.

10. Using whatever means deemed advisable by the Advisory Committee, to insure full consideration of the views represented by this Committee in the development process for Fort Lincoln.

The Fort Lincoln staff located in the office of the Assistant to the Mayor for Housing Programs was given the responsibility of providing technical and clerical assistance to the Mayor's Advisory Committee on Fort Lincoln.

Since February 1971, the Mayor's Advisory Committee, under the chairmanship of Mr. Emanuel Lipscomb, has served as the vehicle for community participation with dignity and dedication.

The Committee has worked many months, long hours and without compensation and has provided the kind of community inputs that were lacking in the early days of the planning process for Fort Lincoln.

The Mayor's Advisory Committee on Fort Lincoln has played an essential role in assembling and analyzing information necessary for defining the goals and program content for the new community. This process has led to a number of proposed new and innovative systems in education, health care, child care, recreation and in community management.

As information is organized and as ideas about what Fort Lincoln should be are articulated, the committee reviews them with citizens groups and organizations. The Mayor's Advisory Committee was in the forefront in spelling out programs for economic opportunity and employment, both in the development process and in businesses to be located at Fort Lincoln after development. The Mayor's Advisory Committee was instrumental in shaping the 12-point minority program, the minority equity investment requirements, and for provisions involving residents in management of real estate and properties.

THE FORT LINCOLN POLICY COMMITTEE

Also, on February 10, 1971 the Mayor-Commissioner issued Commissioner's Order No. 71-31 for the establishment of the Fort Lincoln Policy Committee. The committee membership consisted of the Mayor, who served as chairman of the committee, the Deputy Mayor as vice chairman, the Chairman of the National Capital Planning Commission, the Chairman of the Board of Directors of the D.C. Redevelopment Land Agency, a representative designated by the Secretary of Housing and Urban Development. Ex-Officio members were the Chairman of the Mayor's Advisory Committee on Fort Lincoln, and the Assistant to the Mayor for Housing Programs.

The purpose of the Policy Committee was to advise the Mayor on policies and actions he may adopt, and to assist in their effectuation, toward the goal of developing the Fort Lincoln New Town without delay as a model of economic, social and racial integration; as an example of good design both esthetically and in terms of the needs of its residents and as a community harmoniously related to the city of which it is a part.

The Redevelopment Land Agency staff served as staff to the Policy Committee which was to meet every two weeks. The Redevelopment Land Agency was responsible for preparation of the agenda, for providing status reports and recommendations for Policy Committee actions, and for preparing the prospectus which was subsequently approved by the Policy Committee.

SELECTION COMMITTEE

Pursuant to the issuance of the prospectus, a Selection Committee was formed; its prime responsibility was the selection of a developer for Fort Lincoln. The Selection Committee was chaired by the Deputy Mayor. Members of the committee included the Director of the Redevelopment Land Agency, the Director of the National Capital Planning Commission, the Chairman of the Mayor's Advisory Committee, and a representative of the Department of Housing and Urban

Development. The Assistant to the Mayor for Housing Programs was not a member of the Selection Committee.

Ultimately, ten proposals were submitted by prospective developers. In November, the Policy Committee recommended to the Redevelopment Land Agency that Westinghouse/BSI joint venture be selected as the developer of Fort Lincoln New Town; the agency concurred.

DISTRICT ROLE IN FORT LINCOLN DEVELOPMENT

In June 1972 Commissioner's Order 71-123 was issued designating the Assistant to the Mayor for Housing Programs as the Public Coordinator for the Fort Lincoln project, in addition to his other duties. The Public Coordinator's responsibility is to coordinate the District Government departments' activities at Fort Lincoln with the activities of the Redevelopment Land Agency. The District Government had committed itself to provide, in accordance with the Redevelopment Land Agency development schedules, funds for the following improvements.

1. Three elementary schools and one secondary school.
2. A major Federal City College campus at Fort Lincoln on approximately 30 acres.
3. Recreation facilities in conjunction with the National Park Service.
4. A health facility to be located in the Town Center.
5. A fire station.
6. Sewer and water facilities.
7. A public library.
8. Extension of Eastern Avenue from Bladensburg Road to Kenilworth Avenue.
9. Realignment of the New York Avenue Industrial Freeway.
10. Widening of South Dakota Avenue.
11. A rapid transit shuttle system linking the Fort Lincoln Town Center to the Metro stop at Rhode Island Avenue, N.E.

We estimate the District Government's total financial commitment to the project to be approximately \$100 million.

The various slowdowns of the Fort Lincoln project resulted in the following items being deleted from the District Government's capital improvements budget:

1. The secondary school, withdrawn from the FY '74-'75 budgets, \$20,000,000 and
2. The fire station, withdrawn from the FY '75 budget \$2,000,000 for a total of \$22,000,000.

Because of the District Government's lengthy and involved budgetary process, future funding for these items is uncertain.

In addition to the above, a \$100,000 HUD grant, earmarked for social services at Fort Lincoln, which was to come to the District Government has been withdrawn.

Moreover, there are monies for other projects that are now in jeopardy because of the uncertainty concerning the developer for Fort Lincoln. These include:

1. Eastern Avenue extension, \$90,000;
2. South Dakota Avenue widening \$285,000;
3. Transit Shuttle \$6,000,000 for a total of \$6,375,000.

At the present time, the District Government has under construction

at Fort Lincoln a \$7 million elementary school, scheduled for completion in the spring of 1975, a sanitary sewer connector in 'V' Street and sanitary and storm sewer lines in Bladensburg Road and Douglas Street. These sewer lines represent an investment of about \$1.3 million.

LAND DISPOSITION AGREEMENT

The Land Disposition Agreement between the Redevelopment Land Agency and the prospective developer provides for a staged transfer of land within the project area, and the sequence and conditions for the land transfers, the procedures for establishing the price of the land as well as the rights and remedies of the two parties. The agreement provides for the scheduling of both public and private improvements based upon mutually agreed upon schedules between the Agency and the developer and the city. In addition, the Land Disposition Agreement describes in contract language, the terms and conditions by which the prospective developer would implement the 12 point economic opportunity program, including the minority equity investment provisions which was a condition of approval of the Fort Lincoln Urban Renewal Plan by the D.C. City Council.

My office has not actively participated in the negotiations of the Land Disposition Agreement. We have reviewed in conjunction with the Mayor's Advisory Committee on Fort Lincoln several drafts and forwarded our comments to the Redevelopment Land Agency, many of which have not been implemented.

As the District Government's coordinating office, the Office of Housing Programs' staff has been actively involved in attempting to obtain Federal Grants to develop and support social services in the New Town and to implement innovative systems that could be replicated in other areas of the city, if proven successful.

FEDERAL GRANTS

Grants and funding that we have actively sought include:

1. A capital grant from the U.S. Department of Transportation—the District Government has obligated itself to provide 20 per cent of the cost—for a transit shuttle connection between the Fort Lincoln Town Center and the Metro station at Rhode Island Avenue.
2. HEW for funds to supplement and enrich the educational program and facilities at Fort Lincoln, such as innovative pre-school programs and extended day and extended year education.
3. Department of Labor for Labor training funds.
4. Department of Commerce—funds for development of minority business opportunities.
5. Department of Housing and Urban Development for funds to plan and design a social services management system that would improve the District's capability to deliver social services to Fort Lincoln and adjacent area residents.
6. HEW for funds to implement a human development center.
7. HUD for subsidized housing commitments in order to provide low and moderate income housing at Fort Lincoln.

Regardless of implementation problems, we believe that the development of Fort Lincoln will bring enormous benefits to the District of Columbia. Such benefits will be not only in terms of new housing,

schools and other public facilities, but also in terms of the significant contribution Fort Lincoln can make to the economic growth of the District of Columbia, by providing training, employment and economic and business opportunities for District residents.

This project has been given high priority because of these potential benefits to the city. The Mayor and the District Government are committed to the development of Fort Lincoln New Town and are looking forward to an early resolution of the current impasse.

Mr. Chairman, that completes my formal statement.

The CHAIRMAN. Mr. Banks, the Mayor has the authority, does he not, to appoint some of the RLA Board members?

Mr. BANKS. Yes, sir, he does.

RLA ROLE IN FORT LINCOLN DEVELOPMENT

The CHAIRMAN. Well, what is your assessment of how RLA has handled this whole matter of Fort Lincoln? Is the Mayor satisfied with the way the RLA has handled the situation?

Mr. BANKS. Well, I think it is fair to say, Mr. Chairman, that the Mayor is not satisfied with the sequence of events which has brought us to this impasse at this time. The problem of identifying exactly where the impediments are has not been completed.

The Mayor has discussed the issue with the Board of Redevelopment Land Agency and with officials of the Department of Housing and Urban Development and I am sure he wants to see this issue resolved as quickly as possible because, as I indicated, he does place on Fort Lincoln tremendous priority with regard to the city's objectives.

The CHAIRMAN. Well, now, the District Government has been involved with HUD and has been involved with RLA and other urban renewal efforts. Would you say that the actions of HUD and RLA with respect to Fort Lincoln are typical of urban renewal efforts in the District or have these actions been peculiarly relative to this particular project?

What is it about this project that has run into all of these particular problems?

Mr. BANKS. I think, Mr. Chairman, that the Fort Lincoln experience in urban renewal is unique and yet unique primarily because of the size of the development. And the size, Mr. Chairman, requires a considerable array of commitments, both private and public commitments, which have to be pieced together with great effort and great sensitivity. And we have not had the experience in Washington, D.C. under the urban renewal process of this sort before. So I think it is unique.

FORT LINCOLN ADVISORY COMMITTEE

The CHAIRMAN. Well, there has been some concern expressed about the Advisory Committee on Fort Lincoln that it has had no role or effective voice in the decisions affecting this project. As a matter of fact, I am looking here at a letter dated April 24th from the Chairman of Mayor's Advisory Committee on Fort Lincoln. Amongst other things, he says that the RLA's handling of this project shows a lack of responsiveness to the community and the developer and failure to understand the nature of the project.

It goes on to point out in rather considerable detail some points

that are a very substantial difference between what you have said in connection with your opinion of the accomplishments of this Agency and the evaluation of the citizens' group that is supposed to participate in this whole operation.

I was particularly interested in your list of things where you state on Item 9, for example, on page 4, where you state the Committee is "actively participating in the screening and selection of all persons, contractors, and organizations to be utilized in the development process for Fort Lincoln, including the educational process."

Now that is on page 4 of your statement. And I would like to know, did the Committee recommend that Westinghouse/BSI joint venture be the contractor? Did the Committee concur in the consideration of BSI after Westinghouse withdrew?

Does the Committee concur in the RLA's finding that BSI has withdrawn or terminated the agreement? Was the advice of the Committee solicited in this regard?

Mr. BANKS. All right, sir. I will try to answer those questions.

In the first instance, the Mayor's Advisory Committee did recommend that Westinghouse—

The CHAIRMAN. Would you speak up louder, sir, so we can hear you?

Mr. BANKS. The Committee did recommend to the RLA that Westinghouse/BSI joint venture be the developer after having interviewed each of the developers who were in competition.

I will call on Mr. Lipscomb to give more information on this, but it did approve of the continuation of BSI as the developer when Westinghouse withdrew. Neither the Committee nor the City Government was consulted about the action taken by RLA when it determined that BSI had withdrawn.

The Committee, as it indicates in that letter to the Mayor, does not agree with the RLA's position. If you are asking me if I agree, I don't agree either.

There are some points at which communication has not operated as was indicated in the first instance in the assignment that was given to the Mayor's Advisory Committee on Fort Lincoln.

STATUS OF FUNDING

The CHAIRMAN. On page 8, Mr. Banks, you indicated a concern that because of delays involved in the project that future funding for these items, future funding of some projects that had been previously approved was "uncertain" as you characterize it.

You go on to state the \$100,000 HUD grant, earmarked for social services at Fort Lincoln, was one such program with an uncertain future.

Now, in the written testimony of the HUD officials, they state, referring to that same \$100,000 and quoting, "This grant was not utilized on a timely basis and has been recaptured by the Department."

And the question is, do you construe that testimony to mean that the grant is lost forever or do you still consider it to be uncertain.

Mr. BANKS. Well, I would assume, Mr. Chairman, and this is simply an assumption because I, of course, have no way of knowing what the HUD response is going to be ultimately, that if this project gets back on track, that HUD will reconsider making available

these funds to plan an innovative social services program at Fort Lincoln, that is my assumption.

The CHAIRMAN. One final question before I yield to the next member and in that same context. Now, you talk about \$6 million plus, on page 9 you list \$6 million plus as being in jeopardy because of delays.

And I would like to know from what Federal agencies were most of these funds committed and why do you characterize them as being in "jeopardy"?

Mr. BANKS. Well, on page 9, sir, the three items at the top comprising the \$6,375,000, well, the first two are funds that were sought or would be sought by the District from the Congress under the regular appropriations route. The third one, the transit shuttle funds, part of it would come, part of the \$6 million would come by the same route but additional funds would come from the Department of Transportation. Now, in neither instance could we characterize these as commitments since they do require appropriations by the Congress but since the inception of the city's commitments to Fort Lincoln and its request, and its subsequent requests to the Congress for funds, to fulfill those commitments, the Congress has been very cooperative in making available funds to carry out the District's responsibilities at Fort Lincoln.

And I assume that it would continue to so accept that.

With the impasse that we face, we have been questioned as I was questioned yesterday by the Chairman of the Appropriations Committee for the District of Columbia in the House, about the request for funds to plan the transit shuttle inasmuch as Fort Lincoln was at this impasse.

The CHAIRMAN. Mr. Gude?

Mr. GUDE. No questions.

The CHAIRMAN. Mr. McKinney?

Mr. MCKINNEY. No questions.

The CHAIRMAN. Mr. Burgener?

AGENCY RESPONSIBILITIES

Mr. BURGENER. Mr. Chairman, this might be very naive and elementary, but with so many agencies involved, and so many organizations, is there one which has either the full responsibility, perhaps not the sole responsibility but the primary responsibility? And if so, which one would that be?

Mr. BANKS. That would be the District of Columbia Redevelopment Land Agency.

Mr. BURGENER. Is that the RLA?

Mr. BANKS. Yes, sir.

Mr. BURGENER. How is that constituted?

Mr. BANKS. At this point, it is a federal corporation with a Board of Directors consisting of five people who are appointed by the Mayor.

Mr. BURGENER. And that would be the place where responsibility for overall direction could be pinpointed and fixed?

Mr. BANKS. Yes, sir. They would be the people who in the first instance would acquire the land, which is now owned by the General Services Administration, and if those of it to a selected developer and determine in the final analysis whether the developer had fulfilled his obligations.

Mr. BURGNER. I see. They are on the witness list next?

The CHAIRMAN. Yes, sir.

Mr. BURGNER. Thank you very much.

The CHAIRMAN. Mr. Hogan.

MAYOR'S ADVISORY COMMITTEE

Mr. HOGAN. Just one question, Mr. Chairman. On page 2 you indicate that in June of 1968 the Mayor formed the first Citizens' Planning Council and from that period until February of '71 there was little or no action to get this project on track as it were.

Now during this period, was there anything that the Redevelopment Land Agency could have done or were they required to obtain the recommendations and advice of the Citizens' Planning Council before they could proceed?

Mr. BANKS. I must indicate to you, sir, that I was not an employee of the District Government at that time and I am not familiar with the exact relationships which prevailed. One of the first assignments that I got on Fort Lincoln when I came to the City Government was the job of trying to unravel the citizens' participation problems which had characterized the experience to date.

ROLE OF THE MAYOR'S ADVISORY COMMITTEE

Mr. HOGAN. Well, under the Mayor's Advisory Committee on Fort Lincoln established in 1971, was their role strictly advisory or did the RLA have to wait action by that advisory committee before they could proceed with the plan, let us say?

Mr. BANKS. Their role is advisory. The Redevelopment Land Agency I would say up until the latter part of 1973 had sought to work very closely with the Committee and had submitted to the Committee, as I indicated, the developer proposals for review and for recommendation. And some of those recommendations, were accepted.

Mr. HOGAN. For instance, on Item 3 of page 3 you state the Advisory Committee was to review all development proposals, proposed contracts, and miscellaneous activities relating to Fort Lincoln.

Now, I would assume that those were development proposals and proposed contracts and miscellaneous activities that were proposed by the RLA, is that not true?

Mr. BANKS. They were brought to them by the D.C. Redevelopment Land Agency.

Mr. HOGAN. Now, could RLA proceed without getting some type of recommendation?

Mr. BANKS. Yes, sir.

Mr. HOGAN. Some kind of conference by this Advisory Committee I mean?

Mr. BANKS. It could.

Mr. HOGAN. They didn't have to wait for the Advisory Committee to act on those proposals?

Mr. BANKS. There was no legal requirement that they wait.

Mr. HOGAN. Well, did they feel some compulsion, since they were representing the community, to wait determination by that group?

Mr. BANKS. They did and I think that characterized the relationship for most of the time between 1971 and the end of 1973. I think the action

by the RLA Board, indicating that the BSI had withdrawn, was not submitted to the Committee and the Committee had now recommendations to make to the RLA before that action was taken.

MEMBERSHIP OF THE MAYOR'S ADVISORY COMMITTEE

Mr. HOGAN. Now, as far as the Committee itself is concerned, was there a continuity in membership? As I understand it, the Chief Executive Officer of all of these groups, that is the Upper Northwest Community group, etc., appointed someone to the Committee. Now was there continuity on that Committee, or was there constant turnover on the Committee?

Mr. BANKS. Could I ask the Chairman to respond to that, Mr. Emmanuel Lipscomb?

Mr. HOGAN. Sure.

Mr. LIPSCOMB. My name is Emanuel Lipscomb and I have served as Chairman of the Fort Lincoln Advisory Committee since its formation. There has been continuity in membership. We had a few changes but basically we have the same members that started from the beginning.

Mr. HOGAN. Now, as far as the Federal funds commitment for housing in this area is concerned, is there any indication that that commitment will not be made?

Mr. BANKS. Excuse me?

Mr. HOGAN. As far as Federal funds commitments for the housing that would be constructed in this area, is there any indication that this commitment will in fact expire and not be renewed?

Mr. BANKS. I think a fair answer to that, sir, is there has been no specific word given to the city government that they will expire, but it has been indicated that the commitments can not be held forever and that unless some action comes, that they stand in some jeopardy of expiring.

FORT LINCOLN DEVELOPER

Mr. HOGAN. I think you indicated you disagreed personally or I assume in your capacity as Housing Coordinator, with the determination of the discontinuance of the contract between the Westinghouse/BSI and the Redevelopment Land Agency. Could you give us some insight as to what your reasoning is?

Mr. BANKS. Well, my reasoning is along this line, I don't know with any firsthand knowledge the exact exchange that occurred between the BSI and the RLA Board. My concern is that this project, which I think had moved along fairly well since 1971 in terms of building all of the commitments which were required to be carried through, was so important that some way should have been found to keep it on track rather than to let the whole thing come to a screeching halt.

Now, whether I would have made the decisions which the Board made on the basis of its more intimate knowledge of the situation is a question I can't answer, but I just have the feeling that it is going to be terrible difficult rebuilding all of these commitments and all of these schedules in such a way as to get this development done in a timely fashion.

Mr. HOGAN. You don't have the information that the Redevelopment Land Agency has with respect to the breakdown in negotiations?

Mr. BANKS. No, I do not.

Mr. HOGAN. Would you try to obtain that from the RLA?

Mr. BANKS. I am not really in a position to do that, sir. I am not in a position of directing the RLA. It is an independent organization.

I am primarily responsible for coordinating the District's input. I do not look over the shoulders of the Redevelopment Land Agency as it makes decisions. In some instance, I have an opinion, which I share with them, but it is only advisory.

Mr. HOGAN. And the Chairman asked the question whether the federal funds could be recouped. I assume that you are in there fighting and you will continually fight for whatever portion of the capital budget and the operating budget that Congress will appropriate for this particular project?

Mr. BANKS. We certainly will and are.

Mr. HOGAN. And that will continue, I assume?

And as far as your share of any HUD funds or DOT funds, in a sense; I suppose it will be difficult to recoup those funds, and you may have had a better chance to do that in the past than perhaps you will in the future? In other words, in a sense there may be an inability to recoup these funds because you are competing on a day to day or year to year basis with other cities and other localities, I assume?

Mr. BANKS. That is right.

Mr. HOGAN. Thank you, Mr. Chairman. Thank you, Mr. Banks.

Mr. BANKS. Mr. Chairman, Mr. Lipscomb has a statement he has prepared if you would choose to hear it?

The CHAIRMAN. Yes, but first there are some further questions of you, since you are in a policy-making position, and I do think it is important to get on the record just what the assessment is officially from the Administration first.

DISTRICT GOVERNMENT PRIORITY

Do you believe that this project is still viable? Is the District Government still interested in it? Is it dead?

Mr. BANKS. Mr. Chairman, I think that this project is as viable as ever and in some ways, particularly from a marketing point of view, more viable. This city is in such a situation with its housing now that it has come to the point where anybody that has an apartment or house to sell or rent is renting it or selling it at a higher price than ever and I think housing is at a premium in this city and I think the Fort Lincoln housing will be at a premium also.

So I think from a marketing point of view, it is a highly viable program and I think that we can, as the Committee's officials, find an answer to this problem which is facing us now and move on with the project.

As I indicated, it will be more difficult than it would have been had this not happened, but it is still a viable project and the Mayor and the City Government are totally committed to it.

The CHAIRMAN. And it still has a high priority and the Administration's list of programs?

Mr. BANKS. The City Government Administration?

The CHAIRMAN. Well, it is still on the list of priorities?

Mr. BANKS. As far as my office is concerned, it has the highest priority, yes.

The CHAIRMAN. And in what specific ways does such a priority manifest itself?

Mr. BANKS. Well, it has manifested itself in the past as it does at present, in our seeking funds on behalf of the District Government to build the District facilities, which have started and are on schedule in Fort Lincoln and getting the necessary federal support funds to finance the model programs, that is social and economic and employment programs, which we have as major objectives in Fort Lincoln.

The CHAIRMAN. Does either Counsel have any points of clarification to ask the witnesses?

ADVISORY COMMITTEE RECOMMENDATIONS

Ms. MARTIN. I would like to ask the witness one question. In the letter from the Advisory Committee which Chairman Diggs referred to, it concludes with a series of recommendations and the first of which is, as far as RLA responsibility with respect to Fort Lincoln, it recommends that this authority be transferred to the Assistant to the Mayor for Housing Programs.

And I wondered if you view this to be a viable solution of what has become known as the Fort Lincoln impasse.

Mr. BANKS. Well, I think that that recommendation carries with it a number of difficulties which could further delay the project. Now, the RLA is identified as the local public agency for the District of Columbia for urban renewal.

In order for the District Government to assume the responsibility for Fort Lincoln, it would have to have such designation.

Ms. MARTIN. It will have that designation on July 1.

Mr. BANKS. Yes, well, as of July 1, it won't be such a problem. But of course I am hoping that we will get further along the road than we are now before July 1. I don't want to have to wait until July 1 to get this project back on track.

FORT LINCOLN TIMETABLE

Mr. WASHINGTON. We all know that the Fort Lincoln Project is tied in with the Bicentennial: Can you give an assessment as to its completion by the Bicentennial by 1976?

Mr. BANKS. Is the question: what is the potential for completion by 1976 as of this time with the present circumstances?

Mr. WASHINGTON. Correct.

Mr. BANKS. This would of course only be a guess, but if we could get it back on track and say not later than July 1, I think we could probably accomplish 20 percent of the development by the 1976 date or by the end of 1976 as distinguished from the prior estimate of 40 percent. In other words, about half of it.

Now, this kind of an answer is subject to all kinds of variations. It is possible, it is not impossible, I would say, to get the 40 percent done, but it would take a terrible commitment on the part of a number of people working in complete unison to get that done by 1976.

And people being what they are, agencies being what they are, I am not sure that could be accomplished, but it certainly could be an objective which we should have in mind.

PRESENT STATUS OF THE FORT LINCOLN PROJECT

Mr. WASHINGTON. One last question. About the July 1st date, in light of the public hearings and having this approved by HUD and so on, is that a reasonable date? Is July 1st a reasonable date?

Mr. BANKS. I would think that a lot would hinge on the present understanding between BSI and RLA. As I understand it, the RLA has presented the land disposition agreement to BSI and has given them 30 days, which expire, I think, at the end of this month, to accept or reject that proposal. If it is accepted, then I think the July 1st date is a reasonable date. If it is not, I think it would be longer.

Mr. WASHINGTON. If it does not get started by July 1st, what are we talking about then, 10 percent?

I recognize it is a really spongy area, but can you estimate?

Mr. BANKS. It is more than spongy. Well, if it doesn't get started by July 1st, then the question is when will it get started?

Will it be August 1st? September 1st? I would say the 20 percent objective could probably be reached if the whole thing was back on track by September 1st but that is just my guess.

FEDERALLY SUBSIDIZED HOUSING

Mr. WASHINGTON. Does July 1st also contemplate the 235 Housing, the retention of the 235 Housing? Do I understand correctly the Fiscal Year limitation isn't contemplating that?

Mr. BANKS. Mr. Washington, that is a question I can not answer specifically. I would tend to believe that the 235 commitment would be in serious jeopardy as of July 1st.

Mr. WASHINGTON. Does the July 1st date also contemplate the disposition of the GSA agreement and some kind of resolution of that question?

Mr. BANKS. Well, you mean the agreement for the leasing?

Mr. WASHINGTON. We think, right.

Mr. BANKS. I don't think that the finalization or the reconfirmation of the GSA agreement has to be achieved by July 1st to do what I am talking about, but it has to be achieved shortly thereafter.

Mr. WASHINGTON. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. McKinney?

Mr. McKINNEY. I just wondered if we could have a statement on the record to the effect that from somebody who comes from an Eastern district, this is sort of the type project we dream about.

Mr. Banks, what would be your optimum set of circumstances? What would you like to see happen? What would be your optimum timetable, if that is possible?

What series of events to get this thing rolling would you like?

Mr. BANKS. Well, the first thing that would have to happen is the designation of a developer and a very prompt agreement between the developer and the RLA of the conditions under which development is to be undertaken including the land disposition agreement. Since a lot of plans have been designed for this project, negotiations have been completed for various parts of the project, therefore, and I would like to see the next 3 months spent not just reconfirming those commitments, but moving ahead very rapidly with the first residential area.

which is to be disposed of. And I think all of that can happen but it really would take a commitment of the first order.

The CHAIRMAN. I understand you have a prepared statement, Mr. Lipscomb?

Mr. LIPSCOMB. Yes.

The CHAIRMAN. Before reading it, would you tell us something about yourself? How were you selected?

Mr. LIPSCOMB. Well, Mr. Chairman, I was Chairman of the Upper Northeast Community Organization and I was past President of the Woodridge Association. I was President of the Ward Five Educational Committee. I also served as Vice President of the Vermont Area Housing Corporation.

We formed a non-profit corporation and built 300 units of apartments of moderate income apartments here in the city. I was selected from the Upper Northeast Community Organization and at our initial meeting, I was elected by the members of the Advisory Committee as Chairman and then I was appointed by the Mayor on the basis of that election.

The CHAIRMAN. Are you a prospective candidate for any office assuming that the Charter passes today?

Mr. LIPSCOMB. Definitely and absolutely no.

The CHAIRMAN. You may proceed, Mr. Lipscomb.

Mr. LIPSCOMB. I am a voter, though.

The CHAIRMAN. There will be an appropriate recess for that purpose a little later on. You may proceed, sir.

Mr. LIPSCOMB. Thank you.

Mr. Chairman, my name is Emanuel A. Lipscomb. Among my civic responsibilities, I serve as chairman of the Mayor's Advisory Committee on Fort Lincoln, hereinafter referred to as the "MAC". My purpose for appearing before you today is to give the views of the MAC on the development of the Fort Lincoln New Town, which I have also coincided with my personal views as a resident of the District of Columbia, residing in the upper Northeast area which will feel the initial impact of this urban development project.

HISTORY OF THE MAYOR'S ADVISORY COMMITTEE

Initially, and for the record, I would like to give a brief history of the Mayor's Advisory Committee. Except for the fact that the Mayor confirmed official status on the members of the Mayor's Advisory Committee by certificate of appointment, the Mayor's Advisory Committee is not an official organ of the District of Columbia. It is a citizen organization organized to channel citizens views on the proposals for the development of the Fort Lincoln New Town (FLNT). The Mayor's Advisory Committee is the successor organization of the Fort Lincoln Advisory Committee, which was subject of numerous misconceptions and malignments during the late 60's and early 70's.

The 1967 guidelines for the development of Fort Lincoln stated that the project would be a national example of urban development with citizens and government participating in the development. Funds were made available for planning and citizen participation in the planning. At that time the term "Citizen Participation" was not defined, and naturally, several citizens groups emerged with independent

ideas about how citizen participation should proceed. These organizations were uniform in their concepts as to what should be done at Fort Lincoln, but differed in the method through which the citizens desires should be channelled.

One group viewed citizen participation as a funded operation, complete with planning professionals hired by citizens to review and comment on proposals for the development. A second group opposed public funding for citizens, but looked on citizen participation as voluntary efforts by citizens concerned with the development. A third group was developed as a bridge between the concepts of the first two groups. It was from these groups, along with some city-wide representatives, that the first Fort Lincoln Planning Council was formed.

The members of the council who favored funding, and those who opposed funding, viewed the constraints as a method by which the Bureaucracy of RLA fully intended to control and hamstring citizens participation in the planning process and therefore, rejected the public funding. While this process proceeded, the RLA consultant continued his plans for Fort Lincoln and the Advisory Council participated in the review process. Representatives of the NEWS Media attended these sessions, as well as sessions involving the citizen process of organizing for participation in the planning process. Citizens differences in the organization process were headlined, but citizen input in the review process was not reported. Consequently, when the Logue Plan failed, the citizens were blamed for its failure, rather than inter-agency disagreements and a finding by HUD that the urban renewal plan was not feasible, in terms of cost.

DEVELOPER SELECTION PROCESS

Mr. CHAIRMAN, and members of the committee, the Mayor's Advisory Committee members donated many hours of time to assure citizen participation in the selection of the planner-developer for Fort Lincoln and in coordinating citizen input into the General Development Plan approval for this development. The plan was carried to organizational meetings throughout the city during the planning stages, not after it was devised. City-wide meetings were sponsored by the MAC in cooperation with other organizations during the planning stages. Before the final plan was submitted for approval, an all-day workshop was held by the MAC on the site in an effort to give the citizens a final review before the plan was submitted for approval. The MAC concerned itself, not only with such side issues as the community organization and black participation in jobs, but also with the total plans. We concerned ourselves and the community with housing mixes and densities, health and education programs and other social services, streets and highways, business development, transportation systems, etc.

CRITERIA FOR SELECTION OF DEVELOPER

Before recommending to the Policy Committee that the BSI/Westinghouse Joint Venture plan and develop the Fort Lincoln New Town, the Mayor's Advisory Committee undertook a detailed review of all applicants who responded with proposals for this development. The BSI/Westinghouse Joint Venture was not only selected because

of the quality team it put together to undertake a very difficult assignment, but also because of the sensitivity, expressed by its proposals and representations, to the economic and social needs of the Washington community, and more particularly, the Black community. The proposals and representations reflected a commitment by the JV to provide a vehicle and opportunity for profits, as well as drudgery, to flow to Black entrepreneurs who, through the ages, have participated in only the meager handouts or leavings of major undertakings. They reflected an undertaking to leave more than bricks and mortar in this community, but also a commitment to set a national example of community, government and developer working together to produce a socially and economically balanced community in town.

The Mayor's Advisory Committee is cognizant of the importance of Fort Lincoln to the economic viability of the city. The MAC has always believed that an undertaking of this magnitude should inure to the benefit of a predominantly Black community made up of a broad cross section of depressed and untapped talents. The hours spent by the MAC to search out a "developer with a commitment," rather than just a developer grew out of a deep concern and desire that Fort Lincoln would not be just another development on unused land in our city, but a program through which minorities would have an opportunity to participate in the total development from overall policy to labor, and from overall profits to wages.

PRESENT ROLE OF THE HOUSING COMMITTEE

Under normal circumstances, the MAC would recommend certain conditions precedent to the selection of the developer. However, after developer selection, conditions have changed to such an extent, our recommendations are now seldom, if ever, needed.

Too many actions have been taken without communication with the chairman or vice-chairman by the developer and the government. There must be timely and consistent communication of all information which concerns the Fort Lincoln development to the MAC, and effective dissemination of this timely information to all members. Unless we are given timely information about proposals during the discussion stage, neither a review by all members nor enlightened decisions can be made.

During the past 2 years we have experienced excellent facilities for our meetings. This was two years before the general development plan was approved. However, other support services, such as adequate information to disseminate to the committee and community, effective communication of proposals to the committee, etc., have been woefully inadequate. To remedy this, the MAC wrote a formal request to the Mayor outlining these concerns and the steps required for the project to proceed expeditiously.

While Fort Lincoln is important, the MAC does not believe that it should be built at any costs. Indeed, if such were the case, the citizens and city have been engaged in a fruitless and wasteful task.

We further believe that the general development plan that has been put together is a viable plan. It is a good plan and it contains the desires of the community. And as the MAC stated in its letter of April 24, the citizens are no longer asking what should be built on Fort Lincoln and how it should be built but the citizens are now asking when it be built.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Mr. McKinney?

Mr. MCKINNEY. No questions.

The CHAIRMAN. Mr. Rangel?

Mr. RANGEL. No, not at this time, Mr. Chairman.

The CHAIRMAN. Mr. Burgener?

Mr. BURGNER. No.

The CHAIRMAN. Mr. Hogan?

DEVELOPER SELECTION PROCESS

Mr. HOGAN. I just have one question, Mr. Chairman. Mr. Lipscomb, I noted in your statement that you indicate that the MAC would recommend certain conditions precedent to the selection of the developer and that you were actually out apparently contacting developers.

Did you do that as an advisory committee?

Mr. LIPSCOMB. No, in the initial selection process the resumes submitted by the developers were also submitted to the MAC. We took those resumes back to our community organizations and we reviewed them. The MAC came back together and made a selection on the basis of the resumes and then we recommended our selection to the policy committee of which we were an ex officio member.

Mr. HOGAN. And the policy committee—

Mr. LIPSCOMB. Made the final selection.

Mr. HOGAN. I see. And the RLA didn't make the final selection of the developer, is that correct?

Mr. LIPSCOMB. No, the RLA did not make the final selection of the developer.

Mr. HOGAN. You did?

Mr. LIPSCOMB. This was during the initial process.

Mr. HOGAN. How about in the later process when the advisory committee was operating?

Mr. LIPSCOMB. The developer was designated in the general development plan. He was to be given first choice and refusal of the development. This was a part of the initial contract.

When the Logue plan failed the next idea was instead of getting just the planners, hire a planner with the building capacity and who could also develop what he planned on Fort Lincoln. This was the Westinghouse/BSI group.

Mr. HOGAN. Now who obtained that? Did the advisory committee solicit that and obtain that or did RLA?

Mr. LIPSCOMB. RLA issued a prospectus and reviewed responses from about ten developers.

Mr. HOGAN. Did they select one then out of that or did you review all of the responses to that prospectus?

Mr. LIPSCOMB. We reviewed all of the responses.

Mr. HOGAN. I see. And then did RLA then select one out or did you select one out or collectively did you select one out?

FORT LINCOLN POLICY COMMITTEE

Mr. LIPSCOMB. We selected one out and each group reported their selections back to the policy committee of which RLA was also a member. And then the policy committee itself made the final selection.

Mr. HOGAN. And the policy committee was comprised of representatives of—

Mr. LIPSCOMB. The Mayor chaired the policy committee.

Mr. HOGAN. The what?

Mr. LIPSCOMB. The Mayor chaired the policy committee and on the policy committee we had representatives of RLA, the National Capital Planning Commission, HUD, and Mr. Banks' offices was an ex officio member and we were ex officio members.

Mr. HOGAN. So that, RLA did not in fact select the developers and this was done by the policy committee itself?

Mr. LIPSCOMB. It was done by the policy committee itself?

Mr. HOGAN. Thank you.

Mr. RANGEL. Mr. Chairman?

The CHAIRMAN. Mr. Rangel.

OTHER PROSPECTIVE DEVELOPERS

Mr. RANGEL. Following up on Mr. Hogan's line of questioning, is there anywhere on record the names of the other developers that were nominated at the same time that the Westinghouse group was?

Mr. LIPSCOMB. I am not certain we have it in our records. Obviously the RLA records might have it.

Mr. RANGEL. When you said "we selected" you were talking about MAC?

Mr. LIPSCOMB. I am talking about MAC when I say "we selected one".

Mr. RANGEL. Well did RLA select another one or the same one?

Mr. LIPSCOMB. The selection was actually unanimous in the policy committee.

Mr. RANGEL. You mean there was only one person being considered?

Mr. LIPSCOMB. There were 10 being considered.

Mr. RANGEL. And everyone agreed on one?

Mr. LIPSCOMB. And everyone agreed on one in the final policy committee meeting.

Mr. RANGEL. But you don't know whether any of the statements before the Committee would include who the other nine were?

Mr. LIPSCOMB. I am not certain. RLA maybe would have that or I could submit the names of the other nine if the Committee wants it.

Mr. RANGEL. Thank you. I would appreciate it if you could.

The CHAIRMAN. Without objection, the information will be provided for the record.

MAYOR'S ADVISORY COMMITTEE DISSATISFACTION

The CHAIRMAN. Mr. Lipscomb, as far as your April 24 letter to the Mayor, did you get a response to it?

Mr. LIPSCOMB. No, I haven't.

The CHAIRMAN. You indicated some very strong dissatisfaction as to the conduct of RLA relative to the development of Fort Lincoln. Without objection that letter will be placed in the record.

The CHAIRMAN. What really prompted the Committee to write that letter?

Was it a sense of frustration or did you expect to get a response from the Mayor that might be helpful or just what was it? Was it a letter that was prompted by a unanimous view of the Committee or was there some division as to whether or not the Mayor should be written along those lines?

Mr. LIPSCOMB. Well, first of all, Mr. Chairman, the letter was the unanimous view of the Committee. It might have been in part frustration but it was after careful deliberation. We met with the RLA board after the dismissal of BSI. Immediately during the fall of 1973 when the BSI group came in with a new proposal, we asked for answers to questions on the financial responsibility of the new group. We also asked if it was legal for RLA to deal with the new group. The advisory committee was advised by the RLA representative that it was legal for RLA to deal with the new group. After the action taken by RLA to dismiss the group, we were advised by RLA that while it was legal to deal with the new group, RLA was not legally bound to deal with the new group.

And this indicated to us the type of play on words that we had been receiving from RLA. We also were informed by RLA That they consciously made a decision not to communicate with the MAC directly after the land disposition agreement or after the general development plan I mean had been approved. And in fact we were completely out of touch with RLA as far as what their problems were in this development.

We were concerned that——

The CHAIRMAN. In other words, you think the RLA made a conscious decision to discontinue providing any information to your group?

Mr. LIPSCOMB. Directly to the MAC, yes.

The CHAIRMAN. Well, how did you come to that conclusion?

Mr. LIPSCOMB. We came to that conclusion because the representative from RLA told us that maybe it was a mistake.

The CHAIRMAN. What representative?

Mr. LIPSCOMB. The Executive Director of RLA. He said maybe it was a mistake.

The CHAIRMAN. Mr. Mister?

Mr. LIPSCOMB. Mr. Mister, yes. He said maybe it was a mistake when RLA decided to channel all of their communications through the Mayor's office rather than directly to the MAC.

STRUCTURE OF THE MAYOR'S ADVISORY COMMITTEE ON FORT LINCOLN

The CHAIRMAN. Now, all of the members of the Mayor's Committee are appointed by the Mayor, as I understand?

Mr. LIPSCOMB. They are nominated by the organization and then they are given a certificate of appointment by the Mayor.

The CHAIRMAN. But he has a right to veto any of these nominations, is that correct?

Mr. LIPSCOMB. Sure. He has the right.

The CHAIRMAN. So presumably, if he does not veto it, that means that all of the members of the Advisory Committee are acceptable to him, is that correct?

Mr. LIPSCOMB. Yes.

The CHAIRMAN. Any points of clarification for counsel?

Mr. WASHINGTON. Now, sir, first of all as I understand it, the Mayor's Advisory Committee was set up pursuant to the Mayor's Executive Order, is that correct?

Mr. LIPSCOMB. Yes, it was.

Mr. WASHINGTON. Are you saying that a representative of RLA indicated that he was going to act inconsistent with the Mayor's order?

Mr. LIPSCOMB. Well, this seems to be the story.

Mr. WASHINGTON. Was there any attempt to vacate the Mayor's order, a request that the Mayor issue a new order?

Mr. LIPSCOMB. No, there was no attempt.

Mr. WASHINGTON. Thank you.

The CHAIRMAN. Thank you very much. The witnesses are dismissed.

The Chair would now like to call out of order Mr. David O. Meeker, Assistant Secretary for Planning and Community Development, United States Department of Housing and Urban Development. He is accompanied by three people.

We are accommodating Mr. Meeker in this regard because of an appointment that we understand he has with the former First Lady, Mrs. Lyndon Johnson.

Mr. Meeker, you are being accompanied by Harry Staller, Acting Director, Washington Area Office, HUD, and Burton Bloomberg, General Counsel for Development Operations, HUD, and John Clinton, Assistant Administrator for Project Implementation, New Communities Administration, HUD?

STATEMENT OF DAVID O. MEEKER, ASSISTANT SECRETARY FOR PLANNING AND COMMUNITY DEVELOPMENT, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD); ACCOMPANIED BY HARRY STALLER, ACTING DIRECTOR, WASHINGTON AREA OFFICE, HUD; BURTON BLOOMBERG, GENERAL COUNSEL FOR DEVELOPMENT OPERATIONS, HUD; AND JOHN CLINTON, ASSISTANT ADMINISTRATOR FOR PROJECT IMPLEMENTATION, NEW COMMUNITIES ADMINISTRATION, HUD; AND VINCENT LANDAU, STAFF ATTORNEY

Mr. MEEKER. Yes, sir. I have added one more with your indulgence, and that is Mr. Vincent Landau, who is a staff attorney with long familiarity with this project.

The CHAIRMAN. The record will show that the gentleman is present. Do you have a prepared statement?

Mr. MEEKER. I do.

The CHAIRMAN. You may proceed.

Mr. MEEKER. First, I appreciate the Committee's indulgence in moving me ahead so that I can have the pleasure of being with Mrs. Johnson at lunch.

Now, Mr. Chairman, my name is David O. Meeker, Jr., and I represent the Department of Housing and Urban Development on my capacity as assistant Secretary for Community Planning and Development. I appreciate this opportunity to answer the questions you have raised concerning the Department's role in the development of the Fort Lincoln project.

HUD ACTION

I should like to state at the outset that the Department's support for this project has not been diminished or altered despite recent events which have delayed the implementation of renewal plans approved by HUD in 1972. We have a contract with the District of Columbia Redevelopment Land Agency (RLA) in the amount of \$27.9 million for this project. We have set aside a number of subsidized housing units for Fort Lincoln. We have actively supported RLA in its negotiations with other Federal agencies in support of the Fort Lincoln plan. Our most recent actions with respect to RLA's handling of this project have been undertaken with but one main objective in mind—to get the development of the site back on schedule.

As the Secretary indicated to you in his letter of April 17, 1974, HUD conveyed, in early February, various concerns about this project to the District of Columbia Redevelopment Land Agency (RLA). HUD stressed its concern over the then-alleged intention of the Board of Directors of the RLA to terminate their relationship with the prospective developer, Building Systems International (BSI). To assure successful initiation of this important undertaking in connection with the President's commitment for the observance of the Bicentennial Celebration in the District of Columbia, we identified the timing and nature of critical actions to be taken by RLA and HUD over the next few months. Subsequently, the RLA clarified to BSI and to HUD its intention to issue a public offering of the development rights for the Fort Lincoln site.

I would like to make the following insert at this time, sir, which is not in the statement.

BSI'S POSITION ON DEVELOPER STATUS

BSI takes the position that such rights are not open to public offering at this time, being reserved exclusively to it as reflected in the contract as the selected contractor under the terms of the Fort Lincoln prospectus and subsequent agreements. And that will be more fully discussed in answer to your specific questions to follow.

In this regard, it should be made clear that BSI's function as Contractor was in this preparation of a formal Development Proposal for which, if found acceptable, it was to receive no compensation other than the right to purchase or lease those portions of the site designated for private ownership.

The Development Proposal having been accepted and various

other preliminary steps required by the prospectus having been substantially completed, the parties were in the process of negotiating the Land Disposition Agreement (LDA) when RLA took the position that BSI withdrew from the further participation in the project. Since no LDA has been executed, BSI is not contractually the Fort Lincoln developer at this time.

The Department's position has been and continues to be that the Fort Lincoln project is an important component of the Bicentennial Celebration for the District, which has been approved by the Redevelopment Land Agency, the National Capitol Planning Commission, the District of Columbia City Council, the Bicentennial Commission, and the U.S. Department of Housing and Urban Development. The issuance by RLA of a prospectus which would publicly invite a new developer would require the concurrence of this Department. Such concurrence will not be forthcoming until the dispute between BSI and RLA is resolved in a satisfactory manner so as to assure that the project will proceed expeditiously. We have stressed to the RLA that should they be unable to furnish reasonable assurances that the development schedule can generally be met, the Department will have no choice but to reconsider the extent of its commitments to the project. We have urged officials of BSI and officials of the RLA to work together to promptly resolve their difficulties. We hope these issues can be promptly resolved to everyone's satisfaction.

I should now like to turn to the specific points raised in your invitation and address them separately, after which my associates, who have been concerned with the program from the beginning, and I will be happy to expand on these points and answer any questions.

HUD ROLE IN THE DEVELOPER SELECTION PROCESS

Question Number 1: The role in Selection process for the developer of Fort Lincoln, including the setting of overall policies for selection, and compliance with the Administrative Procedures Act.

During 1970, HUD, the RLA and the District Government conducted an extensive analysis of the then proposed development plan for Fort Lincoln. The analysis concluded that there were substantial outstanding questions to be answered concerning the overall financial feasibility of the project and the magnitude of the Federal Urban Renewal Grant that would be required to carry it out. It was agreed that a contractor should be selected to prepare a Development Proposal which he would commit to carry out as developer if approved by local government agencies and HUD.

THE FORT LINCOLN SELECTION COMMITTEE

RLA approved a prospectus which was concurred in by HUD on September 10, 1970, and issued publicly shortly thereafter. Ten responses were received, eight of which subsequently led to interviews between the respondents and the Fort Lincoln (Developer) Selection Committee. This committee included the Deputy Mayor, the Executive Director of the Redevelopment Land Agency, the Chairman of the

Mayor's Advisory Committee on Fort Lincoln, and a representative of HUD acting in an observer role. Of the eight firms, three were selected as finalists; Westinghouse-Building Systems International, Rouse-Wates, and the Fort Lincoln Development Corporation (composed of local banking and real estate interests supported by the Whitaker Corp., an aero-space oriented firm).

On November 11, 1970, and according to procedures set out in the Prospectus, the Fort Lincoln Selection Committee unanimously recommended Westinghouse-BSI to be the Fort Lincoln contractor. On November 18, 1970 HUD was advised by letter of the RLA Board's intention to approve a contract with the Westinghouse-BSI consortium and gave its oral concurrence.

The Westinghouse-BSI group proceeded into the planning process and in January 1972 submitted a Development Proposal for consideration by the RLA, D.C. Government, and HUD. One of the major recommendations provided that BSI alone rather than the Westinghouse-BSI Joint Venture, be designated as developer with responsibility to carry out the Development Proposal. Their rationale for this recommendation was that BSI with its development experience and expertise should take the lead role and responsibility for overall development, with Westinghouse in a back-up consultant capacity. Because of this reduced role for Westinghouse, HUD took a close look at the management expertise and financial capability of BSI and concluded that it appeared capable of successfully carrying out the development proposal on its own. Consequently HUD approved the proposed Urban Renewal Plan on May 19, 1972.

HUD POLICIES AND PROCEDURES

In summary, HUD maintained an approval and concurrence role in the series of decisions leading to the selection of BSI. At each step HUD evaluated the capability of the proposed development team and satisfied itself that adequate expertise was available to carry out the project.

HUD's policies and procedures covering its implementation of the Urban Renewal Program are set forth in a Departmental issuance known as the Urban Renewal Handbook and designated as RHA 7200.0 through RHA 7228.1 of HUD's unified issuance system. The Handbook is public information and is, of course, available to your committee and staff. We understand that one has since been provided. Although HUD monitoring of the Fort Lincoln project has been somewhat closer than normal because of the unique and innovative nature of the project, the fact that the project site is surplus Federal land and the bicentennial objective set for the project, our administration of the project has been in accordance with the policies and procedures of the Handbook.

MONITORING PROCESS

Question Number 2: Your role in monitoring or enforcing the fulfillment of responsibilities, by RLA, HUD, and the developers, as a result of developer selection.

It should be pointed out at this time that the basic responsibility for executing the Fort Lincoln Project rests at the local level. However, because Fort Lincoln is located on Federal surplus land, the importance of Fort Lincoln to Washington and the complexity of development, HUD has taken an active advisory and overview role in policy making for this project. As generally discussed in response to question one, we have concurred in the original prospectus issued by RLA, concurred in the Contractor selected, and concurred in the Development Proposal prepared by the Contractor. However, HUD has been unwilling to concur in the issuance of a new prospectus by RLA unless and until the issues between RLA and BSI are resolved. We believe that if these issues are not resolved immediately that the project will experience further delay and we are not willing to let this happen. The potential for litigation over the issues, as yet unresolved, between BSI and RLA casts a cloud over the acceptability of a new prospectus in the market place and any future developer's selection process.

HUD ENFORCEMENT PROCEDURES

Question Number 3: The enforcement of agreements made during or after the developer selection process, including administrative regulations governing such process.

Agreements made during or after the developer selection process are of three types, as follows:

A. The land disposition agreement ("LDA") by which the D. C. Redevelopment Land Agency ("RLA") is committed to transfer to the private developer title to those portions of the Fort Lincoln tract to be devoted to private reuse. This is discussed in our comments on question 5 below. As heretofore mentioned, no such agreement has been executed at this time.

B. The agreement between this Department and the RLA providing for Federal urban renewal grants for the conduct of the Fort Lincoln project (the "grant contract"). This Department has a direct enforcement role in regard to the duties placed on the RLA by the grant contract with respect to the conduct of the project. In this connection, it should be noted that the Department has an unusual enforcement tool in connection with this project which is not normally available. Pursuant to section 108 of the Housing Act of 1949, as amended, the General Services Administration has transferred to this Department for subsequent transfer to RLA, surplus Federal land which is to be the site of the proposed project. The Department currently holds this land and is in a position to determine the advisability of its transfer to RLA in the event RLA's performance of its obligations under the grant contract appears satisfactory.

C. Agreements among Federal and District agencies relating to the conduct of the Fort Lincoln project. These agreements break down into two sub-categories as follows:

(i) Agreements of District of Columbia agencies relating to Fort Lincoln. Under the terms of the prospectus for the feasibility study and development proposal for the Fort Lincoln new town, in response to which Building Systems International ("BSI") was given a con-

ditional right to become the Fort Lincoln developer, RLA is given lead responsibility for coordinating the efforts of all District level agencies in regard to Fort Lincoln.

(ii) Agreements of Federal agencies relating to Fort Lincoln. Under the terms of the prospectus referred to above, this Department is given the lead role in securing coordination of efforts by all Federal level agencies in regard to Fort Lincoln. However, the prospectus indicates as follows: "All requests for information should be directed to the RLA who will secure the cooperation of the appropriate District or Federal Agency."

This Department has no direct enforcement responsibility in regard to the interagency agreements. However, we monitor performance under these agreements in order to determine the extent to which poor performance would necessitate the institution of enforcement action under the grant agreement, or withholding from RLA of title to the Fort Lincoln tract.

CONTRACT COMPLIANCE

Question Number 4: The compliance of all parties involved in any initial agreement made pursuant to selection of the developer.

With the exception of the existing controversy between BSI and RLA, all parties involved in initial agreements made pursuant to selection of the developer appear to be in a position of reasonable compliance. This Department is not in a position to evaluate the merits of the conflicting positions taken by BSI and RLA in regard to the question of whether the former is still entitled to priority development rights for the private reuse portions of the Fort Lincoln tract.

Under the circumstances, we have taken the position that we will not concur in RLA's issuance of a new prospectus until the issues between RLA and BSI are resolved. Our position is taken in light of the possibility of litigation being brought by BSI and in an effort to avoid potential liability and further delay and the achievement of the goals set for Fort Lincoln.

FORT LINCOLN LAND DISPOSITION AGREEMENT

Question Number 5: Your role in the preparation and execution of a Land Disposition Agreement for the development of the new town.

Primary responsibility for preparation and execution of an IDA for the development of Fort Lincoln lies with RLA and the developer. This Department makes available to local urban renewal agencies, including RLA, a guide form of LDA which is consistent with all policies of this Department relating to that activity. To the extent that a local urban renewal agency elects to use provisions which deviate from those of the guide form, the LDA is subject to prior approval and concurrence of this Department. In the case of Fort Lincoln, RLA will use a non-standard form of LDA. Therefore, HUD's review and approval will be required prior to execution of the agreement.

FEDERAL GRANTS

Question Number 6: Your role in any processes used for obtaining Federal grants to develop the new town.

It was recognized early in the conceptual stages of Fort Lincoln that a variety of Federal grants could contribute to the successful development of the project. Through his membership in the Inter-Departmental Under Secretaries working group, the then HUD Under Secretary (Mr. VanDusen) was able to establish a Federal Inter-agency group consisting of representatives from DOT, HEW, Interior, Justice, Labor, GSA, SBA, and HUD, to identify and coordinate Federal Agency program resources available to Fort Lincoln. Several meetings of this group were held and the various agencies began analyzing the proposed Development Program to identify elements that could be funded under their programs. Examples of this group's activities include consideration and coordination of planning for a Federal employment center at Fort Lincoln, funding sources for a transit shuttle system, a community service center and service delivery system.

Through this group HUD supported as an important element in the development of Fort Lincoln the effort to plan construction of a Federal office building and selection of NOAA as prime tenant. I understand that the prospectus which GSA sent to the Public Works Committee in 1972 is being reexamined by GSA. We are hopeful that a new prospectus can be completed and approved by the committee quickly and that construction can begin very soon.

Other non-HUD grants that appear likely are DOT funding for the transit shuttle, and HEW funding for the Community Service Center.

In addition to approval of the \$27.9 Urban Renewal Grant Reservation, of which RLA has expended approximately \$3 million to date, HUD has taken the following actions in providing other funds for this project:

1. A Demonstration Grant (\$65,000) was approved in connection with a citizen participation effort.

2. A reservation of funds for 490 Section 235 subsidized housing units for Fort Lincoln was made. A deadline of March 31, 1974, was established for submission of an application leading to a feasibility commitment. To date the application has not been received in the Area Office.

3. Permitted Urban Renewal funds (\$25,000) to be used by the District Government for a transit shuttle study to develop alternatives for linking Fort Lincoln with the METRO rapid rail system. On the basis of this study, the District has prepared a capital grant application for a transit shuttle which will be submitted to the Department of Transportation.

4. Approved an Urban Systems Engineering Grant (\$100,000) to the District Government to develop a service delivery system for Fort Lincoln. This grant was not utilized on a timely basis and has been recaptured by the Department.

Further possible grants from HUD or other Federal agencies will have to await completion of the land disposition agreement.

This concludes my formal testimony, Mr. Chairman.

HUD FUNDING COMMITMENTS

The CHAIRMAN. I am a little concerned about a statement which was made by Mr. Banks tied into your general commitments here.

Now if HUD commitments are not tied exclusively to the Bicentennial, in other words, if it looks as if substantial completion of this development can't be completed by 1976, will HUD reconsider its commitments?

Mr. Banks says that he doesn't expect it to be any more than about 20 percent completed by that time. What is that going to mean in terms of HUD's commitments? Will they be considered at that point or what does it mean?

Mr. MEEKER. If this project stalls to the point where there will be no work completed during the Bicentennial year, or where there will be no completion of any significant character, HUD will have no other choice but to reexamine its position on the urban renewal grant since this was the target date for that grant and the Bicentennial will have passed without that objective being perceived.

Of equal consequence is the commitment of 490 Section 235 housing units. The appropriations for those units runs out on June 30 of this year. And as of yet we have made no development policy concerning what we will do for housing because again we don't know with what entity we will be dealing and under what circumstances we will have to deal.

The CHAIRMAN. In other words, you don't consider 20 percent to be substantial?

Mr. MEEKER. I would consider 20 percent to be substantial sir, but I believe that we must have completion and not just the start of 20 percent.

The CHAIRMAN. 20 percent completion of whatever the total happens to be?

Mr. MEEKER. Yes, sir.

The CHAIRMAN. In that context?

Mr. MEEKER. Yes.

The CHAIRMAN. That would fit your criteria?

Now, this \$27.9 million contract which HUD has had with RLA, do the funds have any fiscal year limitations?

Mr. MEEKER. No, sir, they are obligated funds and they remain as obligated funds within the Department's reserve until drawn down upon. Approximately \$3 million have been drawn down upon since the grant was made.

FORT LINCOLN DEVELOPMENT SCHEDULE

The CHAIRMAN. Now, on page 3 of your statement you said "We have stressed to the RLA that should they be unable to furnish reasonable assurances that the development schedule can generally be met, the Department will have no choice but to reconsider the extent of its commitments to the project."

Now, by "development schedule" could you be more explicit? Would you make reference to what you make reference to there?

Mr. MEEKER. We mean to accomplishment of specific construction goals within the schedule. We are willing to recognize that this delay has occurred and it will back the schedule down, but I think our view of 20 percent completion would in our mind represent a reasonable effort at achieving this.

At one point it was pointed out that a 40 percent level would be the target that may be able to be achieved and we would be happy if that were the case.

OPTIMUM DEVELOPMENT SCHEDULE

The CHAIRMAN. Well, let's give you a couple of more tests along those lines. Now in the RLA testimony, Mr. Gunther states that "the end of May of 1974 should tell us whether we will have the development started in 1974, 1975, 1976 and possibly not at all."

Now, which if any of these dates meets your development schedule and which does not?

Mr. MEEKER. We believe that this project must be started during calendar 1974, sir.

BSI-RLA DISPUTE

The CHAIRMAN. Now on page 3 you also state "We have urged the officials of BSI and officials of the RLA to work together to promptly resolve their difficulties."

Now by this are you suggesting that unless RLA and BSI can come to terms, for example agree that BSI is the contractor, that your agency will withdraw its financial commitments?

Mr. MEEKER. Our position is given in answer to another question, sir. Where we indicate that until we have a disposition of the disagreement between these two parties, that we will not approve a new prospectus and it is our examination of the market that a cloud will hang over this project to discourage any other developer from coming in and the possibility of litigation including litigation against the Department's continued participation is very likely.

The CHAIRMAN. I assume you mean this in some kind of time frame? You are not going to let this controversy just linger on and on?

Mr. MEEKER. Yes, sir. I spelled out a time frame for RLA in a letter to them of what we felt were a series of acceptable points.

If they can accomplish these by July 1 or by June 30 then I think we have a chance.

The CHAIRMAN. In other words, if BSI and RLA do not resolve their differences by the 30th of June then the project as far as you are concerned will not be supported?

Mr. MEEKER. It is in jeopardy and I would wish to look at any proposal that RLA makes about a schedule of completion of the project to see if it will achieve the Bicentennial objectives. And if it will not achieve that, what other objectives will it achieve before I make a recommendation to the Secretary about HUD's action.

The CHAIRMAN. Do you have a copy of the letter sent to the RLA?

Mr. MEEKER. I do.

The CHAIRMAN. Can you make it available to the committee for the record?

Mr. MEEKER. Yes, sir, I will.

(The letter referred to was not received in time to be included in the record.)

BASIS FOR LITIGATION

The CHAIRMAN. On page 6 of your testimony you state "The potential for litigation over the issues as yet unresolved, between BSI and RLA cast a cloud over the acceptability of a new prospectus in the market place and any future developers selection process."

Now of course this is a legal opinion, which I assume or shall we assume was prepared by your department's general counsel or was it prepared by the Department of Justice of where did it come from?

Mr. MEEKER. That was prepared by the general counsel of HUD, sir.

The CHAIRMAN. Of HUD?

Mr. MEEKER. Yes, sir.

The CHAIRMAN. Was this legal advice given in written form?

Mr. MEEKER. Yes, sir, I believe it was.

The CHAIRMAN. Is that available? Is a copy of that opinion available for the Committee record?

Mr. MEEKER. If it is in written form I will provide it.

The CHAIRMAN. You said it was in written form.

Mr. MEEKER. I said I believe it was. I don't have it with me, but I will provide it.

The CHAIRMAN. But isn't your general counsel here?

Mr. MEEKER. No, sir. A representative of the office of general counsel is here.

The CHAIRMAN. Can you respond to that, sir?

Mr. BLOOMBERG. Yes, sir. We did not provide a formal written opinion of the general counsel. We did provide, some what I would call, informal written notes of advice. At various stages of the matter information became available to us.

Mr. Meeker has correctly represented our position. We will be happy to provide copies of those informal statements or, if necessary, we can provide a formal opinion of the general counsel on the matter. However, at this stage, such a formal opinion does not exist. There are, however, informal reviews of the general counsel's staff members provided along the way as guides to administrative decisions made.

The CHAIRMAN. Is there any collateral opinion here from the Department of Justice on this subject?

Mr. BLOOMBERG. There is no written opinion to my knowledge.

The CHAIRMAN. Let me yield to counsel for a follow-up on that.

Mr. WASHINGTON. Are we correctly assuming that the Department of Justice represents HUD in litigation?

Mr. MEEKER. In litigation? That is correct, sir.

Mr. WASHINGTON. In contemplated litigation would it be appropriate then to have sought an official position from Justice?

Mr. BLOOMBERG. If we were contemplating litigation?

Mr. WASHINGTON. If litigation were contemplated.

Mr. MEEKER. If litigation were contemplated and we knew the type

of litigation, we would immediately move from our general counsel's office to the Justice Department for representation in that particular case.

Mr. WASHINGTON. I am advised that we have a witness from Justice and their view is that there has never been a request formally or informally.

Mr. MEEKER. That is correct.

Mr. WASHINGTON. For any information regarding litigation.

Mr. MEEKER. That is correct.

Mr. WASHINGTON. And yet that has been asserted as a basis for your position.

Mr. MEEKER. That basis is carried in a letter from BSI to RLA indicating that they would seek if this was not resolved, recovery through legal action.

Mr. WASHINGTON. Additionally your testimony asserts that you are not commenting on the merits of the controversy vis-a-vis BSI and RLA but yet the absence of concurrence obviously suggests some kind of determination on the merits.

TERMINATION PROCEDURES

Mr. MEEKER. Sir, there exists in the prospectus certain agreements of the prospectus, of a way that the contractor can be relieved or that he may relieve himself from this prospectus.

Mr. WASHINGTON. In the termination clause of the prospectus?

Mr. MEEKER. That is correct. And neither one of those clauses has been executed in a form that has been made known to us.

Mr. WASHINGTON. I see. In your view is counsel advised of an anticipatory breach or constructive termination of that provision?

Mr. MEEKER. No, sir.

Mr. WASHINGTON. Was that ever examined?

Mr. MEEKER. No, sir. Not by me.

Mr. WASHINGTON. So your position is that you are not going to give your concurrence and yet you are not even going to endeavor to review the merits of the controversy?

Mr. MEEKER. The merits are beyond the scope of our purview, sir. The agreement is occurring with third parties in which we are not direct participants except as results of their settlement, in other words, sir, we are not attendant at their board meetings. We do not receive the minutes of their board meetings. We receive correspondence if we request it and they feel it is necessary to provide it in order to make us aware of the decisions they are about to undertake. For instance, we learned of the decision to dismiss BSI by reading the afternoon newspapers with the headline that HUD had dismissed it, which attracted our attention immediately.

Mr. WASHINGTON. You do agree that the absence of concurrence seems to suggest that you do not agree with the resolution of this matter by a local agency that is independent and has a right to make a determination in this regard?

I mean, that is the net effect, that is the final line of your position. There may well be a difference between methods and objectives, but that is the final line.

Mr. MEEKER. We do not believe that the local agency has carried through under the terms of the agreements which exist the methods which are available to it to conclude the agreement. We do not believe correspondence which suggests it is our understanding that you have withdrawn, when the opposite party says I have not withdrawn, constitutes any basis upon which we can consider a new method of doing business. We need a more formal approach.

We have communicated this steadily to RLA beginning in January after the first announcement.

Mr. WASHINGTON. So the fact is that is the case and what you are saying in effect is that the local instrumentality has not proceeded in accordance with the prospectus?

Mr. MEEKER. That is correct, sir.

Mr. WASHINGTON. Thank you.

The CHAIRMAN. I want to yield to counsel here for a couple more points of clarification.

Ms. MARTIN. We examined very briefly the handbook you sent over because it is very long.

Mr. MEEKER. Yes.

HUD AUTHORITY

Ms. MARTIN. We we specifically looking for the authority that rests with HUD to do the kind of—well, you call it “monitoring” but really it amounts to policy making with respect to this urban renewal project. For example, we could not find a provision which would give HUD the authority to veto the issuance of an LDA or to veto a prospectus or to approve a contract.

In the handbook and in your testimony you indicate that all of the policies with respect to this urban renewal project are being carried out pursuant to that.

Mr. MEEKER. We will be glad to provide staff assistance to go through and outline the points in that handbook which we believe and our counsel believes support our position, but I think it has to be continually recognized that HUD is the holder of the property and this changes it from a conventional urban renewal project.

Ms. MARTIN. I wanted to ask why is HUD the holder of the property? Did you solicit that from GSA? Because generally isn't there a direct referral or direct grant or direct advance to the urban renewal grantee?

Mr. MEEKER. The only answer I can give you is reading that historically into this particular prospectus since it began in about 1966 at the conceptual stage, this was the first of what HUD hoped to be a number of programs around the United States to use surplus government grounds for the creation of new communities in town or out of town. And under the decisions that were made at that time, since HUD was the urban renewal agency for the government in funding under Title I of the Act, of 1949, the decision was made that the excess grounds would be conveyed to HUD also. Those were decisions which were made under another Administration and substantially before my advent on the scene.

But because those conditions were set in motion, that is the condition in which we find ourselves.

In regard to the prospectus and so on, I think it should not be forgotten here that the original prospectus and the approval of it and the mechanisms that are apparently being objected to now were carried out in the original prospectus without objection and apparently with good results.

Ms. MARTIN. Is your relationship to the District of Columbia RLA typical of the HUD relationship with other urban renewal projects?

Mr. MEEKER. With the exception of several Bicentennial projects, yes.

The CHAIRMAN. Mr. McKinney?

Mr. MCKINNEY. I think counsel has done a very fine job. No questions.

The CHAIRMAN. Mr. Rangel?

ROLE IN BICENTENNIAL CELEBRATION

Mr. RANGEL. What is so magic about this Bicentennial? If a project has merits, I get the impression you are saying if it can't cut the mustard by the Bicentennial the project is out.

Mr. MEEKER. I suggested that there were two objections involved here that I would like to look at before I would make a recommendation to the Secretary about HUD's action. One is whether the Bicentennial objectives, which were originated by President Johnson in starting this particular program, can still be achieved, and which was a part and a party of the original agreement between RLA and HUD, and secondly whether the project can be accomplished beyond the Bicentennial date to the general public's good.

And I would have to make a determination on both of those cases before I could make a recommendation to the Secretary about what our relationship would be in the future.

Mr. MCKINNEY. Would the gentleman yield? Isn't it basically a fact that if it weren't for the Bicentennial designation we just simply wouldn't get this kind of money for this project?

Mr. MEEKER. Yes, sir, this money was specifically set aside for this project as a Bicentennial project. That is correct, sir.

Mr. RANGEL. Well, because of the unique situation that exists here and HUD is the owner of the land—

Mr. MEEKER. We are the holder of the land.

HUD ROLE IN POTENTIAL LITIGATION

Mr. RANGEL. The holder of the land, then you certainly have more input in this because of the Bicentennial and other things?

Now what are you doing to see that the RLA is cooperating with what Justice or your counsel believes to be potential legal problems?

Do you just wait it out?

Mr. MEEKER. No, sir.

Mr. RANGEL. Do you just wait until all of the time for application expires?

Mr. MEEKER. No, sir. We have made a series of suggestions to RLA beginning in January, when I was brought into this picture, because

of the notice that the agreement between BSI and RLA was coming apart.

We have met with the directors, the executive director, with representatives of the staff, with the Mayor, with Mr. Banks, with the Secretary of Housing and Urban Development, with officials from the White House, and under a variety of circumstances to try to understand what precisely is going on in this project and what could be done. I have made recommendations and the Secretary has made recommendations on ways of expediting this. And I think it is important to recognize that the land disposition agreement is the principle way of resolving this dispute because the land disposition agreement calls for public hearings under D.C. law and it requires that RLA and HUD both determine the capabilities both in a programmatic sense and in fiscal terms of the contractor to become the developer.

If it is found he has failed in any of these causes including meeting the minority employment program, the minority participation, the 12 point program which is the requirement of the District, he then can be dropped at that point.

The land disposition agreement was not brought into effect until the 28th of April and yet this course had begun in October according to the records we have from RLA.

So our question is if this tool has been available, why has it not been employed until this late date?

Mr. RANGEL. Well, do you receive responses to suggestions being made? Could you state at this point what questions remain unanswered?

LAND DISPOSITION AGREEMENT

Mr. MEEKER. The only question which will remain unanswered until May 28 when the land disposition agreement comes in, is whether or not BSI will accept the land disposition agreement that has been presented to them, and following that, whether through examination by RLA and by HUD and through public examination and testimony, whether they are found to be competent to continue.

Mr. RANGEL. In connection with all of the applications for housing, does HUD plan to offer new commitments?

Mr. MEEKER. RLA has asked through our area office for us to consider a very unique way of trying to hold that housing appropriation. They are asking that we allow them to enter into the feasibility process and that the housing units be allocated to them.

In an effort to cooperate on this we are having our legal counsel examine it to determine whether under statute this can be carried out. If it is possible through this device to save that housing we will do it.

We are seeking other devices in an attempt to save it because we have indications, as Mr. Banks I believe testified earlier, that this housing is critical to this particular project.

HOUSING FUNDS

Mr. RANGEL. Why is it in response to Congressman McKinney's question that housing is generally critical, that funds are only made available because of the bicentennial?

Mr. MEEKER. The Housing Funds are not made on the basis of Bicentennial. The original grant and the decision to locate a Federal office building as an employment location based on the Fort Lincoln Project were a part of the Bicentennial, but that housing was made on the basis of providing the residential requirement to support a new town there and it was not a Bicentennial decision.

The Congressman's suggestion about funding and so on would probably relate to the broader issue of the housing which is allocated in the so-called 14th Street Corridor, the riot corridor area, where as a Bicentennial project the District was given a series of housing units to rebuild that corridor as a specific bicentennial project. They are not part and parcel of the same allocation though.

Mr. RANGEL. Then with the exception of the corridor and abiding by HUD's normal performance regulations, why does the Bicentennial play such a big part?

Is the Bicentennial merely a goal, I mean in terms of 1976, but it certainly doesn't mean any more than that in terms of the commitment by our government, by HUD, to this area?

Mr. MEEKER. No, the Bicentennial represents a commitment on two governments' part, it represents a commitment on the federal government's part to recognize the District of Columbia felt that they could through a number of innovative programs indicate significant accomplishments in providing housing and community services and transportation and health care and a variety of other circumstances to the citizens and they could do it in a very short time and in a very effective fashion and in that way demonstrate (1) a contribution to the Bicentennial by improving the Nation's Capital and (2) a competence on the part of the District to respond to the citizens' needs so they use the Bicentennial within this as a vehicle to accomplish this. And these discussions began back in the middle 1960's. In planning for this, Fort Lincoln was specifically identified as one of these projects. Since then we have identified certain others at the request of the District but these are funded out of existing funds, and agencies. They are not funded out of any bicentennial funding level. No agency has a bicentennial funding level that I am aware of except the American Revolutionary Bicentennial Administration, which was funded recently by Congress for I think \$20 million.

Mr. RANGEL. Well, if the House Judiciary Committee was to extend the bicentennial beyond the 1-year explosion and say that it should last for 10 or 20 years would that have any effect at all on the way you look at this Fort Lincoln project?

Mr. MEEKER. I suspect it would very definitely. I would hope that we will not require 10 or 20 years to accomplish this project.

Mr. RANGEL. No. I just see that communities such as the District of Columbia are going to get just one shot at the improvements, you know, this bicentennial date.

Mr. MEEKER. Sir, the District of Columbia is amongst the largest recipients of federal aid through the Department of Housing and Urban Development of any of the cities of the United States. It is approximately the 10th largest, but it receives funds approaching the 2nd and 3rd largest cities in the United States.

Mr. RANGEL. So the word "Bicentennial" you use in terms of deadline is just really a word of art as a proposed deadline merely because 1976 is the goal.

Mr. MEEKER. No. It was a commitment on the part of President Johnson and later carried on by President Nixon and acknowledged by the leadership of the District of a point in time when they would accomplish specific community actions of some innovation and some complexity.

Mr. RANGEL. But, heavy weight would be given to the merits of the project notwithstanding the word "bicentennial"?

Mr. MEEKER. Absolutely. Heavy weight was given to the merits of the projects before they were conceived since HEW had to look at whether or not the projects would sustain themselves well beyond the Bicentennial. We will have about 40 years of investment in the housing alone. GSA will have a very long term lease probably in the NOAH Building and the taxpayers of this nation will have at least a 40 year commitment to that project. So it must be viable beyond 1976.

Mr. RANGEL. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Burgener?

Mr. BURGNER. No questions.

The CHAIRMAN. Mr. Hogan?

Mr. HOGAN. I wonder how long you have before your luncheon date?

Mr. MEEKER. I have about 12 minutes, sir, before I hope to catch a cab out front.

Mr. HOGAN. I will make it very quick. Will you give us the information of what the commitment has been from HUD to the District of Columbia?

Mr. MEEKER. I will provide that.

Mr. HOGAN. And a comparison with other cities?

Mr. MEEKER. Yes, sir.

(The material referred to was not received in time to be incorporated in the record.)

LAND DISPOSITION AGREEMENT

Mr. HOGAN. You indicate the potential for a litigation.

If these hearings are held and there is a termination clause in the contract, which I assume there is, I assume you would be disabused of your position somewhat on this issue that they must continue with BSI?

Mr. MEEKER. BSI is not a continuing issue with us provided that the parties can come to some separation of their roles, which meets the basic agreement in which they entered into. In the terms of that agreement for separation and in the prospectus and in other materials that they have come into agreement there are specific ways for terminating these agreements. Once those are met then we are cleared to go ahead.

But I think what has happened from the course of events is that RLA has recognized that it may be more prudent, rather than to get into a protracted legal discussion, to face the issues straightforward by the issuance of an LDA and say "take it or leave it" or "perform or not perform".

Mr. HOGAN. Now you say you are not in a position to evaluate the merits of this. Do you think they can be brought out by a hearing on the LDA?

Mr. MEEKER. Yes, sir. One of the beneficial aspects of this is under D.C. law there is requirement for a public hearing.

Mr. HOGAN. Right. Now in regard to the fact that you don't have all of the information apparently to evaluate the merits, I gather that is because of agreements here that RLA is the private party dealing with BSI?

Mr. MEEKER. Yes, sir.

Mr. HOGAN. And all requests for information are directed to them and you don't go out and contact BSI, is that correct?

Mr. MEEKER. No, sir, we have only to my knowledge in my case had one contact with BSI, which was coming around a corner and bumping into a Vice President of BSI at which time he began to speak about this issue and I told him that all I could suggest to him was that he immediately hurry back to his office and make every attempt to resolve the issue one way or the other with RLA so that we could proceed with this project. One way or the other. And that was a very definite part of that conversation.

Mr. HOGAN. But they haven't conveyed to you their reasons why they believe there is potential for litigation?

Mr. MEEKER. Yes, they have?

Mr. HOGAN. They have?

Mr. MEEKER. By letter which was provided to Mr. Gunther of RLA and he was good enough at our request to provide us with a copy.

Mr. HOGAN. I don't know whether you want that in the record or not Mr. Chairman.

The CHAIRMAN. It is all to be a part of the record.

(The material referred to appears in the appendix.)

HUD FUNDING COMMITMENTS

Mr. HOGAN. Thank you, Mr. Chairman.

The CHAIRMAN. Should the commitment for subsidized housing units for Fort Lincoln expire before the developer submits an application for such housing, sir, is it HUD's and the Administration's plan to offer a new commitment for fiscal year 1975?

Mr. MEEKER. If there is an appropriation that we can offer a commitment against, sir, we will continue to honor this. If there is not, we will attempt to find some vehicle for making housing available.

The CHAIRMAN. You will request an authorization?

Mr. MEEKER. There are two bills before the Congress at this time both of which authorize continuing of those programs.

The CHAIRMAN. What about 235 housing, if you don't anticipate continuation of that, are you in a position to comment on an equal level of similar housing under any new housing program being sponsored by the Administration?

Mr. MEEKER. We're investigating that at this moment along with RLA's requests for a way of having the allocation of housing given to them, the feasibility turned over to them. We will make every effort to

respond with the housing required for this project and it is not HUD's intention or desire to be the one that causes this project to come unglued.

POSSIBLE LEGAL PROBLEMS

The CHAIRMAN. In your opinion are there any remaining legal problems that could cause a delay in meeting your goals for Fort Lincoln particularly as relates to Bicentennial?

Mr. MEEKER. There is a legislative problem that I think must be addressed. It is my understanding that the agreement for the lease of the NOAH building was before the Public Works Committee and that it has been withdrawn by RLA with an indication that it will be submitted at a later date. This is a crucial part of any development of that project.

The CHAIRMAN. Why was it withdrawn?

Mr. MEEKER. I have no knowledge, sir. I received a copy of a letter requesting that it be withdrawn and I was not consulted in the letter. It was issued by RLA.

The CHAIRMAN. Do you have that letter?

Mr. MEEKER. I can make it available. I do not have that letter.

The CHAIRMAN. What is the date of that?

Mr. MEEKER. It's within the last 65 or 70 days.

The CHAIRMAN. Does a representative of RLA have a copy of that letter here with him?

Mr. MEEKER. It originated with him.

The CHAIRMAN. So we should be asking them about that I guess.

Are there any legal problems that would prevent the Department from allowing RLA to proceed with the issuance of a public offering of the private development rights for Fort Lincoln?

Mr. MEEKER. If through the LDA process it is determined that BSI is not an acceptable developer, then there exists no legal restraints in current agreements for HUD to consider a new prospectus.

ROLE OF RLA

The CHAIRMAN. Finally, how would you characterize RLA's action in connection with this Fort Lincoln project? Excellent, good, fair, poor, terrible?

Mr. MEEKER. I would put it more in the light of a very harassed situation of attempting to juggle a great many difficult situations simultaneously to accomplish these efforts. I don't have the feeling that there has been a deliberate effort by RLA to stop this project and so on and to my knowledge of the board members and in reviewing their actions I would believe that they followed courses which they believe to be sound and correct courses.

I might not have taken those courses if I had been in the same spot, but in answering your question—

The CHAIRMAN. Do you think they have been overzealous or overcreative in cutting corners?

Mr. MEEKER. No, my feeling is, sir, that the issue of withdrawal by BSI has never clearly been addressed by the RLA Board. When you

inform some party that you have a contractual relationship with that you assume that he has done something and when you base your action upon such an assumption which is not verified in writing, you begin a course of action which is very hazardous in the extreme in my experience.

The CHAIRMAN. We are certainly mindful of the gentleman's schedule and he has been very generous and very candid. I won't take him beyond the time that we made a commitment to let him go.

COMPARATIVE HUD ROLES IN URBAN RENEWAL PROJECTS

Ms. MARTIN. I would like to clarify one point. In response to a question about relationships, about the typical relationship of HUD with other urban renewal projects, you said that the relationships with the District of Columbia RLA with respect to Fort Lincoln is typical of HUD's relationship to other urban renewal projects, as I understood your answer, except for a few minor—

Mr. MEEKER. No, I believe the question that was framed was whether our relationship with RLA was typical of our relations with other agencies. And I responded that it was with the exception of certain bicentennial projects, typical.

Ms. MARTIN. Where you do not exercise as much monitoring and involvement in the other bicentennial efforts? In other words, I just want to be sure I have your answer to that?

Mr. MEEKER. It is, as I pointed out, the role of HUD holding surplus ground that makes this a very unique situation.

The CHAIRMAN. Thank you very much.

We would like to call one more witness before recessing for the afternoon, and that witness being the Honorable Sterling Tucker, Vice Chairman of the City Council of the District of Columbia. Then the Committee will adjourn until 1:30.

Following his testimony we will resume our hearings at 1:30 with Mr. Nevius.

We will have Mr. Tucker now and this afternoon at 1:30 we will have Mr. Nevius followed by Mr. Jaffe and then followed by RLA.

All right then, that will be the format. We will hear from the distinguished Vice Chairman of the City Council first and at 1:30 we will ask Mr. Nevius to testify and then Mr. Jaffe and then the RLA.

The RLA has a very long statement with exhibits and I am certain they will understand that we are trying to get in the shorter statements in order to give them as much time as they require. And then we will hear from BSI this afternoon.

So based on that, we can govern ourselves accordingly.

Mr. Tucker?

STATEMENT OF HON. STERLING TUCKER, VICE CHAIRMAN, DISTRICT OF COLUMBIA CITY COUNCIL

Mr. TUCKER. Thank you, Mr. Chairman. I don't have a prepared statement but there are a few observations that I would like to make and then if there are questions, I would be happy to respond.

Listening to the testimony of the representatives of the Department of Housing and Urban Development convinced me more than ever of the wisdom of the Home Rule Bill. The thought that RLA sits dangling now somewhere between the City and the federal government with the Housing and Urban Development Department declaring no authority but they are exercising policy making decisions every day with reference to this plan, and assuming that the city has some official relationship to it and yet the city has no control over the official process of RLA, this is a perfect example of the kind of dilemma in which the city finds itself. And my view is that the Department of HUD has put this project and RLA both in a stranglehold. The manner in which the HUD is functioning in relation to this project may well be the death of it. And I feel that very strongly and very keenly, Mr. Chairman. I believe, Mr. Chairman, that with all that we know about this whole program and the degree to which we have followed it over the past couple of years even prior to the hearing of June 13 of 1972, when the city council held hearings with reference to this matter and with all of the time that has passed since then I believe that the role of HUD has to be redefined and restricted in some way and that RLA as currently constituted, does not have the capacity to carry out this particular urban renewal program. I think these are very serious matters that I raise, that these are serious issues, also that confront us.

Now it would be my solemn recommendation that in view of the confusion already surrounding this, in view of the problems already attendant to this project and the difficulties of which we are all aware, that we can only begin, it seems to me, to unravel some of this when RLA becomes a part of the District Government so at least it has some resting place and there is some authority with some responsibility capable of moving through to some effective conclusion.

It would not hurt at all it seems to me for RLA not to make disposition of this matter before July 1st. I doubt that it is really possible in any equitable manner to do so. It seems to me that the consideration of carrying through with Fort Lincoln has to be a part of the consideration of the City's overall urban renewal and urban development plan.

The Department of Housing and Urban Development testified here today that it may not have any responsibility in this matter or interest indeed in this matter beyond 1976. Should it get underway, the City would like to see it through to completion though. That being the case it seems to me the city government though, the City Council or the Mayor, ought to have a vital determination of how this program goes forward. And if that long range responsibility is going to rest with the city after July 1, and since the HUD and RLA had a long time now, several years now, with a very frustrating and checkered history in this whole thing, it seems to me that the city government of Washington ought to have a clean shot at putting this program on the road and seeing it through to its conclusion.

I would make a couple of other observations if I might, Mr. Chairman.

RLA had pretty much concluded before HUD moved back into the picture, it seems to me, that BSI had to a large degree it would have appeared, withdrawn itself from the project. With that general conclusion, I agree, observing it from the distance in which I sat.

Now there were several kinds of configurations that I heard about with respect to BSI organization at different times until it reached a point where no one knew exactly what BSI was any more or what it was going to be or even what it hoped to be. And it seems to me that RLA had a responsibility in not moving forward under those circumstances. And I think it exercised that particular responsibility wisely and well.

The Department of Housing and Urban Development, however, has now complicated the situation; a situation which could have been worked out by meeting the plan which RLA had in mind. But this has been complicated by HUD now assuming responsibility, which is not its responsibility even though it may regard it as its authority. And so we have here an agency with the responsibility but without the authority and a District government with neither but obligated to the community to see its program through.

I point these things out, Mr. Chairman, so that you can understand perhaps from my perspective the dilemma of this whole project and how frustrating it has been for the people to expect the organization, which has the responsibility for policy guidance to the council in this matter, to be several steps removed from the whole program, with no real policy determination except to try to influence it, to yet be held responsible by the public for what happens or what does not happen there.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Tucker.

I particularly am impressed amongst other things, with your concept that one cannot look at the Fort Lincoln Urban Renewal Project or the New Town In-town Project without thinking about it in terms of the renovation of the entire community because there are other areas of need that lend themselves to the same kind of attention. And in my view unless we look at it from that viewpoint or even to turn it around if we go at it and we go at it on a piecemeal basis, we are going to be very hard put to really convert this Capital of the world to the kind of community it should be. And one of the areas that is of particular concern to me for example was the Capitol Hill itself. I think we should have a Capitol Hill development project, a new town in-town Capitol Hill development project that should also be a part of the plan. It might stretch all of the way ultimately to the Stadium and I think that these kinds of plans ought to be entered into before all of this property is snatched up in this area and renovated out of the price range of the kind of model community that I believe ought to exist in and around the Capitol. Because, when I talk about a Capitol Hill development, I am talking about something that is economically integrated in addition to the other elements of integration. And at the rate this particular development is taking place now, which is all of the way up to 11th Street, unless you can afford a renovation running upwards of \$100,000 this is all going to be a very elitist kind of community.

And so I believe that the original conclave concept that some of us were rather suspicious about, as introduced by the distinguished gentlewoman from Oregon, might be in effect a blessing in disguise in the sense of being the basis for a Capitol Hill kind of development tied into developments in other areas and as a pace setter for developments in other areas and it could result in the kind of model community to which we are entitled.

This might mean some zoning changes and might mean a few other things but when you pick up the newspapers and find out that we only have six thousand vacancies in this whole town, something has got to be done if we are going to be able to accommodate a normal expansion of the government and normal expansion of this community.

And I am delighted to hear you talk about urban renewal in that kind of progressive context.

PROJECT DELAYS UNTIL JULY 1, 1974

One point is a little disturbing however. You said something about waiting until July 1. And as I recall, HUD said that it would probably withdraw the commitment because of the development schedule, because it couldn't be met if we waited until on or about that time before we really got going. And I wondered whether you meant it in the manner in which it came out?

Mr. TUCKER. Yes. I heard the testimony but that is unreasonable testimony in my view given the set of circumstances with which RLA is currently faced and the complexity of this whole question.

And if it gets resolved by then, it could only be resolved one way and that is for RLA to give into the demands of BSI for there is no way for it to go through with the process and to complete considerations and reconsiderations, it seems to me, that are incumbent in this regard. I am not opposed to BSI. I am concerned that its nature and its shape gets changed so often.

I am concerned that this has been around for a long time and still has not been able to come to the point of being able to move ahead.

I am concerned that some of the principal ownership in BSI seems to have lost interest in this project.

These things concern me greatly and therefore I think these things ought to be examined carefully by RLA, by the local government, and so on very carefully before there is a land disposition agreement transacted between BSI and RLA where RLA and any other prospective developer.

So I don't see how anything could happen before July 1 anyway that would give full consideration to these issues.

And since that is true, then let's put it in the broader perspective of the total responsibilities involved here after July 1.

PROPOSED MINORITY EQUITY PLAN

The CHAIRMAN. You made a reference to the possibility of exceeding authority and there has been some suggestion that the Council itself exceeded authority by requiring that the developers of the Fort Lincoln secure minority equity participation and so on. Nevertheless it is a requirement that BSI agreed on through public hearings and other communications.

Now were there any specific discussions to your knowledge between BSI and the Council as to what exactly the agreement meant in terms of minority participation?

Mr. TUCKER. Yes, there were, Mr. Chairman. I would like to, if I might, read from the testimony of Mr. Ralph Taylor before the City Council on June 13, 1972.

It was a Tuesday evening.

The CHAIRMAN. Without objection that testimony will be entered into the record at this point.

(The document referred to was not received in time to be included in the record.)

The CHAIRMAN. If you want to paraphrase it, fine.

Mr. TUCKER. Thank you. I would just say only on point number 10 of that testimony it says in effect that: "With respect to equity investment, item 10 of the program, BSI is willing to offer equity participation opportunities to those individual investors or investment groups, particularly of the black community, that have economic capabilities to assume the risks involved" and so on.

It talks about partnerships, etc.

Now this is a part of their own prepared testimony, Mr. Chairman. The City Council sought to get them to be more specific with reference to what did they mean by "minority participation" and it was during the course of these discussions that we arrived at a specific decision with them.

The CHAIRMAN. So there was a meeting of the minds between BSI and the City Council as to what was meant by "minority participation"?

Mr. TUCKER. That is exactly right.

The CHAIRMAN. And in an equitable manner?

Mr. TUCKER. Exactly right.

The CHAIRMAN. That is a part of the testimony that you have there that you can give us?

Mr. TUCKER. Well, this was his testimony. That was reached later, Mr. Chairman, and was not a part of it but I can state what it was.

The CHAIRMAN. Do you have anything in writing that would indicate that in order to reinforce your verbal recollection?

Mr. TUCKER. Yes, what we will have is we can provide you a copy of the report of the Committee to the City Council which approved the project, which is a part of the record of the City Council. We will make that available to you.

The CHAIRMAN. Without objection, so ordered.

(The document to be furnished will be furnished at a later date.)

The CHAIRMAN. Now in your opinion did the proposed BSI, the Fort Lincoln Development Corporation, this joint venture business which was rejected by RLA by the way, now in your opinion did it provide the kind of minority participation that the Council had in mind and that you understood that BSI understood to be minority participation?

Mr. TUCKER. Mr. Chairman, I have not seen anything at all or had anything given to me that would outline what that arrangement was to be. I know RLA officials have given us no explanation with reference to that nor has anyone from BSI. None of the persons who would have been a part of that arrangement gave an interpretation of what that arrangement was to be.

So I am not privy to the details of that arrangement. And I am therefore not competent to comment. I think from what appeared to be the "equity participation" and I don't know the details exactly, but in that basis it would appear it would have met that requirement which RLA said it would achieve with BSI before transferring land to them.

With reference to the other 11 points, I am not sure, Mr. Chairman, because I don't know that they were spelled out or changed as a result of that new configuration of BSI.

The CHAIRMAN. Do you have any specific recommendations relative to how to secure the kind of minority equity involved that you feel is mandated by the agreement?

Mr. TUCKER. Well, I think that, as I reviewed the points outline and agreed to by BSI they tie and relate to old quotas, old formula, old programs, which tied into organized labor and the federal government, etc. So in order to achieve some of the points of this agreement it seems to me the plan by which they proceed would have to be revised. In other words, I think that so much time has elapsed in these two years, that there have been an awful lot of changes in the way these programs are put together, in the way training takes place, in the whole entrepreneur picture. And since there has been a number of changes that have been made, I think this all would have to be reviewed.

I think the points are still valid but some of the specific reference as to how they would be achieved are not valid. So I would say there should be a review of the whole plan in terms of their feasibility and equitability now given the new set of circumstances with which we are faced in a number of areas.

In other words, I don't think just taking this plan and laying it over something else now, as the circumstances are today, and then expecting to achieve the same results with the same tools that are no longer there for example, is going to work.

MINORITY STOCK PARTICIPATION

The CHAIRMAN. In trying to explore something new like public stock offerings or something more creative than, as you call it, the old way, did this reflect a lack of enthusiasm on their part or what did it reflect?

Mr. TUCKER. Well, I had some discussions some time back with reference to this. The question was continually raised as to SEC. I guess it is the Security and Exchange Commission provisions and problems with reference to this, but we explored all of these things with them.

There were a number of offers to go to the public with because the public was interested. We were aware for instance of about 56 persons who were going to pool some of their resources in order to become a part of this. And frankly I think that would have been an excellent thing in this community to have people with that kind of confidence in themselves and the community; people who live here and work here and raise their families here to have that kind of confidence in the future of this community.

My view was that would be a tremendous beginning for other activities that would follow. But there were technical questions that were raised from time to time which I am not competent to evaluate as to their merits.

The CHAIRMAN. Finally, I think you have been here during most of the day and you have heard testimony or at least can reflect upon positions that were taken by RLA, by HUD, by BSI. Would you have any comments to make on any of the testimony thus far as it relates to any of these agencies and their actions and the actions of their principals and all of this drama?

Mr. TUCKER. Well my view is that RLA is strapped now. And in this whole urban renewal process in our relationships with RLA and HUD during my five and one half years in the City Council there has been a constant frustration in RLA and by me and many of my colleagues in the Council over the red tape, over the tremendous amount of red tape, and the either formal or informal vetoing that takes place over in HUD.

We are aware of the special interest of HUD in the city, but I am confident that unless much of that red tape is broken, that unless much of this whole process is cut, that we will never get this city rebuilt. It cannot happen with RLA having to go through all of the steps involved and with all of the bosses it has over at HUD now. It can never rebuild this city.

And so I think that the whole situation of the relationship of HUD to our renewal program requires very careful examination and reorganization.

The secretary made reference to the amount of money they are putting in the city, but we are paying dearly for whatever that money is in terms of the time and delays it costs us in trying to rebuild our city.

With reference to RLA, there has been proposed time and time again that we do need what would amount to a community development department in local government. My hope is that we are moving towards that so that we build in the current capabilities of RLA combined with the capabilities of our housing services and some additional services that we have so that we have a total capacity under a single arm properly orchestrated, that can achieve the renewal of this city.

So I think we may well be moving in that regard, Mr. Chairman. If we can achieve an equitable and more reasonable relationship with HUD in terms of its role.

The CHAIRMAN. Well, I am delighted to be able to report that a bill containing the kinds of resources to which you refer has moved now to the hearing stage and is scheduled imminently.

Mr. TUCKER. Fine.

The CHAIRMAN. And we hope that there are other progressive voices in the community that will join ours in support of it.

Now, for any points of clarification, I would yield to minority counsel, to Mr. Hogan.

HUD INVOLVEMENT

Mr. HOGAN. Thank you, Mr. Chairman. Mr. Tucker, I gather you disagree with the testimony of Mr. Meeker from HUD, or perhaps you don't, that except for the Bicentennial Commission and except for the fact that they are the holders of the land out in the Fort Lincoln Project, their involvement in the District's projects is no different from that with other cities? Do you disagree with that?

Mr. TUCKER. I am not familiar, Mr. Hogan, with how they are involved in other cities. I do know in the whole urban renewal process,

not just in the Fort Lincoln Project, but in the whole urban renewal process we are continually frustrated in the city by HUD's involvement. I just think that it could be cut by about 50 percent without it affecting negatively anything and positively expediting the whole urban renewal process.

LEGISLATIVE REQUIREMENTS

Mr. HOGAN. But aren't requirements laid down then by legislation, such as by the House Banking and Currency Committee and by the Subcommittees of that Committee as to the processes that they must follow having to do with land grants agreements, or grant agreements that they enter into with the various communities?

Mr. TUCKER. I don't know that I have seen any legislation that would require the kinds of detailed involvement that they have.

We grant the right of approval along the way but I don't see how it can monitor to the extent it can and expect the responsibility to remain with the local community agency.

Mr. HOGAN. Well, let me ask you this. Can you point to specific instances as they relate to the Fort Lincoln Project, where the delays were occasioned by HUD?

Mr. TUCKER. Well, first of all it took an awful lot of time to get commitment out of this administration to go forward with Fort Lincoln. For about the first year at least or perhaps longer than that—

SOURCE OF PROJECT DELAYS

Mr. HOGAN. Well, now, if I understood you correctly, you virtually had a commitment in 1968, did you not? It started in 1967 I guess, didn't it, and then it continued on through 1968 and through 1969 to date?

Mr. TUCKER. Well, I participated personally in meetings with a former undersecretary of the department where we were seeking a commitment on the part of the Department to proceed with Fort Lincoln. There had been a review of the program already and they were hiring consultants to do a review of the review. And that took some more time. And it was sometime after that really.

Mr. HOGAN. What time was that, Mr. Tucker? What year was that? Do you recall?

Mr. TUCKER. Well it must have been in 1970 or 1971. It must have been about that time because it finally moved to the point of a hearing as I say in the City Council in June of 1972 so it must have been probably a year preceding that.

Mr. HOGAN. And you feel that there was delay on their part in getting the commitment, which held up this project?

Mr. TUCKER. Oh, it was clearly stated that they weren't sure that they were going to maintain this as a priority and that they were going to go through with it. That was a clear statement of fact on their part. In other words, this Administration wanted to make a determination as to whether or not it wanted to honor the commitment of another administration and it wanted to take time to do this.

Mr. HOGAN. And when did they say that? In 1969 or in 1970 or 1971?

Mr. TUCKER. It was somewhere thereabouts.

Mr. WASHINGTON. 1972 I think.

Mr. HOGAN. Well, now, that is when he said he wanted to study it or that is when he said to go ahead with it, Mr. Tucker?

Which was it?

Mr. WASHINGTON. The commitment didn't come until 1972, as I understand it in a letter from the undersecretary to the RLA or the District government. And that did not occur until—

Mr. HOGAN. Yes, but what I am trying to find out is when did they say they wanted to restudy this? Not the commitment but when did they want to restudy it?

Mr. TUCKER. Well, as to the specific dates they can give that but the commitment came in 1972 because at that point it came to a hearing in the City Council. So it must have been 1970 or 1971. But I am sure the specific dates can be provided.

Mr. HOGAN. Do you believe that there has been delay in this project based on the planning council that was initially set up in 1968, that then disbanded in 1971, or do you think that the delay was HUD-influenced, or what have you?

Mr. TUCKER. I think there have been a number of delays; some of which were not HUD induced. I think it is a very ambitious project and that a lot of people were learning a lot of things. There was a commitment of a lot of time and talent and resources. So it was not easy I know. It was brand new.

In my view we are asking an agency, the RLA again as I say which needs actually more resources and more tools really, to execute this kind of a program.

Now I don't know why the Administration at this point wanted to do its review but I think it was a large commitment of funds and it is a new concept, but still there were delays that cannot be attributed to HUD.

CITY COUNCIL ROLE IN DEVELOPER SELECTION

Mr. HOGAN. Now, before this agreement was entered into between BSI and RLA, the Council held hearings, is that not right?

Mr. TUCKER. Well, the process is one where they selected in effect a prospective developer and it would require City Council approval. We gave that approval sometime after the June 12 hearings to which I referred. And that approval was conditioned upon, although technically we cannot condition that kind of an approval, but the RLA agreed to the condition that BSI would meet the requirements of minority opportunities as agreed to informally with BSI and RLA.

Mr. WASHINGTON. Excuse me, but may I refer the minority counsel to page 34 of RLA's submission, which would correspond to this line of questions?

LAND DISPOSITION AGREEMENT

Mr. HOGAN. Well, that is fine. I just wanted to get some of this on the record at this point if counsel wouldn't mind.

Now as far as you are concerned, does the BSI agreement incorporate what the Council wanted to see in there or what you personally wanted to see in there?

Mr. TUCKER. When you say "BSI agreement" I am not quite sure what that means.

Mr. HOGAN. Well, the agreement that the RLA entered into with the BSI. Don't they have a written agreement?

Mr. TUCKER. Well, the agreement now that we are looking forward to seeing is the land disposition agreement.

Mr. HOGAN. Yes, I understand that. Do they not have an agreement with the BSI now? Is there not a written agreement between RLA and the BSI? Is there not an agreement right now between BSI and the RLA?

Mr. TUCKER. Well, as I say, the RLA can better answer that question. We know of certain proposals that BSI made in their testimony to the City Council and that these proposals are to be included as part of a final disposition agreement.

Mr. HOGAN. But you were here this morning. And if I understand correctly, they entered into an agreement with the District of Columbia Redevelopment Land Agency? The question now is whether they can terminate it. Isn't that the question that was discussed earlier this morning?

Mr. WASHINGTON. If I may interrupt? That was pursuant to the prospectus and agreement on the feasibility, Mr. Hogan. The matter of great input now is obviously the LDA, which will be reflected in the understanding between the parties—

Mr. HOGAN. Counsel, I understand that. Again, it is my understanding that the testimony you heard earlier is that part of that agreement that was entered into earlier was that BSI would be the project developer in effect for the private property involved.

Mr. WASHINGTON. With the right of refusal—

Mr. HOGAN. Yes, counsel, that is correct.

Mr. WASHINGTON. And there is a letter subsequent to the prospectus in which BSI—

Mr. HOGAN. I am coming to that.

Now, Mr. Tucker, there will be a hearing, as I understand it, with respect to the land disposition agreement?

Mr. TUCKER. Yes, RLA is to conduct such a hearing.

Mr. HOGAN. Now wouldn't the council hold that?

Mr. TUCKER. The Council doesn't hold hearings on that. RLA conducts that hearing.

Mr. HOGAN. Yes, but there will be hearings on that. And if the community wants to testify including the city council, if the City Council wants to go and testify, they can go over there and make their opinions known?

Mr. TUCKER. Yes, the City Council can do that.

Mr. HOGAN. And I assume you will, will you not?

CITY COUNCIL APPROVAL OF LAND DISPOSITION AGREEMENT

Mr. TUCKER. Well, I don't feel it is the City Council's role to testify necessarily with reference to provisions of agreements about which there is the understanding these points are to be included.

I think that our relationship is not just to testify before RLA. It seems to me that our role is a little different than that in the community in carrying out our responsibilities. We would hope to have an opportunity to review the land disposition agreement before it is finalized and that we will make our position known of course perhaps in various ways with reference to the provisions of that agreement.

Mr. HOGAN. Yes. Well, I assume that on June 12 the Council gave their approval to this agreement that was entered into, that BSI and RLA were going to enter into?

Mr. TUCKER. Yes, we did.

Mr. HOGAN. Are you satisfied with that agreement now or do you want it changed?

Mr. TUCKER. I don't know where it is. Are you saying am I satisfied with the terms of it or am I satisfied to the degree of its implementation? In other words, I don't even know.

Mr. HOGAN. Maybe I should ask some more questions now about that line of questioning.

Mr. TUCKER. I don't even know who BSI is any more. That is just what I am saying, Mr. Hogan. I don't even know who BSI is any more. I don't know what the nature of discussion, communications, subsequent agreements or the status of the land disposition agreement is. I don't know any of it.

CITY COUNCIL AUTHORITY

Mr. HOGAN. Well, you have authority to conduct hearings in this area also, don't you?

Mr. TUCKER. We can conduct hearings but we need information as to how things are going along. What has happened really is it is RLA and HUD now. HUD has taken over everybody's role practically in this thing it would appear to me at this point.

Mr. HOGAN. Well, how have they taken it over?

Mr. TUCKER. The Secretary testified. The record speaks for itself in that regard.

Mr. HOGAN. Well, you are Chairman of a Committee. What is the name of that committee?

Mr. TUCKER. Housing and Urban Development Committee.

Mr. HOGAN. Do you have any authority to hold hearings and acquire this knowledge?

Mr. TUCKER. We can hold hearings day and night every night on any subject we want to hold a hearing on but our authority with reference to that beyond that is very limited.

Mr. HOGAN. I understand that. If I understand you correctly, you are saying you don't have the information. At least you would have the information and would perform the function of helping to inform the community generally on the subject if you held hearings.

Mr. TUCKER. Let me suggest this, Mr. Hogan. We try to be very careful that we don't interfere with the normal processes of planning and negotiations. We try to be very careful we don't try to be the operating arm of government. We have normal communications relationships, Mr. Hogan.

From time to time, for example, representatives of BSI have come in and talked to me to let me know where they thought they were at various stages. Whatever information they gave was the information they wanted to give. I did not have access to certain kinds of negotiations, deliberations, or considerations.

They shared with me what they wanted to share.

RLA has done the same thing. They have no obligation under law to do that. They met their obligation to us when they came to public hearings and we acted on the basis of it. They were kind enough to

include in what was to be a final disposition agreement hopefully some of the recommendations that we came to at that time. We had no further authority or jurisdiction in the matter beyond that point.

We have had consultations as I indicated from time to time since then. Now I suppose we could subpoena them and try to drag out everything they have but our relationship has not been that way and it has been cordial and cooperative. But I think that RLA finds itself in somewhat the same fix we find ourselves in many respects.

Mr. HOGAN. Well, I am not being critical of course. I just was curious. It seems that if people lack information, and they have the means of obtaining it, they should do so. And we seem to be getting information somewhat in fragments but—

Mr. TUCKER I think that is very true.

Mr. HOGAN. Thank you, Mr. Chairman.

The CHAIRMAN. The Committee stands adjourned until two o'clock. (Whereupon, the committee was adjourned at 1:15 p.m. to reconvene after the lunch recess.)

AFTERNOON SESSION

Mr. RANGEL (Presiding). The committee will come to order.

Our next witness is the Honorable John Nevius, Chairman of the District of Columbia City Council.

We have a prepared statement from you, Mr. Nevius. You can either read your statement or have it submitted for the record, or whatever method that you would like to proceed.

STATEMENT OF JOHN A. NEVIUS, D.C. CITY COUNCIL CHAIRMAN

Mr. NEVIUS. Well, Mr. Chairman, it is only a little over three pages and if, with your permission, I would like to run through it.

Mr. RANGEL. Very good.

Mr. NEVIUS. Then I would be happy to answer questions. It won't take long to do this. Before I start, I would like to offer for the record, along with my statement, a chronology on Fort Lincoln that is referred to in the statement, which was inadvertently omitted from the statement when it was filed yesterday.

I have given Mr. Clark copies of it. It is simply a chronology of Fort Lincoln events that are referred to in my statement.

Mr. RANGEL. It will be entered into the record.

Mr. NEVIUS. Thank you, Mr. Chairman.

Through a curious series of coincidences, in a sense I have been following the Fort Lincoln proposal or else it has been following me through the labyrinth of governmental consideration and all the frustrations catalogued in the attached Chronology dated April 26, 1974, for well over 6 years. I was on the City Council in 1968 when Edward Logue first outlined the project city and RLA officials at Fredericksburg, Va., and I might interpolate at that time I was Chairman of the Council's Committee on Housing and Urban Development which is presently chaired by our Vice Chairman, Mr. Sterling Tucker.

By September, 1970, however, when RLA issued the first Fort Lincoln prospectus, I was off the Council and on the RLA Board; and I was still on the Board when we approved the BSI/Westinghouse consortium as the developer.

By December 1971, I had moved to the position of Deputy Assistant Secretary at HUD, working—there is a mistake in my testimony, written testimony, Mr. Chairman, the words “among others” should be deleted there, working for the Assistant Secretary in charge of Urban Renewal program nationally.

From before the President's February 1972 message through the HUD determination in May of that year, I was personally involved in HUD's actions on the project. Then, by the time the Fort Lincoln Plan came on for public hearing before the City Council in June, 1972, I had already moved over to become Council Chairman. Hence, I have been involved in all Council actions affecting the project since then, and as Vice Chairman of the Zoning Commission, I even participated in the February, 1973, zoning approval.

Accordingly, up to that point, Fort Lincoln and I were somewhat like Siamese twins. No one was more enthusiastic about bringing the project to fruition than I, and I finally remain so, today. Like you, Mr. Chairman, my primary concern is to get it built with minimum further delay.

Since February 1973, I have had no further official part in Fort Lincoln's frustrations, but I have tried to further its progress whenever an opportunity has presented itself. I have followed closely all efforts to implement the Council's wishes with respect to minority equity participation in the project, which have been sincere but difficult to accomplish, in my opinion, within the framework of a developer's legitimate needs.

On the basis of the above close association with this project, I may be seen as less than totally objective in saying so, but I believe that throughout the long years of this effort there has been no unnecessary delay on the part of any person or agency involved, and that there is, indeed, none even now. For someone who has not actively wrestled with some of the myriad important details inherent in a pioneer undertaking like this, it is impossible to appreciate how complicated and difficult the process is. Add to this the inevitable complications inherent in citizen participation and minority investment opportunity, and there simply are no such things as shortcuts. The only formula is to grapple with each obstacle along the way, surmount it by using the best judgment possible in a unique project and hope that as few mistakes will result in retrospect as possible.

I do not assert that no mistakes have been made along the way, nor that all mistakes were unavoidable. But, I firmly believe there have been no culpable mistakes and that no one in a position to do so has intentionally delayed Fort Lincoln. The worst that can be said, in my opinion, is that upon occasion there has been delay for major review of policy decisions, but with the enormous amounts of money involved, I feel such reviews were not unjustified.

PRESENT STATUS OF THE FORT LINCOLN PROJECT

As for the present posture of the project, I lay no blame on the developer, whatever, nor on the possible new partner of the developer, whose proposal would satisfy the minority participation need, in my opinion. Based upon my limited acquaintance with the current issues of developer identity and the form of Land Disposition Agreement, I

lean towards the HUD-BSI view, and yet certainly not strongly enough to say I think the RLA position is clearly wrong. Again, there are very real issues of judgment on which reasonable, well-informed people could well differ.

Under these circumstances, Mr. Chairman, in my personal opinion the interests of Fort Lincoln development would best be served at this moment by permitting the RLA to proceed as it plans to do and giving them and HUD a chance to get the project going again within a month if they can succeed in doing so. If that should fail, I think it would then be appropriate for this Committee to take a second look at the posture of things. The options at hand will have been somewhat clarified, and I feel that nothing of significance will be lost in so doing.

It is a popular pastime in our city, Mr. Chairman, to blame RLA for things which in my opinion are far from RLA's fault. The problems relating to Fort Lincoln developer identity and terms for land disposition are clearly not RLA's fault, in my opinion, and I hope they will be given a chance to vindicate the course they have set, at least for a short while longer.

I thank you for the chance to express these views, Mr. Chairman, and I would be happy to answer any questions to the best I can.

(The chronology referred to follows:)

CHRONOLOGY OF THE FORT LINCOLN PROJECT

- September, 170—RLA issues Fort Lincoln Prospectus for feasibility study and development proposal.
- October, 1970—Responses received to Prospectus.
- November, 1970—RLA Board approves BSI/Westinghouse Consortium as contractor for feasibility study.
- January, 1971—BSI/Westinghouse start work of feasibility study.
- March, 1971—Public Housing for elderly occupied.
- December, 1971—BSI/Westinghouse submit General Development Proposal—Westinghouse withdraws.
- February, 1972—President Nixon's Bicentennial Message to Congress on District of Columbia—Full support for Fort Lincoln pledged.
- February, 1972—Community workshop on Fort Lincoln Development Proposal held.
- April, 1972—Mayor transmits report to HUD urging support for Fort Lincoln and pledging Local Government support.
- May, 1972—HUD determines Fort Lincoln "Feasible and in the public interest".
- May, 1972—NCPC adopts Fort Lincoln Urban Renewal Plan.
- June, 1972—City Council holds Public Hearing on Fort Lincoln Urban Renewal Plan—BSI announces 12-point Economic Opportunity Plan.
- July, 1972—City Council approves Fort Lincoln Urban Renewal Plan—BSI agrees to sell stock in Fort Lincoln to minority groups.
- August, 1972—RLA files Title I Application.
- September, 1972—Management Consultant Contract executed.
- September, 1972—RLA formally approves Assignment-Assumption Agreement between BSI and Westinghouse.
- September, 1972—Environmental Impact Statement approved.
- November, 1972—HUD approves Capital Grant Contract for Fort Lincoln in amount of \$27.9 million.
- February, 1973—Zoning approved for Fort Lincoln.
- March, 1973—Capital Grant Contract—DC-R-14 executed.
- March, 1973—Letter Agreements with D.C. Department of Highways and Traffic, D.C. Department of Environmental Services for design and construction of streets and utilities executed.
- March, 1973—Landscape Consultant Contract executed.
- April, 1973—Construction starts of Fort Lincoln Elementary School No. 1.

April, 1973—GSA announces it will seek Congressional approval of funds to relocate NOAA to Fort Lincoln.
 August, 1973—Demolition starts on existing Fort Lincoln buildings.
 November, 1973—BSI advises RLA they will put no more money into Fort Lincoln after December 31, 1973.
 November, 1973—BSI submits proposal for new development entity for Fort Lincoln.
 January, 1974—RLA advises BSI that November 30 proposal is unacceptable.
 January, 1974—BSI submits new development proposal.
 February 12, 1974—HUD transmits schedule of actions by RLA on Fort Lincoln.
 February 20, 1974—RLA rejects BSI's January 25 proposal. Indicates will seek public reoffering of development rights.
 February 21, 1974—RLA transmits Draft Prospectus to HUD.
 February 22, 1974—HUD Notifies RLA of conditions under which it will review Prospectus.
 March 7, 1974—BSI writes RLA disputing RLA's views of their withdrawal and requests meeting.
 March 13, 1974—RLA responds to BSI letter.
 March 29, 1974—BSI writes to RLA seeking clarification of RLA's March 13 letter.
 April 26, 1974—RLA meets with BSI.

Mr. RANGEL. Mr. Nevius, I am not that familiar with the Fort Lincoln project.

Mr. NEVIUS. It is a complicated one.

Mr. RANGEL. But it sounds like a New York problem to me. When you can say in six years nobody is to blame and delay is just a natural cost of developing an idea, not that I believe this Committee wants to place blame on somebody, but you haven't missed anybody here who is not doing a fantastically good job. HUD certainly is doing all they can. RLA you say is doing a fine job, and so if everyone is doing so well, I will leave the questions to counsel.

Mr. NEVIUS. I didn't realize it was going to come off sounding that way, Mr. Chairman.

Mr. RANGEL. It really does, Mr. Nevius, it just seems impossible that people could get together with a dream and certain segments of co-operation that are needed—certainly from the testimony I heard this morning HUD was concerned with lawsuits, deadlines for the Bicentennial, they didn't sound like they were advisers or counsel but they were calling all of the shots as to whether this gets off the ground, I mean just from listening, and true, I just refuse to dispute any of your testimony since you have been involved in this from its inception, but if this is the best talent that the District has, and they are all doing the best they can, I am just sorry that it is on the day of the Home Rule vote that this is being raised.

ROLE OF THE DISTRICT GOVERNMENT

Mr. NEVIUS. Well, maybe I can shed a little room of optimism there, Mr. Chairman.

You know, the D.C. Government has to live and work with a lot of different constituency. It doesn't have the kind of freedom that Ed Logue has, for example, in New York State by a long shot, although I am prepared to admit if we had been lucky enough to have had Ed Logue stay with this thing it probably would be further along than it has been because Ed is unique.

Mr. RANGEL. You mean the power Ed Logue used to have?

Mr. NEVIUS. That's right, but he got a lot done before that legislature got after him.

But in a very real sense the District Government has to operate between what the old commissioners used to refer to, in telling me about it, between two millstones. You have got the Federal Government and the Congress as the upper millstone, which, under the Constitution, are running the District, and as a lower millstone, you have people who need to be served and there isn't a whale of a lot of communication between these two millstones except right in the middle where the grain gets to be ground and that is where the D.C. Commissioners used to sit and the current appointed D.C. Government is sitting right there today, and our new government is going to have more authority and I don't mean to say it is a panacea but I do believe they will have more discretion in coping with this millstone situation than we have had.

Mr. RANGEL. I don't want the record to reflect that I have any private knowledge but just from the hearings this morning do you believe that HUD is participating in order to reach a positive conclusion in this project or I had the impression they just sat back and vetoed questions which they didn't feel that were within their guidelines.

HUD ROLE

What role do you see HUD having played, and do you believe they are doing all they can to resolve the problem?

Mr. NEVIUS. Well, I think that the Urban Renewal people at HUD would like to see this built but they also are anxious to make sure that it doesn't gobble up too much of the nation-wide urban renewal budget. That was exactly the concern that we had when I was there for that year.

It was the question of how much of the cost of this enormous project should come out of Title I moneys in the Housing Act and how much of it should come out of Title VII in the Housing Act, and from the taxpayers point of view that makes a big difference, Mr. Chairman.

The Title VII moneys are borrowed by the developer, and the Title I moneys come right out of the taxpayers' pockets, and we had limited renewal funding in each year, our mark from the budget was tight, and we had many cities competing for it and it took real policy reviews while I was there as to whether, how much we could afford to put a straight renewal grant money into this thing and how much the developer should work out in terms of Title VII new communities borrowings, and that was a legitimate issue, and while it took some months to resolve it, I simply submit that from the worm's eyeview of somebody who is charged with administering the tax dollar, it is not a small question to wrestle with.

Mr. RANGEL. Well, you have no problem with the developer on that question, do you? I mean that was resolved.

Mr. NEVIUS. Well, of course, any developer, including Ed Logue, would rather have straight grants than borrowings, you know, and you have to—it has to be worked out.

EVALUATION OF RLA ACTIONS

Mr. RANGEL. Are you satisfied with the RLA action to implement the project?

Mr. NEVIUS. I am not saying, indeed, that I necessarily agree with the most recent position taken by RLA. I have not been deeply involved in that part of it because it was past the Council but we planted some of the seed of the difficulties they have been living with since after it passed the Council and they tried valiantly and the developer has tried valiantly to meet those needs which I though, and still think, were legitimate needs, complicated the project more than somewhat, and it has resulted in a chain of events which gave rise to some doubts on the part of the RLA Board as to the identity of that developer, whether it is really the same developer that we chose when I was sitting there several years ago, and I think those are legitimate issues that require real thinking, and I think reasonable people could differ.

Mr. RANGEL. Is this the new partner that you referred to in your testimony?

Mr. NEVIUS. It is not so much a question of the new partner as it is whether the original developer is still in existence. You remember it started out with BSI and Westinghouse, and then Westinghouse dropped out, and then we decided sure we would go along with BSI, those two guys are big operators, and then at a certain stage, according to the chronology here and, of course, I was not involved in this at all, but it says in November of '73 BSI advises RLA that they will put no more money into Fort Lincoln. Well, gosh, if you have a developer who is not going to put more money in you have a problem. The thing hasn't practically started to be built.

BREACH OF CONTRACT

Mr. RANGEL. Are you close enough to this to believe that the developer may be in breach of contract?

Mr. NEVIUS. I am not close enough to evaluate that, sir. I personally feel that the new partner is totally sufficient for the purpose, and I am very hopeful that these negotiations that are going on will lead to a land disposition agreement pursuant to the kind of thing that BSI and the interested new partner are trying to work out.

I lean towards the HUD-BSI position on this, but I certainly can't say that I think that the RLA Board is clearly wrong in the concerns that it has with respect to developer identity. It is a neat question of judgment, it is a judgment call like an umbrella.

Mr. RANGEL. Counsel may inquire.

MINORITY EQUITY PLAN

Mr. WASHINGTON. Thank you, Mr. Chairman.

I would like to for a moment examine the statements you made with respect to the seeds of the difficulties of frustration.

I would like to call to your attention these parts of Mr. Tucker's memorandum of 1972 to Council members prior to consideration of the Urban Renewal Plan. There is a question outstanding, I think, and that is the extent to which minority equity participation means the widest and fullest means of participation or does it mean it two, three, four, five members of the minority community would be substantial minority entrepreneurs?

I mean it is an important question, or whether it means a public offer and whether or not the Council in its determination and consid-

eration, which I understand BSI agreed to, whether or not the Council exceeded its authority in requiring that kind or exacting that kind of commitment from BSI and is it unfair to BSI?

Mr. NEVIUS. Well, while I kind of lean toward, give the benefit of the doubt to, the RLA Board to the question of developer identity, when it comes to the question of what you might call a public offering with respect to minority participation my personal view throughout the time that we had it under consideration was that we were not asking, at least I, speaking for myself, I don't remember if what is in the Vice Chairman's memorandum.

Mr. WASHINGTON. Can I read that to you for a moment?

Mr. NEVIUS. Sure.

Mr. WASHINGTON. He said "BSI reserves the right to select the minority investors and we agree it should have this right. We trust that BSI will consult with RLA regarding a process of investor selection," and this seems to me to be very important, "which will be as open as possible and permit full consideration of all persons who wish to become investors."

It seems to me to be an operative statement, a very important statement.

Mr. NEVIUS. Yes.

Mr. WASHINGTON. In the memorandum and there is some confusion as to the import of that statement and whether it anticipated or contemplated the widest and fullest participation or whether in the alternative it simply means three minority, four minority, five minority entrepreneurs.

Mr. NEVIUS. That is a toughie. It says as much as possible. My personal view is that a threshold public offering is impossible. Now, I really believe that, and indeed I felt at the time that if the issue had been literally raised by the Council or at Council level that I would very definitely hold out for the proposition that in the final analysis, the Council was not in position to force a public offering on anybody and the reason is very simple.

If you have ever written a prospectus for a public offering, and you think for a moment as a lawyer what would have to go into that document on this deal, it would give you nightmares. Nobody in his right mind would invest in it if they ever read a good prospectus on this piece of property because it is a risk venture.

It is not like an equity security in an ordinary kind of business, and it, to me, to go through the ordinary prospectus route, would be an absolute death knell to minority participation, and I feel that—

PUBLIC STOCK OFFERINGS

Mr. WASHINGTON. Would it be unreasonable, I guess the question becomes would it be unreasonable, for RLA to require as a condition for an LDA, a public offering, to achieve the kind of minority participation I assume Mr. Tucker was talking about when Council considered this problem.

Mr. NEVIUS. I would certainly say so with respect to the going in acquisition, that is I just don't think that it would be possible the first time that any equity investment is made that this could be done by way of a public offering. Indeed that is what I referred to in my statement as being legitimate developer concerns.

The public has no business, minority or anybody else, getting involved in the initial risk of a thing like this venture. The SEC would do everything, in my opinion, in their power to discourage anybody from being interested, an unsophisticated investor getting into a project of this kind from beginning.

Now, once it is off the ground and going, the wording of the prospectus under SEC rules would change enormously. You would have a going business and that is a different ball game, and it is my understanding that the efforts of the developer to provide for a diverse equity ownership wrestled with this question very long and hard, and I am not—I don't know the exact details but I have a general notion of the man they had in mind which I think would have taken care of precisely what I am saying, namely, at a later date the additional 15 percent, or whatever it was, would go to public, but after you got a going business that is not just in the formative stages.

As I recall, the plan was for the initial minority equity ownership would be purchased by one or two people and then it would be shared later, part of it.

SELECTION OF MINORITY PARTICIPANTS

Mr. WASHINGTON. Mr. Chairman, in your view, does the acquisition of equity participation of BSI by three minority entrepreneurs satisfy or accord with the spirit of the arrangements made by the Council? I think that is very important. Let's be more specific now.

Would that satisfy you as a member of the Council if you considered it in a spirit, I don't think anybody is wedded to a public offering but as I understand it, they are talking about the greatest and widest participation by the minority community or maybe I am wrong and they are not talking about it. Give us your view on that.

Mr. NEVIUS. I think that is one of the issues at the RLA level and it was not my idea that at the stage of the LDA that there would be a public offering. When I considered this and voted for it on the Council, it was my idea that certainly through the stage of considerable progress it would probably have to be just a handful of minority investors, and I still feel that way.

Mr. WASHINGTON. Only a handful of minority entrepreneurs?

Mr. NEVIUS. At initial stages, at the point in time where the land disposition is made.

Mr. WASHINGTON. Do you also believe the process for selecting minority entrepreneurs ought to be agreed to by RLA?

Mr. NEVIUS. Well, we left it in their wisdom to determine that process. But I did not contemplate at all that they were going to require a public offering. In fact, I contemplated, as I mentioned earlier, that that would be impossible.

Mr. WASHINGTON. One last question, Mr. Chairman.

Do you have any suggestions about how RLA could achieve widespread community participation, equity participation, in Fort Lincoln short of a public offering?

Mr. NEVIUS. I think that the BSI approach of having a handful of investors in the first stages who then would furnish equity participation at a later stage when there is a going business in which to buy shares is the best approach, I really do.

I think it is an only feasible way to have widespread ownership, and it was my understanding that that was BSI's plan, was to put out

whatever it was, ten percent now in a few hands, and then 15 percent later after there was a going business into many hands, and I think it is the only way to get it down.

Mr. WASHINGTON. Thank you, Mr. Chairman.

The CHAIRMAN. (presiding) Mr. Burgener.

Mr. BURGNER. I don't have any.

The CHAIRMAN. Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman.

Did you think the Council was achieving an agreement when they took the action they did in 1972?

Mr. NEVIUS. No, we were in effect making certain specific requests. We were requesting RLA to, as much as possible, and I think that is the wording that Mr. Washington just read from the Vice Chairman's memo, as much as possible to work on an opportunity for minority investment in the project without being specific as to what point in time, and that the mechanics that resulted from that request would be worked out by RLA with the developer trying to conform to our suggestions as much as possible, but within the framework of the realities and the difficulties involved, not only which was the matter of public offering under the Securities Act, and that we were trying to write the contractor or to make the final determinations as to how these guidelines that we are suggesting and requesting might be implemented, and I don't think it would have been appropriate for us to get in any deeper with respect to the details of the agreement beyond offering guidelines which we hoped could be implemented.

HUD AUTHORITY

Mr. HOGAN. You have been in the Urban Renewal Office of the Office of Housing and Urban Development. The testimony by Mr. Meeker this morning was that the only difference in the treatment by HUD in this particular proposal out at Fort Lincoln is the fact that they hold the title to the property, as it were. They don't hold the title, but they call themselves holders of the property, and to that extent they have more control over it.

Number two, that is part of the Bicentennial part of the Commission plan and apparently additional funds are available and, to that extent, they have control over those funds and this gives them some further authority or responsibility, I suppose, more than anything else, for the Fort Lincoln project than they would have for a project, let's say, in Philadelphia.

Do you find generally that, based on your experience, it is true that HUD has no greater authority over the RLA project here than they do in other cities?

Mr. NEVIUS. I don't think the difference lies in what you might call authority. HUD has specific powers and responsibilities under both the Act and the applicable regulations with respect to all of the HUD programs, including renewal and housing programs, and there is quite a mix of HUD programs in this project, not just renewal programs.

I feel their authority and responsibility is really no different, but I think there is an enormous difference in their degree of concern about the property, and that it be done properly because not only of the two things you mentioned, Mr. Hogan, the fact that they owned the land, and that there is a Bicentennial interest that got HUD going again

on the project, but there are a lot of other factors to be considered. One of them I touched on a minute ago with respect to the determination of how much of the mix of HUD moneys would be on grants and how much of it would be on loan guarantees.

Another very important difference is that the entire project includes a great deal of Federal Executive participation other than just HUD. There are a lot of interdepartmental facets to this project. The GSA and other Federal agencies are part of the whole mix, to make it work, and these are big budgetary questions which each Federal agency has to wrestle with in determining how much of their allocation for the whole nation they can put in this one project, and the most positive thing that makes them interested, both the different parts of HUD and the other agencies, to my way of thinking is the fact that it is such a unique and visible new town in town. It really is, as a project it is, I think, it is unique.

At least I am not aware of any of that degree of complexity and of its size anywhere. The new town that Sam Jackson was putting together when I was at HUD aren't anywhere near as significant, in my opinion or as big or as important or as visible and it is terribly important from HUD's point of view to make sure that this is going to have every possibility of working out, of becoming a visible project and of coming to success, and it is a gamble, as I was mentioning with respect to the investments aspect of it, in bringing the private investor in on a public offering basis.

Until that thing is going and you have got all of those grants and all of those loan programs and all of those different agencies all fitted together and on their way, and only the developer can do this after he has his disposition contract, until it is on the road and you know that all those agencies are behind it and in harness together and working together and cooperating, only then do you really have a project, and unless it is done with wisdom and with sufficient commitment, it might trip along the way, and the last thing anybody at HUD wanted or GSA or anywhere else, and still I think this is a legitimate concern, the last thing they want is to get the thing half built and have it run out of gas.

Mr. HOGAN. Well, now, you were over in HUD in '70 and '71, were you not, Mr. Nevius?

Mr. NEVIUS. Yes, that is right—'71 to '72.

SOURCES OF PROJECT DELAYS

Mr. HOGAN. Well, now, in '71 were the funds for this project being held up by HUD? In other words, was there a hold-up on the project because of a determination by HUD at that time that they would look at this thing anew to determine whether they would fund it, and the President's statement of January 1972, was that all interdependent and there was no commitment during that period?

Mr. NEVIUS. I think it is fair to say that there was a period in which, just while I was there in which, HUD was reviewing the whole question of whether this, with currently escalated costs of construction, could work out as a viable project within the framework of the available funding, and we were, my boss and I were, looking at that renewal budget very jealously because we had cities all over the nation looking for that couple of billion dollars and how to divide it up, and we

wanted to really review whether we wanted to put a large sum of commitment into this thing until we were confident that it could work out economically and that the builder wouldn't go broke in the middle and all of that kind of thing.

Yes, we took a good second look at it, and while we were doing so the Bicentennial commitment came through, and we, in the process, concluded that it could be done.

We hassled a bit with the developer on the mix, and came to terms that we felt were responsible and were calculated to make it possible for him to make a go of it, and we found the money by reallocating renewal marks, of one sort or another, which is part of the normal process.

LENGTH OF PROJECT DELAYS

Mr. HOGAN. How long would you say the project was delayed during this period of re-evaluation?

Mr. NEVIUS. Let me look at the chronology a moment, if I may, on that one.

It was in November of 1972 that the \$27 million renewal grant was made, but that was—that was the original.

Mr. HOGAN. The Presidential pledge made in February of 1972, according to your chronology here, that was the Bicentennial message with a pledge for full support of the Lincoln project.

Mr. NEVIUS. Yes, from February of 1972, that is correct. From February of 1972 to November of 1972 we were wrestling with this very real question of how much renewal money, how much Title VII money, how much would be put in by GSA and on what terms with respect to that big project, how much would come from the D.C. budget for schools, how much would come from elderly housing programs, although there was one elderly project already up, we were trying to put all those pieces together and it took us close to a year.

I suppose it might have been done more quickly but I will tell you we weren't trying to do any foot dragging, I can assure you.

Mr. HOGAN. Was there a delay prior to February 1972, at which time the President made this pledge of support?

Mr. NEVIUS. Let's see, the President's message was in February of 1972, well, BSI-Westinghouse didn't submit their general development proposal until December of 1971, so that is a prerequisite before HUD could grant approval to the applications. They might have submitted it sooner—let me just look here.

Mr. WASHINGTON. Will Counsel yield for a second?

Part of his question is whether or not during the first term of the Nixon Administration whether or not there was any commitment or communication from HUD, that is my understanding of the question regarding Fort Lincoln.

Mr. HOGAN. I am concerned about the statement made earlier here if I understand correctly, that there was a substantial delay by HUD in making the commitment and that is part of the 7-year delay here.

Mr. WASHINGTON. That is from 1968 to 1972, the entire first term of the present Administration. I think being specific with regard to the question, the question is whether or not during the first term of the Administration did HUD make any commitment.

Mr. HOGAN. That was not my question.

You know, there were 7 years of delay on this, and I gather some of it had to do with the planning from 1968 to 1971.

The statement was made this morning that it was not a commitment here for a period of time and I am concerned about what part of this delay is attributable to that, if you know.

Mr. NEVIUS. Well, first of all, let's take a look at approximately a year between November of 1970 when RLA approved the consortium as developer, and December of 1971 when the consortium finished their development proposal and submitted it, I don't think there was any untoward delay there. It takes a year for a developer to put something together even though in this case there was a good headstart with Ed Hogue's work earlier on in 1967 and 1968. Then from December of 1971 to February of 1972, that is about three months in which the President, I guess you might say, considered whether he wanted to make his commitment.

I didn't converse with him on that subject but I don't think that is an unreasonable time, considering the enormously complex, complexity, the enormous complexity, of the project and the huge amount of money involved.

Now, I can't speak for earlier times because I didn't go into the Federal Government until 1971 so I don't know about that. But I do know that while I was there I would say at HUD there was no foot dragging.

HUD FUNDING PROCEDURES

Mr. HOGAN. Well, I take it there was no particular pledge of support in 1968 or 1969 or any of that time?

The RLA puts together the proposal, they get a development proposal, they submit that to HUD and then HUD reacts to that, is that correct, to determine whether it meets their proposal and whether, in fact, they can commit funds.

Mr. NEVIUS. Well, that is the formal——

Mr. HOGAN. Or do they commit funds even before they have a proposal?

Mr. NEVIUS. Well, that is the formal procedure, Mr. Hogan, but I don't think that RLA would want to put a lot of effort into something, and I know a developer wouldn't want to put a lot of effort into something unless they had a pretty good green signal that HUD was interested in the project because there is a lot of preliminary work before you file your application, and your contact with the HUD area office, the local renewal agency and the developer, and the area office of HUD are communicating, and neither RLA nor the developer would spend money on a project unless they had some degree of confidence that an application would be approved and that there would be funding available to take care of the needs of the application.

So it is really both.

The CHAIRMAN. The witness has two minutes remaining.

COMMITTEE ROLE IN FORT LINCOLN DEVELOPMENT

Mr. HOGAN. You state here on the bottom of page 3, Mr. Nevius, that you believe the options will be clarified within a month and you feel this committee can take a second look at this.

What could the committee do specifically?

Mr. NEVIUS. Well, I am under the impression that the committee would like to see something happen quickly, and that the project be moved forward, and I am under the impression that the committee has some reservations about recent developments in connection with the land disposition agreement, and while I am not—I lean away rather than in favor of the current position of the RLA Board as opposed to BSI and HUD, nevertheless I certainly feel that under the circumstances the ultimate purpose of getting this project going would be far better served by letting RLA go forward with their negotiations and their deadlines, and they have a deadline of about 30 days from now with respect to the negotiations with the present developer, and to try to see if they can resolve these issues during that period, and end up with a land disposition agreement, and if that should fail, then I think the committee at that point it would be more appropriate for the committee to inject its own judgment than while RLA is trying to complete its project, its contract in its own way on which it has already started.

Mr. HOGAN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Councilman, thank you for your testimony.

Mr. NEVIUS. Thank you, Mr. Chairman.

The CHAIRMAN. The next witness will be Mr. Irving Jaffe, Deputy Assistant Attorney General, Civil Division, accompanied by Arnold Aikens, also Assistant U.S. Attorney from the District of Columbia Office.

Mr. Jaffe is from the Department of Justice.

Mr. Jaffe, you have a short statement and actually I guess it is just as easy to proceed to read it since it is so short, and then we will go into questions.

STATEMENT OF IRVING JAFFE, DEPUTY ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION; ACCOMPANIED BY ARNOLD T. AIKENS AND NATHAN DODELL, U.S. ATTORNEYS, DISTRICT OF COLUMBIA U.S. ATTORNEY'S OFFICE

Mr. JAFFE. Thank you, Mr. Chairman.

On behalf of the department of Justice, I am pleased to appear before this Committee in response to your request of April 26, 1974.

DEPARTMENT OF JUSTICE ROLE IN LITIGATION

I can assure the Committee that the Department performed no role in any of the five areas mentioned in your letter regarding the Fort Lincoln project.

The Department's records fail to disclose any formal request from RLA or HUD regarding potential litigation or legal advice as to the Fort Lincoln project. I am aware of an informal meeting between representatives of RLA and HUD and two U.S. Attorneys, Mr. Arnold T. Aikens and Mr. Nathan Dodell of our District of Columbia U.S. Attorney's Office.

However, no formal request for any legal advice was made at that time, but the RLA and HUD representatives were apprised that if a legal opinion of the Department of Justice was desired, it should be requested in writing.

Mr. Aikens is present as is Mr. Dodell, and we would be pleased to answer any questions the Committee may have.

The CHAIRMAN. Thank you, Mr. Jaffe.

Does Mr. Aikens have any collateral statement to make or will he merely respond to questions?

Mr. AIKENS. I have no statement, Mr. Chairman.

The CHAIRMAN. And the other gentleman.

Mr. DODELL. I have none either.

The CHAIRMAN. Mr. Jaffe, what is the relationship of your Department with HUD and also with the Redevelopment Land Agency?

POTENTIAL LITIGATION

Mr. JAFFE. Under normal circumstances the Department of Justice is the legal representative of all the agencies of the Government when they are involved in litigation. The Department does not normally involve itself in the programmatic activities of any of the agencies. We are available if advice is sought. A request can be made by any executive department to the Attorney General for either a formal opinion or an informal opinion, which will be requested in writing and answered in writing.

If it is formal, it will be published in the opinions of the Attorney General.

The CHAIRMAN. You say you are aware of some informal meetings between representatives of RLA and HUD and specifically between Mr. Aikens and—Mr. Dodell?

Mr. DODELL. Dodell, Mr. Chairman.

The CHAIRMAN. Dodell. Does this constitute an informal or formal solicitation of your advice on matters relative to the Fort Lincoln project?

Mr. JAFFE. I can only characterize that meeting as one which we frequently have. We are, after all, one government, we do represent RLA in its litigation. Mr. Dodell has handled much of the litigation in which they have been involved, and when an Attorney from any agency, in this case from RLA called Mr. Dodell and said that they thought they had some problems they would like to toss around with him, then a meeting was arranged between those representatives, Mr. Aikens, Mr. Dodell and, at Mr. Aikens' suggestion, a man from HUD was also present, and they discussed the various problems they thought they had.

Now, I would call this sort of a bull session, not a formal request for an opinion or an informal request for an opinion.

The CHAIRMAN. Were any memoranda kept of these exchanges?

Mr. JAFFE. Not by either Mr. Aikens or Mr. Dodell.

The CHAIRMAN. By anybody?

Mr. JAFFE. Well, I don't know if the RLA representatives or HUD kept any memoranda. We certainly did not. We just thought it was a discussion.

The CHAIRMAN. Could you tell us what specific matters were discussed during these informal sessions?

Mr. JAFFE. Well, I would have to answer that in only broad terms, and while Mr. Aikens or Mr. Dodell could go into detail, I think they ought not to go into any detail because I think, first, it would be improper to discuss precisely what was the subject under discussion because we might have litigation.

What they did discuss—

The CHAIRMAN. But you are not under litigation now, are you?

Mr. JAFFE. No, but it is just like inviting a prospective adversary down to sit down while we are discussing what our options are or whether we could sue here or whether this is a weak position to take or strong position.

The CHAIRMAN. Well, but until such time as you are engaged in litigation anybody could make it, could anticipate along those lines if we were just to say we might anticipate litigation down the line someplace that would shut off all communications as far as the Congressional hearing process is concerned.

Mr. JAFFE. Well, I am speaking about litigation between these parties that are engaged in the Fort Lincoln project on both sides, and the litigation that might ensue, very well might ensue, would be the very things that were discussed. What was discussed was possible litigation and what options would be open to either side if litigation were to ensue.

Now, I think it would be not in the best interests of the United States, not in the best interests of the people of the District of Columbia, for any discussion to be had here precisely what those discussions were. I don't think I ought to discuss the weaknesses of any position we have nor should I discuss our strengths because that might very well be involved in litigation very soon.

The CHAIRMAN. Well, that is a relative matter, it is not, and in any event, under a subpoena whatever thoughts you might have on that subject would be a part of the litigation anyway.

ATTORNEY-CLIENT RELATIONSHIP IN FORT LINCOLN LITIGATION

Mr. JAFFE. No, it would not, it would not.

I must insist that discussions between an attorney and client are privileged and are not producible in discovery. I am not talking about documents that we have. I am talking about the conversations between an attorney and a client.

The CHAIRMAN. Well, are you able to discuss—well, what are you able to discuss then with respect to the specific matters of that dialogue?

Mr. JAFFE. I think the only thing that we can tell this Committee is that the discussion did center upon possible litigation and options that might be available either to the Government or to the contractor.

The CHAIRMAN. Have you taken any specific actions relative to the Fort Lincoln project either at the request of RLA or at the request of HUD or at anybody else's request?

Mr. JAFFE. We have taken no action because we have not been requested to take any action and this was, as I say, just a session between the Assistant United States Attorneys and Government agencies to discuss a problem informally.

The CHAIRMAN. You have taken no independent action?

Mr. JAFFE. We have not.

The CHAIRMAN. And have you offered advice?

Mr. JAFFE. No, except if you would call that kind of a discussion, throwing things around, as advice. We didn't offer any formal advice, no, nor did we instruct them as to any course of action they should take.

The CHAIRMAN. Well, now, I assume that either you were here or were aware of the testimony of RLA about the actions of the Fort Lincoln developer and, in light of that, could you give us an opinion of whether such actions constitute constructive desertion?

Mr. JAFFE. First, I am not familiar with what RLA testified, I was not here, but I—and I have no opinion but I—should say that had I heard it, I would withhold an opinion.

ATTORNEY-CLIENT RELATIONSHIPS

Mr. RANGEL. Mr. Chairman, may I ask a question here?

This bull session is now elevated to a very sensitive national security problem. In your opinion, are there opinions written that make these government agencies your clients under the common law attorney-client relationship?

Mr. JAFFE. I think that, I was speaking about an attorney-client relationship and it is not national security beyond that, but the statutes in Title 28 do make the control of litigation and the advice that the Attorney General gives to any of the agencies a matter of statutory duty and function.

Mr. RANGEL. Well, I never had any problem with that as a Former Assistant U.S. Attorney. But it seems to me in the first instance as public servants that your clients would be the American people.

Mr. JAFFE. I think—well, I might add that I hope that all government agencies have that same client and that we are representing all the people. That is why I said before that I think the discussion or any detailed discussion of litigative options for a litigation which is very potential, even at the moment, perhaps imminent, would not be in the interests either of the United States, meaning the people of the United States, or of the people of the District of Columbia.

I think we would be prejudicing any litigative position we may feel we may have to take.

Mr. RANGEL. Well, to rephrase my question, you are saying that under the existing Federal law that your relationship with HUD is an attorney-client relationship?

Mr. JAFFE. Yes, sir.

Mr. RANGEL. And if this committee were to ask you what are the legal rights of the Justice Department as opposed to any private sector we could not be privy to what the rights are of the United States as it relates to a specific contract?

Mr. JAFFE. Well, I am not sure I fully understand that. I think if you are asking whether you can ask us questions about a matter that may be in litigation very soon or something that isn't closed—

Mr. RANGEL. Let me put it another way.

The CHAIRMAN. I wish you would because we are not in litigation, and I wish the witness would stop referring to some anticipations that are obviously not the subject of this hearing.

If you are going to anticipate some kind of litigation, that is one thing. You could sit up here and anticipate litigation and every other Committee in the Congress could have a witness confronted with that kind of an answer, and not get anything out of them.

So you are taking a very, very narrow view of the relationship that you have and the responsibility that you have to respond to a legally constituted committee of the Congress of the United States.

Mr. JAFFE. Mr. Chairman—

The CHAIRMAN. We know what our rights are, too. Do we have to subpoena appropriate information from you, or are you going to be cooperating with this committee; that is what I want to know?

Mr. JAFFE. Mr. Chairman, perhaps I have not made myself clear.

The CHAIRMAN. You have not made yourself clear, and I wish you would.

Mr. JAFFE. I am not talking merely about anticipated litigation in a vacuum.

The CHAIRMAN. Well, you have given that answer every time we have asked you a question.

You say that you anticipate litigation, and I am suggesting that you do not have any litigation pending and, therefore, you are obligated to respond to the questions that are submitted by the duly constituted committee of this Congress.

Mr. JAFFE. All right. Now let me put it to you this way, Mr. Chairman.

Part of the discussion that went on was this, for example, and I am not going to give the answers, "Can BSI sue us and on what grounds?"

Now, if I were to respond to that question, I would be advising not RLA but BSI, they are not my clients, and I don't want to give them my advice. Or the other part of the coin was, can we sue BSI and on what ground. Now, if I am to discuss that I am talking about anticipated litigation that this very Committee is now inquiring into. I say that that is prejudicial to any litigation that I think will ensue, I am not talking about litigation that is really in a vacuum.

At this particular point I believe that, it is my opinion that, litigation will ensue, and it will involve the very questions that were discussed, and I think for me to invite my adversary to my counsel table when I am discussing something with my client as to what his rights on that very contract are on that very matter is the very thing which is privileged. And that is the basis for my refusal. This is not a general question.

Mr. HOGAN. Mr. Chairman, could I ask—

The CHAIRMAN. I will yield.

Mr. HOGAN. Mr. Chairman, I served in the U.S. Attorney's Office and I served with some of the gentlemen who are testifying here, and I must confess as a legal matter and as counsel for the minority that I agree with the conclusions reached by the witness in this matter.

I think that there is no way that a court would ask counsel for either the Department of HUD, or DCRLA to reveal their defenses and their discussions with their clients involving litigation.

Now, it is true there is no formal complaint filed in this case but their client has sought them out, they are the counsel for both HUD and DCRLA, and I think under the circumstances their position legally is a sound position.

REVIEW OF LEGAL DOCUMENTS

The CHAIRMAN. Well, can counsel tell me if the Department has reviewed any legal documents relating to the Fort Lincoln project?

Mr. JAFFE. We have not. We have not been asked to.

The CHAIRMAN. You have not been asked to review any legal documents at all in connection with this project?

Mr. JAFFE. No, we have not.

The CHAIRMAN. I yield to co-counsel.

Mrs. MARTIN. Mr. Jaffee, what is the general policy with respect to agencies that will have to rely on the Department of Justice in the event that they are sued or that they wish to sue in arriving at decisions? For example, it is normal for an agency to send a letter, for example, to BSI and to say in effect, "You have breached or we feel that you have withdrawn from this contract." It seems to me that is a legal determination.

Do the agencies generally make that kind of a legal determination before dealing with the Department of Justice?

Mr. JAFFE. Yes, they frequently do.

Mrs. MARTIN. And even if the conclusion they come to is correct or incorrect?

Mr. JAFFE. That is correct.

Mrs. MARTIN. Are you familiar with the record of this, or any of the gentlemen accompanying you familiar with the record that was presented to the Committee this morning about the transactions that went on?

Mr. JAFFE. No. I do have a copy of the statement of RLA but I have not read it in detail.

Mrs. MARTIN. So you are not prepared to say at this point whether you agree with or disagree with the position taken by RLA in this regard?

Mr. JAFFE. I will say this, as I think I said to the Chairman before, that on the basis of this one statement or on the basis solely of what my client would tell me even in a conference with him, I would not be prepared to make a judgment. But in this particular case, assuming that I did have an opinion on it, I would withhold it because I think it would not be proper for me to say whether or not at this stage of the game I agreed with my client or I did not agree with my client.

My own agreement, of course, is not the *sine quo non* of whether or not I would represent him. I am, as an attorney, not a judge, he could be right. My interest in a certain stage whether to defend one of my government clients is whether the position he wants us to take or the position he has forced us into by the development of circumstances is an arguable or tenable one which should be submitted to a court rather than whether I agree with it.

Mrs. MARTIN. Well, the reason I pursue the line of questioning that you are not like a private lawyer because if a client comes to you and you don't like his case, the situation they have gotten themselves into you can turn it down.

You have to take RLA or any other government agencies as a client and that is why it would appear to me—

Mr. JAFFE. No, that is not so, because in more instances than most people would believe when we had a case, for example, in this particular situation, if RLA has made a statement and come to the conclusion that there has been a breach of contract and so advised their contractor, and then litigation ensues and we look into it and we find their position untenable or indefensible then we will confess error or refuse to represent them, and if we do refuse to represent them, they cannot go out and shop for another lawyer. That determines the case because by statute the Attorney General has full control of litigation and if he believes that the case is not—has no merit, no tenable argument can be made in support of it, he can confess his error, consent to the entry of judgment for the other side.

LEGAL OPINION ON BSI/RLA DISPUTE

Mrs. MARTIN. What is the best way for this Committee to get a legal opinion from the Department of Justice relative to the merits of this controversy?

Mr. JAFFE. I think such an opinion would not be made to this Committee.

Mrs. MARTIN. Could RLA at this point solicit an informal opinion?

Mr. JAFFE. Yes, it could. I think it could. I would have to refresh my recollection of the statute. I think the statute says the heads of Department, but RLA could get an opinion, if not a formal one, an informal one, in writing.

ATTORNEY-CLIENT RELATIONSHIPS

Mr. RANGEL. Mr. Chairman, just another question:

What is your understanding of the statute that you automatically have a lawyer-client relationship with any head of any Federal Department?

Mr. JAFFE. Yes.

Mr. RANGEL. Just ordinarily.

Mr. JAFFE. If they consult us.

Mr. RANGEL. I guess the word is "consult," because your earlier description of this meeting with these gentlemen didn't allow me to believe that it was more than a bull session.

Mr. JAFFE. Well, Congressman Rangel, maybe I can illustrate it this way: In discussing the attorney-client privilege, suppose I am in private practice, let's forget for a moment that I am in public practice—

Mr. RANGEL. That would bother me because then I would have no way of talking with you if you were private counsel.

I am concerned as a Member of Congress as to what the Chairman spoke about and that is if we want information and then someone meets in the john and that automatically generates a lawyer-client relationship, it does put a shield between a legitimate inquiry and this new relationship. So it would help me in my thinking if you could keep it in line with the Department of Justice and the Attorney General and Heads of Departments as to—there must be a point prior to this meeting that certainly you can't have a lawyer-client relationship.

Mr. JAFFE. Well, I think if I am a government lawyer and I am consulted by another government lawyer or a government non-lawyer and asking me a question about the government's business, then that necessarily must give rise to the attorney-client privilege because he is consulting me because I am a government lawyer.

Mr. RANGEL. Well, the vote is not in yet on home rule, and the Committee has an interest in the contractual relationship between the parties. It would seem to me that the Department of Justice has some obligation to this Committee in order to try to find out how we can accelerate this program, and I would feel that I could go to the Department of Justice to ask questions about this if it was not a formal hearing and ask just what have we got going for us as co-partners in government, and I would be shocked if our meeting became a confidential relationship.

But my real question is what is it that a committee can seek some advice on from you as to what the rights are of the American people? Are we restricted to a lawyer from a Federal department? Does that automatically bring this shield between the Congress and the Justice Department?

Mr. JAFFE. Congressman Rangel, my own opinion on that is that the Attorney General is only required to give advice to the President and to the heads of Departments. He is under no obligation and, to my knowledge, has refused to give legal advice either to the Congress or to a committee of the Congress. That doesn't mean he will do that all the time but in my opinion he has the right to refuse to discuss a legal question or to give a legal opinion to either the Judicial Branch or the Legislative Branch.

Mr. RANGEL. And any lawyer from any Federal Department can meet with any lawyer from the Justice Department and now we have a lawyer-client relationship between the Attorney General, the Department of Justice and that agency?

Mr. JAFFE. If he is speaking about government business, yes.

Mr. RANGEL. Any lawyer?

Mr. JAFFE. Any employee of a Federal Department who is speaking about government business.

Mr. RANGEL. Any employee of any Federal Department can meet with any lawyer of the Department of Justice and no matter what they are talking about that becomes a lawyer-client relationship?

Mr. JAFFE. I would say yes, but this goes beyond that. I have used that, but what I am speaking of now is the duty of everyone in the Government employed by the Government to act in the interests of the people of the United States and for me to discuss in advance or at a time when there is likely to be litigation what we consider the strong points and the weak points of the issues or whether the contract is good or bad or whether a letter that one of the agencies sent which reached a legal conclusion is good or bad, I think is not in the best interests, in fact I think it is affirmatively against the best interests of the people.

Mr. RANGEL. How could you have reached all these legal decisions having not reviewed any of the legal documents?

Mr. JAFFE. I am talking about my discussion of them whether I did reach an opinion or did not reach an opinion. I am asked to discuss precisely what was said in this informal meeting with two Assistant United States Attorneys with attorneys for two government agencies, and to discuss in detail how they viewed, informally or in any way, bull session or formal, how they viewed the possible legal consequences of this course of action or that course of action.

Mr. RANGEL. Is there a contract involved at all in this relationship?

Mr. JAFFE. Which relationship?

Mr. RANGEL. Between this developer and your clients?

Mr. JAFFE. Is there a contract?

I honestly can't answer that. I have never seen it. I don't know whether they have a contract or whether it is a good one. I was informed and I do believe that there was some agreement made with Westinghouse-BSI. Now what that contract encompassed—

Mr. RANGEL. How can you talk about possible defenses when you haven't even seen the document. You don't even know the contents of it.

Mr. JAFFE. That is correct, I do not.

Mr. RANGEL. How good could your legal advice have been, you or your associates?

Mr. JAFFE. I am not asserting it is good. I don't want to tell BSI how it was, good, bad or indifferent.

Mr. RANGEL. How could it be elevated to legal advice when you have no document in order to base a legal opinion.

Mr. JAFFE. I haven't even said we gave legal advice. I said we had a discussion in which they were tossing around options. These options may have been based on hypothetical questions.

Mr. RANGEL. If they are not questions that are legal, what is this the Chairman is asking that you feel violates the lawyer-client relationship, if you didn't feel you gave legal advice?

Mr. JAFFE. The thing that would violate the lawyer-client relationship would be any discussion I had or Mr. Aikens had—I didn't have any—or Mr. Dodel had with employees of RLA or HUD who are our clients discussing with them any option or any legal relationship they had with anyone else outside the Government.

Any discussion they had on that point, whether it amounted to advice, whether it didn't amount to advice so long as it was discussing a legal problem regardless of whether it was good, bad or indifferent, that, I say, is covered by the attorney-client privilege.

Mr. RANGEL. I yield back.

OPINION ON ATTORNEY-CLIENT RELATIONSHIPS

The CHAIRMAN. Can the witness provide the citation for that reasoning?

It must be based upon some kind of citation.

Mr. JAFFE. Yes, I can certainly submit to you an opinion on the attorney-client relationship.

The CHAIRMAN. I wonder, of course, the gentleman from New York is a member of the House Judiciary Committee and this sounds like quite a revelation to him in terms of the relationship between the Justice Department lawyer and any other lawyer for any other agency. In your experience with that committee, well, to put it a different way, what has been your experience in that Committee in dealing with a matter that we are talking about here?

Mr. RANGEL. I have never seen such a broad description attached to lawyer-client relationships. However, in view of the new matter that the Judiciary is getting into there may be new concepts of how lawyer-client relationships can be expanded.

Mr. JAFFE. Well, may I make the analogy I was going to make before to the Congressman because I am sure you will recognize that. Suppose that I am a client and I want to discuss a case with a lawyer but I don't know whether I want to retain him, and I go up to his office and I tell him what my problem is and he gives me advice and gives me an opinion as to whether he thinks I have a case or I don't have a case and then I say to him "How much will you charge?" and he says, "Well, my fees are pretty high. That will cost you \$10,000," and I say, "I can't afford anything like that. I would like to hire you but I can't."

So he leaves the office and he goes and shops for another lawyer. Would you say that an attorney-client relationship had arisen as a result of that conversation?

ROLE OF FEDERAL AGENCIES

MR. RANGEL. Yes, I have no problem with the analogy. My problem is that you are talking about one person coming into a private counsel, and my problem is that you are dealing with a public department, Federal Department, and I can't for the life of me see how one lawyer from this Department just bringing up any legal problem without any legal documents and talking with another lawyer from the Department of Justice can generate the type of relationship that you use in your analogy. It is almost unbelievable that any Federal Department can just call up a friend of his who is in the U.S. Attorney's Office and just rap about anything, and then automatically they have bound themselves under this common law protection which, as you know, it is a very sensitive relationship which is very heavily protected, and I just don't see how merely asking for advice or giving you a hypothetical, if you will, can generate that type of relationship.

MR. JAFFE. Well, what about the broader view where you have two government employees discussing government business in the context in which it appears here and then having testimony elicited concerning the details of that conversation with respect to its impact upon the prejudice to the government of which both these people are employees and asking the government to disclose that which is going to prejudice the government's business. This is not national security, but what it will prejudice is legislation.

MR. WASHINGTON. Mr. Rangel, will you yield for a moment?

MR. RANGEL. It is just, your analogy I am accepting but it is just, that your bull session just didn't sound like it was a lawyer-client relationship until we asked what was being discussed.

MR. JAFFE. Well, I say it is a lawyer-client relationship because they did not call Mr. Skip Aikens because he was a high school classmate of his. They called him because he was a lawyer in the Department of Justice and they called him because they are in an agency which is represented by the Department of Justice and they were going to talk to them about a matter with which, if it ever came to fruition, the very matter they were discussing, they would be represented by Mr. Aikens and by Mr. Dodell.

MR. RANGEL. But obviously the only questions they could raise and the only answers that could be given would be hypothetical since you had no legal documents to work with.

MR. JAFFE. No, this was, it was, that informal that they stated what their contract was, they stated what they thought it was and based upon that statement answers were given.

THE CHAIRMAN. Well, I think if the gentleman will provide the citation upon which he bases this rather curious opinion, we would be in better position to discuss the matter at a later date, and the record will be left open at this point so that such citations can be provided.

Any questions of counsel?

MR. HOGAN. Yes, Mr. Chairman.

I would just like to point out that I believe that the President of the Building Systems International, Inc., is present here in the hearing room, and I believe that counsel for that company is also present here in the hearing room. Certainly some of the other possible litigants were here also. I don't know where the Chairman of the City Council

might wind up in this litigation. A member of the Advisory Council is present also, and I don't know where he would wind up in this litigation, so I think the record should show that a disclosure here could be contrary and prejudiced quite easily to the interests of the United States if litigation were to arise and, quite frankly, I will take up the matter with Mr. Nelsen. But it seems to me if we have the information in the file or in the record, and if we don't have it seems to me we can get it in the record, that that is what I am here on behalf of the minority for, is to give a legal judgment on the matters which we can put in the record, and it certainly may differ in some respects from that which the Department of Justice would give to their clients. But I don't think it should be any different. And if we don't feel we have the resources, then I think we have the Legislative Counsel and the Library of Congress available, their legal resources, to help us reach a conclusion in the matter and, I think, under the circumstances as far as the minority is concerned, we will be able to obtain legally an opinion as to whether a contract exists, and some of the other material which should be of interest to the Committee, and I will discuss it with Mr. Nelsen, but I don't know that the dialogue between the HUD representatives and DCRLA representatives and the Department of Justice would particularly be of interest other than the fact that they are going to get some kind of legal advice hopefully that this Committee counsel would give.

Thank you, Mr. Chairman.

DEPARTMENT OF JUSTICE RECOMMENDATIONS TO RLA

Mr. WASHINGTON. In further clarification, it seems to me that there is a distinction between the acquisition of simply what was said without your recommendations with respect to the rights and liabilities of the parties, not talking about the options but simply what was said, and I think that was the Chairman's point. He was not trying to get your recommendations to RLA but simply what had been said, among other things, at that meeting and I think that is a legitimate inquiry for Congress, not asking for your recommendations or options but simply what had been said, among other matters.

So it is totally different from what I think minority counsel is saying. I don't think the Chairman said, "What was said and what were your recommendations and what advice did you give and what were the rights and liabilities of the parties?" Quite the contrary, without getting into the advice you gave.

Mr. JAFFE. I thought I had indicated that. Perhaps it was the detail and, that I was trying to not discuss. They were discussing the litigative options that were available to both parties. That would, of course, be based upon the assumption either that a contract had been breached or had not been breached, and what rights each party would have under either of those circumstances, and whether certain other remedies might be taken. Assuming that a contract had been breached, for example, could other steps, could steps be taken other than litigation to get the project going? That was some of the areas that were discussed.

In discussing that they also discussed or took into account what the BSI might do if BSI thought the contract was not breached.

Mr. WASHINGTON. I think that is appropriate. That is the only thing the Chairman said.

The Chairman did not ask you specifically what were your recommendations and specifically what are the rights and responsibilities of the two parties. I think that is clearly—I shouldn't say clearly but arguably, an inappropriate inquiry and I think the minority counsel said that was what the Chairman said and I would like this to reflect that was not the Chairman's question.

Mr. HOGAN. I certainly was not making any reflection on the Chairman, that was not my point at all. I just want to point out that so far as I was concerned, there were other opposing counsel, presumably the counsel who represent one of the parties here. Certainly it is not my intention in any way to reflect on the Chairman, and I resent really an implication to that effect.

Mr. JAFFE. I thought I had broadly outlined that before.

The CHAIRMAN. I didn't take minority counsel's interpretation to be reflective. He has always been cooperative.

Mr. HOGAN. Thank you, Mr. Chairman.

The CHAIRMAN. And if my voice may have risen a bit with respect to the witness, it did not reflect any disrespect for him either.

Mr. HOGAN. Thank you, Mr. Chairman.

The CHAIRMAN. I was merely trying to get at certain points here. We thought the questions were framed in such a way that you could give us the benefit of what information you were able to give us within the framework of certain obligations that you had to your clients, and that is that.

Thank you very much.

Mr. JAFFE. Thank you, Mr. Chairman.

The CHAIRMAN. The next witness is Mr. John Gunther, Chairman of the Board of Directors of D.C. Development Land Agency, and he is accompanied by Mr. Melvin Mister, the Executive Director; Ralph Werner, the General Counsel, I assume; Arnold Mays, the Project Director of Fort Lincoln.

Does that constitute the family?

Mr. GUNTHER. Yes, Mr. Chairman.

The CHAIRMAN. And which of you has a prepared statement, Mr. Gunther?

Mr. GUNTHER. Yes, Mr. Chairman.

The CHAIRMAN. You may proceed.

STATEMENT OF JOHN GUNTHER, CHAIRMAN, BOARD OF DIRECTORS, D.C. REDEVELOPMENT LAND AGENCY; ACCOMPANIED BY MELVIN A. MISTER, EXECUTIVE DIRECTOR, RLA; RALPH WERNER, GENERAL COUNSEL, RLA; AND ARNOLD MAYS, PROJECT DIRECTOR, FORT LINCOLN RLA

Mr. GUNTHER. Mr. Chairman and Members of the Committee, I would like to thank you for the opportunity of appearing before you this afternoon to discuss the Agency's role in the Fort Lincoln Urban Renewal Project. My statement this morning will consist of three parts.

First, a detailed history with supporting documentation with regard to the Redevelopment Land Agency's involvement in the Fort Lincoln Urban Renewal Project. This history covers nearly seven years, from August 1967, when the Project was first announced by President Johnson to the present time. I am submitting this for the record.

Second, detailed responses to the questions raised in your April 26, 1974 letter to me. I am submitting this for the record.

Third, my oral testimony in which I will attempt to summarize what has been accomplished regarding Fort Lincoln over the years, and the present status and prospects for the project.

HISTORY OF RLA INVOLVEMENT

You will note from the material submitted for the record that the Fort Lincoln history is quite extensive. In relating this history, we have divided the time period into three phases.

Phase I covers the period from August 1967, through January 1969, when the initial Planning Report was submitted to the public agencies. During this Phase, the basic goals and objectives were established, as well as the physical characteristics of the proposed community.

Phase II begins in February 1969, with the review of the Planning Report and ends in February 1972, with the President announcing that Fort Lincoln would be a part of the Bicentennial Program for the District of Columbia. This phase was characterized by assessment and evaluation of the initial planning efforts for the project.

Phase III takes us from February, 1972 to the present. During this period, the Agency has been principally concerned with the implementation of the goals and objectives which have been established for the Fort Lincoln Project in the Fort Lincoln Urban Renewal Plan.

It is now nearly seven years since the project was announced by President Johnson. We have learned much about new-town-in-town development since then. We have learned that such development, even if it is on vacant land, is not as easy to accomplish as we had once thought. I say "we", because as one reads the history of Fort Lincoln, it becomes apparent that not just the Agency but numerous other public agencies, both federal and local, have continuously underestimated the complexity of the effort required to bring this project into development.

Much progress has been made. Many difficult and complex problems have been addressed and resolved. Yet, we all feel frustrated because more has not been done. Nearly seven years have passed, and all we have in the ground, are 120 units of elderly housing, and the start of an elementary school.

PROJECT ACCOMPLISHMENTS

However, Mr. Chairman, much more than these developments have been accomplished. All we now need is a developer, and we can move forward with the development of the extensive private housing and commercial facilities proposed for Fort Lincoln.

Let me recite what has been accomplished.

—A federal (HUD) financial commitment of \$27.9 million has been secured and available to fund local site improvements.

—District Capital Improvements to pay for such public facilities as streets, utilities and schools has been programmed.

To date the District Government has spent or obligated approximately \$10 million for Fort Lincoln. The District is currently seeking approximately \$4 million in additional funds in its budget currently before the Congress.

—A federal commitment to place approximately 1 million square feet of federal office space at Fort Lincoln has been made. This commitment only awaits a decision on the means to carry it out. I am certain, once the present uncertainties regarding Fort Lincoln are disposed of, that the question of means will be readily resolved.

—An urban renewal plan to guide the physical development of the site has been approved and now awaits a developer to bring it into existence.

—Local zoning in the area has been approved.

—Environmental concerns, so important in this day and age, have been addressed, and general approvals received.

—Mechanisms for land transfers, land pricing and detailed planning have been established.

—A computerized management system for coordinating and monitoring the many aspects of public and private construction has been developed and is operational.

—Various studies recommending means to carry out such important aspects of the project such as employment opportunities, security, transit, public design have been completed and are ready to be applied.

—An effective mechanism for citizen participation has been established and is functioning.

Unlike other jurisdictions, we have no sewer moratoriums or building bans in the District of Columbia. In short, we are ready to build.

BSI-RLA DISPUTE

However, we believe today, as we believed in November, 1973, that BSI had terminated our agreement by withdrawing and refusing to make further financial commitments to the project.

BSI disputes our contention that they have withdrawn, and states that they still enjoy rights arising under their agreement with the Agency. HUD objects to a public offering, until either BSI provides us with written evidence of their withdrawal, or RLA reinstates BSI.

It is not prudent for the Agency to make a public offering in view of HUD's objections. The Agency has sought a practical solution that would, in its opinion, achieve the most rapid development of Fort Lincoln under the circumstances.

Without changing our legal position with regard to BSI, the Agency has provided BSI an opportunity to demonstrate their willingness and commitment to develop Fort Lincoln. We have done this by telling BSI that they have 30 days to come to agreement with the Agency on the terms of a land disposition agreement to consider, which if they accept would insure that they would carry out their commitments to the project and would achieve the public objectives for Fort Lincoln. We believe that this course of action is the fastest route to the development of Fort Lincoln.

If BSI and the Agency reach agreement on terms by May 28, the end of the '30 day' period, the documents would then be transmitted to HUD for approval. A public hearing could be held by August 1 (a 30-day notice is required by law). Assuming there were no strong objections to the Agreement, the Agency would be prepared to execute it by August 15. The first development plans called for by the agreement should be submitted by October 1, and by April 1975 construction on the first housing units could start. A public offering would mean delay in the start of construction for a minimum of six months beyond April 1975.

Given the complexity of Fort Lincoln, it would in all probability take a new developer until early 1976 before he would be able to start construction. That, Mr. Chairman, was why the Agency acted as it did.

We are prepared to move ahead. The end of May 1974 should tell us whether we will have the development started in 1975 or later.

Mr. Chairman, that ends my statement.

I or members of the Agency staff would be pleased to respond to any questions you or other members of the Committee or staff may have.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Gunther.

STATUS OF FORT LINCOLN DEVELOPER

Mr. Gunther, in testimony here today and also in communication with BSI you have taken the position that BSI has withdrawn from its role as the developer of Fort Lincoln.

I guess our first question is what specific actions taken by BSI have led you to this conclusion?

Mr. GUNTHER. The first action was a statement on behalf of or by a representative from BSI to me that they were unable to go forward with the project and were going to have to withdraw and were taking steps to be out of the project by December 31. This was in September—November, yes, November 7, as I remember, and then we got a letter from BSI offering a new arrangement which the Board took some time to look at to figure out what it was, which we responded to, which letter is in your records, and in which we said there, I think we used a phrase "we assume you have withdrawn." and we then got another proposal from BSI in which we wrote back and said, "You have withdrawn," and which proposal is further evidence of that. Well, that is how we came to that assumption, from that action.

The CHAIRMAN. Well, it is complicated here, but it is our understanding that this sequence ensued that RLA contends that BSI committed what was called an anticipatory breach in November of 1973 when one Mr. Nasher allegedly advised RLA that BSI was withdrawing. If that is correct, when and how did RLA first notify BSI that RLA considered BSI to have committed this alleged breach?

Shall I repeat that?

Mr. GUNTHER. No, I understand. The letter of January 21, Mr. Chairman. Mr. Mister might answer that.

Mr. MISTER. Mr. Chairman, I think at the time Mr. Gunther met with Mr. Nasher, I met with Mr. Nasher later, that same day on November 7, and we compared notes afterwards, and Mr. Nasher told both of us the same thing. He also indicated to us that BSI was going to keep their staff together until the end of the year and asked

that we work together with their staff to see if there was some other way of getting the project to proceed. So we agreed to do that, and from the time in late November we met with Mr. Ralph Taylor who was associated with BSI, and others, and they indicated they were going to submit a new proposal.

We received that proposal near the end of November, and then we reviewed it in some detail to see, as Mr. Gunther indicated, exactly what we had, and we then had to make a determination of two—on two counts. One was, did this proposal represent a change in the posture that BSI had stated to us in November and, secondly, if it had not resulted in a change in BSI's posture, did we want to accept this proposal in any event because the agency did have the discretion to negotiate with a new developer.

After our review we concluded that the proposal that we received, I think it was in late November, was not a basis for us to change our opinion that BSI had withdrawn and, secondly, we also decided that we did not want to negotiate with this new group to work out a development proposal for Fort Lincoln.

We concluded that it would be better to go out for a public offering.

NOTIFICATION OF WITHDRAWAL

We wrote to BSI on January 21, and that was our first official notification to them of the fact that they had withdrawn, and that is Exhibit No. 71 in the materials we have supplied for the record.

The CHAIRMAN. Do you consider they breached it in November, did I understand?

Mr. MISTER. Yes, sir.

The CHAIRMAN. But you didn't correspond with them until January in an official way to indicate that that was your opinion?

Mr. MISTER. That is correct.

The CHAIRMAN. Why the 2 months' delay?

Mr. MISTER. Well, as I indicated, Mr. Chairman, we still was concerned about getting the project to move, and Mr. Nasher and Mr. Taylor had indicated that they thought that despite BSI's withdrawal that it might be possible to come up with a new format for getting the project to move in a timely way, and we both agreed that we would try to see if there was something that could be done, and we therefore, worked with Mr. Taylor's staff, worked with the new investors that were going to be brought into the project over a period of time, and reviewed their proposal as carefully as we could. But January 21 we, after completing our review, we wrote them this letter, met with them and explained to them the reasons for the action that we took.

I think there has been some discussion about this letter, and whether or not it says what it was our intent to say, but in any event that was the first written notification that we gave to BSI that we had concluded that they had withdrawn.

Subsequently, on February 20, after receiving a revised proposal from BSI we wrote a second letter to them which we feel stated in more unequivocal terms that BSI had withdrawn.

The CHAIRMAN. Just a couple of questions on this clarification business ought to be made for the record, and I am going to ask for an intervention on the part of both counsel here.

CONTRACT TERMINATION PROCEDURES

Mrs. MARTIN. The initial steps outlined in the RLA-BSI Fort Lincoln development proposal for terminating the agreement, spelled out pretty clearly that a letter is to be sent by RLA indicating that the agreement had been terminated. Instead of taking the position that BSI had withdrawn in November, December and January, why didn't RLA simply follow the steps outlined in that agreement and send the letter indicating that the contract was terminated?

Mr. GUNTHER. Mr. Werner will respond to that.

Counsel.

Mr. WERNER. Let me see if I can quickly understand your question. Was it that, are you inquiring whether because of the way the agreement between RLA and BSI is written that in light of the circumstances, the events that occurred why did we not send them a letter at the time of the anticipatory breach that that contract was over, is that your question, ma'am?

Mrs. MARTIN. Yes.

Mr. WERNER. Well, I think Mr. Mister answered that question, in response to the Chairman when, the Chairman's question was when, we first notified BSI of our position on their actions and, as you can imagine at the time, as Mr. Mister said, if I may just adopt his testimony for a moment, at the time the representatives of BSI informed the agency that they were planning to withdraw and wanted to conclude their participation by December 31. They also advised the agency that one of their employees, Mr. Taylor, and perhaps others in their organization, would attempt to try to set up a new organization or provide for a new organization to assume the developer's interests that BSI held at that point, and it was in the context and asked that RLA give consideration to such a new proposal. And in that context, the staff of the agency did enter into discussions with Ralph Taylor and others, and out of that, during the course of those discussions, Mr. Taylor and his group did prepare a proposal, which we submitted, dated November 30, which the agency took some time thereafter to consider and, as Mr. Mister said, we had at that time several options open. One was to do just as you suggested, that is we could have forthwith sent a letter to BSI saying, "By your actions the agreement is terminated. There is no need for any further consideration on our part." On the other hand, we could have done as we did, listened to any suggestions or requests they had before making such a decision on what course we preferred to follow, and it is the second course that we did follow, and that is the reason why the letter wasn't sent earlier than January 21.

Mrs. MARTIN. Well, in your letter of January 21 did you state specifically that the arrangement of the contract or the agreement is hereby terminated pursuant to the language of the original agreement?

Mr. WERNER. Well, if I may for a moment say, the action that BSI took, their anticipatory repudiation, was not contemplated by the original agreement between the agency and BSI because the terms of the contract would certainly not contemplate that one party would arbitrarily withdraw or refuse to perform the agreement. There were conditions for termination spelled out that anticipated other circumstances, other events. But as Mr. Mister said, we tried to say in our January 21 letter that we had understood in discussions in November

of '73 and their further actions represented by the proposal they submitted to us in November '73 as evidence of the fact that they had withdrawn, and it was our conclusion on January 21 that the best course for us to follow was to go out and seek a new—make a public offering of the development rights which BSI had theretofore enjoyed. And I think we will concede it doesn't say explicitly in the words in which I am now articulating it but in substance we did say that, and I think it was understood at that point by BSI.

Mr. MISTER. I think, if I can supplement just a little bit, I recall very vividly that meeting with Mr. Nasher, and I was, in view of all the commitments that were resting on this project, we were, frankly reluctant to take that action to close out BSI until we had clearly in mind how we were going to keep the project going with the many other governmental commitments that were riding on it, and we thought if there were some way of working with BSI, which had a great deal of experience and knowledge about the project, to come up with the way to keep the momentum on the project going we certainly wanted to explore that.

Looking back with the benefit of hindsight, we wouldn't have done that. I think it is also important, and I would like if I can take the time, it is a very brief letter, to at least read from parts of this January 21 letter where an effort was made to make it clear at that point what our decision was.

Subsequently, you have heard testimony earlier today on this letter which says that, it doesn't really clearly state that our conclusion was that BSI was withdrawing.

The CHAIRMAN. Without objection, we would like to have the letter of November 1973 and the letter that you are about to read an excerpt from entered into the record at this point.

Mr. MISTER. Yes, sir. These were all the materials that we—there are three things Mr. Gunther mentioned earlier include all of those letters.

The CHAIRMAN. All right.

Mr. MISTER. Exhibit No. 71 is the January 21 letter to Mr. Nasher and it reads in part, "Your conversation with me late last year—" it was signed by Mr. Gunther to Mr. Nasher"—confirmed by the memorandum of understanding between BSI and Mr. Hagans which states BSI will no longer be responsible for project expenses after September 31, 1973, has made it clear that BSI no longer intends to control the Fort Lincoln development, and the Agency therefore now believes the interests of the project would best be served by a public offering whereby all interested would have an opportunity to compete for primary developer responsibility of Fort Lincoln."

Then subsequently after reviewing another proposal we wrote a similar letter on February 20, which is Exhibit 73, where we tried to state in more unequivocal terms our judgment that BSI had withdrawn from the project.

ROLE OF THE DEPARTMENT OF JUSTICE

The CHAIRMAN. Did you obtain any collateral advice from the Attorney General in connection with this matter? Did you seek any advice from the Attorney General?

Mr. GUNTHER. I think our counsel should respond to that, Mr. Chairman.

Mr. WERNER. We, I specifically, Mr. Chairman, contacted Mr. Aikens, whose role was described. He is Chief of the Civil Division of, Civil Section, I guess it is called, of the U.S. Attorney's Office for the District of Columbia, and does represent, his office does represent, the Agency in all of our civil litigation with the exception of condemnation actions. And, as was elucidated in the last witness' testimony, we were concerned about possible rights that we, that the Agency, might enjoy against BSI if litigation was either threatened or appeared to, as a strong possibility, and also were concerned about the rights that BSI might have in any such litigation, and I wanted to discuss with the U.S. Attorney's Office those issues, and I scheduled a meeting for that purpose with the U.S. Attorney, with Mr. Aikens, and there were other representatives.

There was a lawyer—actually I did not attend that meeting but an attorney from my office, Mr. Mays, was there, and an attorney from HUD was there with the two Assistant U.S. Attorneys.

Mr. MISTER. Mr. Chairman, I would like to be clear, though, that that meeting and that advice from the Department of Justice came after the Agency found that they were unable to go for the public offering that we had said we were going to go for.

I don't believe we solicited any advice from the Department of Justice prior to sending out the January 21 letter. We defended—we felt that was an administrative action within the discretion of the Agency, and we looked to our own counsel for legal advice on this matter, and we made our judgment without any reference to the Department of Justice. We did not contact them until we were trying to go out for a public offering, and HUD said, we got into an exchange of letters with HUD about whether or not we could do that or not and some of their fears, it was part of our effort to pursue our effort of going out for a public offering which we had first stated in that January 21st letter.

The CHAIRMAN. Did you get any advice from the Corporation Counsel? Did you seek any advice from the Corporation Counsel?

Mr. WERNER. No, sir.

FORT LINCOLN LAND DISPOSITION AGREEMENT

The CHAIRMAN. It is a little hard to understand why, after the letter that you sent, which was, as you put it in your own words, very positive, adamant in a sense that BSI had withdrawn from the agreement according to your standards, your own criteria, and yet last month you sent them an LDA and gave them 30 more days in which to respond. And, I might add, that in connection with our proposed hearing we respectfully requested that that decision be held up until such time as we could have a hearing to discuss these matters but somehow you felt under some kind of urgency to, in effect, defy the—maybe defy is a strong term—but to overrule, ignore or what have you, the Committee's request and proceed to give them another 30 days.

Now, just what is the explanation for it? What was the urgency about it; and we are not, of course, trying to get you to reveal any of your strategy, if there is any strategy, in connection with some of your legal problems or quasi-legal problems, but to the extent that you can, we think the Committee is at least due an explanation as to why, and

particularly against the background of that very strong letter you sent them, we think the committee is entitled to an explanation.

Mr. GUNTHER. Mr. Chairman, the letter was sent by—signed by me, and the Board, with the Board's approval, and we instructed the staff to proceed immediately to get out a prospectus to find another developer. We had been sitting there since the fall trying to figure out how to do what needed to be done, and we, by this time, had come to the conclusion that the only way to do it was to go out to the general public with a prospectus.

In order to do this with any degree of certainty and, in fairness to possible developers, you have to get prior clearance of your prospectus by HUD. We were informed by HUD, as a matter of public record, that they would not look at or consider our prospectus until we had in writing a withdrawal agreement by the BSI.

It seemed to us very difficult to anticipate that BSI would have withdrawn if they disagreed that they withdrew and, therefore, we could not go forward and we were then exploring how do we go forward, and all the way along through this we are working on the land disposition agreement which we had been working on last year, because our plan was, of course, to have presented one to BSI and had their agreement sometime ago.

So we were proceeding on that because we were going to need it anyway, and here we were with an inability to go public, an inability to move, in our view, with BSI and we needed to resolve this dilemma, and at that point the Board instructed the staff to prepare the land disposition agreement for submission to BSI and give them a reasonable period of time so we would know whether or not they were prepared to go forward consistent with their original agreement or whether they were not, and then we felt that would meet our obligations in a reasonable fashion to the Federal agency with which we had to do business.

RLA TIMETABLE FOR DISPUTE RESOLUTION

The CHAIRMAN. So you think that the 30 days that you have now given them in your recent communication is a reasonable timetable. You apparently expect BSI to meet this timetable, and are we to assume that you are going to stick by your own timetable? In other words, if they have not completed their end of the contract at the end of that time, that is it?

Mr. GUNTHER. It is the unanimous view of the Redevelopment Land Agency Board that 30 days is reasonable. We considered a lesser time but we did not want to seem arbitrary. We wanted to make it clear that we were trying to get this effort underway, we were trying to do it in good faith, and we felt that 30 days was reasonable, and it is our plan to go forward either with BSI or with another developer as soon as the 30 days have run.

POTENTIAL PROJECT DELAYS

The CHAIRMAN. On the timing business, the thing that bothers me is that on the last page of your own testimony you state that "At the end of May of 1974 that that should tell us whether we have a development started in 1974, 1975, 1976, and so on or possibly not at all."

What do you project could happen that would cause the project not to be started at all?

Mr. GUNTHER. Mr. Chairman, unfortunately, you are reading from an unedited version of my statement. The statement I gave and the one that we present, I think I got up late last night to the staff, and we have today, I have taken out everything after 1975 or later.

I think that what we were doing, the effort there, was to demonstrate that there are, if you read some of the communications, I believe the HUD letter to you today that I saw for the first time today, was it not the letter to the Chairman today about who owns the land, yes, Mr. Meeker's statement today, where the Department makes very clear that it has this land and if the Agency does not do what the Department thinks is right and proper with that land, the Department retains the right to stop the whole ball game, and under those circumstances I do not know of any agency other than the Department that could give you an assurance that the thing is going to happen.

Mr. MISTER. Mr. Chairman, if I can, I think we feel, at least certainly I feel, quite strongly that at the end of the 30-day period we will have another important series of issues to face up to on this project, whether we have a developer signed up by BSI agreeing to the LDA or whether we go for a public offering because the continuing concern on our part has been the various commitments that are necessary to make this project work. Some of those commitments still are not completely resolved. We have to be sure that at the end of the 30-day period that the actions that we have taken will be satisfactory to the Department of Housing and Urban Development.

I think the history that we submitted for the record is very critical in terms of the 7-year process that has been involved in this project.

In January or in early 1969 the Agency had recommended and the Planning Commission was prepared to approve an urban renewal plan for this project. The Planning Commission was informed by the Department of Housing and Urban Development that if such a plan was approved that plan would not be approved by the Federal Government, and that they would support more study, and that led to this process that we got involved in that led to eventually to the selection of Westinghouse-BSI and a commitment on the part of the Administration in February of 1972. So that we were prepared to go out in January for a public offering to select a new developer. We could not make that decision stick.

We are hopeful, and we tried to devise the approach that was the most prudent and, in our judgment, the fastest way to close the circle on this project by getting a developer for it, and we used the best judgment and the best advice that we could get to arrive at this approach. But certainly we would not want to mislead you or the Committee into thinking that RLA can make the development take place.

We still are going to have to, as we indicated in our testimony, the Administration has made a commitment for a million square feet for office space out at Fort Lincoln but we have not been able to work out an arrangement between the Federal Government and the developer that will make that happen.

We still have other, the transit things, there are a lot of Federal commitments that are riding on this project, but the most important issue at this point in our mind is getting the developer for the project.

It is a \$250 million project. About \$175 million of that is going to be private money. The rest is going to be Government money, so getting a developer at this point, we think, is the most important step to take, and we thought long and hard because we certainly did not want to have it appear that we wanted to flaunt the intent and the will of the Congress and particularly this Committee.

At the same time we were faced with the problem of the clock running against an important June 30th deadline, and we felt that the 30 days, at the end of 30 days, we would be in a much better posture to either have a developer selected or to proceed with the public offering. But at the end of that 30-day period we still are—we cannot assert to you with any certainty what will happen at that point. We know what we want to do but whether we will be able to make our decision stick or not is something we just cannot really be certain about.

NEW JOINT VENTURE DEVELOPMENT TEAM

The CHAIRMAN. Let us talk just a second about this new developer concept, specifically about the proposed new joint venture that was submitted to you by BSI. Could you tell us what you think about the staff recommendations on that proposal and—

Mr. MISTER. Yes, sir, there were two proposals. One came to us in November of 19—, November 30th, I think it was dated, 1973, and it came to us after a meeting had been held with the principals, the new financial partners and staff from BSI and met with our Board, and we reviewed the proposal very closely.

I made various reports to the Board on it during the period from the end of November until mid-January. They asked us to do more staff work, and finally, the issue came down to the two points that I mentioned earlier. One was does the Agency in accordance with the contract, which is the agreement that we had with BSI as a contractor for the project, require that we go ahead with this proposal because it is, in fact, a proposal from BSI?

It was our legal staff's determination and my determination that it was not such a proposal.

The CHAIRMAN. So it was rejected?

Mr. MISTER. Yes, that is correct. It was rejected on January 21st.

The second issue in terms of our staff work was consideration of whether or not we should negotiate with the Fort Lincoln Development Corporation even though we had concluded that it was not really a proposal from BSI, and it was clear that the Agency had the discretion to negotiate with this organization but on that point—and we talked about the time considerations, of how long it would take if we negotiated as opposed to going for a public offering and on that point the Board concluded that the best approach was to go for a public offering to select a new developer.

REASONS FOR RLA REJECTION OF JOINT VENTURE

The CHAIRMAN. Would it prejudice any of your plans to indicate why this new joint venture may have been rejected?

Mr. MISTER. Well, Mr. Chairman, the reason for the rejection was that the proposal from the Fort Lincoln Development Corporation was not a proposal from Building Systems International, and it was a pro-

posal from a new corporation and the Building Systems International could not be the group that the Agency could look to for performance under the contract.

The CHAIRMAN. So there was an ownership deficiency of some type or—

Mr. MISTER. Yes, sir, we went through a very lengthy discussion at the staff level and I will ask Mr. Werner, our counsel, to add to my comments on this point, about what is meant by control. In the mind of some, control of a corporation revolves around the percentage of equity owned by a particular group or a particular person. In our view that is really only one element in determining who controls a corporation, and in reviewing the proposal from the Fort Lincoln Development Corporation we made it clear, and we said in meetings with the Fort Lincoln Development Corporation people that the fact that the new investors owned 70 percent of the corporation in the first Fort Lincoln development proposal was not our concern. Our concern really had to do with the extent of BSI's continuing commitment to the project, and we just could not see it in the first proposal.

So we got a second proposal from BSI in which control of the corporation had been altered. Several categories of stock had been created, both voting common stock and nonvoting common stock, and the new arrangement was one in which BSI clearly had voting control of the stock in the corporation. But still when we analyzed the complete agreement it was our conclusion that we still would not have a reasonable basis for looking to Building Systems International as the responsible entity that would be committed to this project.

We discussed it with Mr. Nasher over the phone. He sent special letters to us outlining the nature of his commitments and continuing commitments to the project both for himself personally and for the other three principal organizations in BSI.

We reviewed all of those materials but our final judgment was that if we approved either of those two proposals we could not responsibly say to the citizens of Washington that there had not been, in effect, a substitution of parties, and that we had started out with Westinghouse and they had gotten out, and BSI was supposed to be the developer, and then if we accepted this proposal it was our view that BSI would then be out.

Mr. Werner may want to add some additional clarification on that point, Mr. Chairman.

Mr. GUNTHER. Mr. Chairman, let me add one thing. As a matter of public policy the Board of RLA decided a couple of years ago that we would go on a public bid, public prospectus fashion, for all development. We had been negotiating to get developers and the number of interested developers in the urban renewal areas had grown to the extent where we did not have to go out and sort of find developers. We could put out a prospectus and get some respectable competition.

So we decided to, as a matter of policy, to go public with all of the proposals. We did, because of long past negotiations with some churches, and maybe some local civic groups, permit a few projects, particularly housing, small housing efforts, to go forward on a non-prospectus basis, non-bid basis. But, by and large, we said anything new, anything that we have not already had in the mill we are going to go public on. That was really the question that the Board had to consider when it looked at the BSI proposals, as to whether or not

that it was consistent with our public policy of going public if we were going to put in a new developer.

We concluded that it was a new developer and, therefore, within our discretion we said we, therefore, should go with the public prospectus. Obviously, there was disagreement by BSI, and HUD says, "Until you get this settled we are not going to agree to let you go forward looking for another developer in case you already have one because we have a very large interest financially in this project and when they sue you they sue us, and let us get this settled."

The CHAIRMAN. Mr. Burgener.

Mr. BURGNER. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman.

LAND VALUES ON FORT LINCOLN SITE

I imagine the value of this land must have doubled in the last 7 years; what would you guess, Mr. Mister, is the value of these 335 acres now?

Mr. MISTER. Well, the value of the land, based on an appraisal by HUD, is estimated to be in the neighborhood of \$7 million, and Mr. Mays or Mr. Werner can give you a more exact figure, but that is based, Mr. Hogan, that is based on a determination of the uses of the land. The HUD people have worked with us and with BSI because we felt that the price of the land, as in any urban renewal project, has to be based on the use of that land in accordance with the urban renewal plan, and the urban renewal plan permits a certain range of housing to be built.

The plan is somewhat flexible in that sense. There is a range of units that can be built, and the price of the land is really based on the number of units of housing that will actually be built at various times. The land which is set aside for commercial development is based on the uses permitted in the urban renewal plan so the appraisals that have been done, we have had two competent appraisers appraise the land, it has been submitted to HUD and they have approved it, and those values, we think, are reasonably good values and they are not that old, they are current, that is the current value of the land, that was done sometime in less than a year ago, and Exhibit 66 sets forth in some detail the basis for the land value.

For example, the land set aside for hotels-motels is \$1650 per room so that the actual value of the land while it is approximately \$7 million, will really only be finally determined when we get the specific development proposals and plans for the project.

Mr. HOGAN. If you were to go out and purchase that land I suppose it would be anywhere from nine to ten times as costly as that.

Mr. MISTER. No, sir, we are confident that the value of the land for the uses permitted in the plan is competitive. I think what is at issue is the social and economic objectives of the project. I do not—it is unlikely that a private developer, given his druthers, would develop the project in the way it has been handled with the urban renewal plan, but the urban renewal plan sets aside large areas for public use. It sets aside large areas for parks, for trails, for preservation of the old Fort Lincoln site, and those kinds of things do have a negative effect on the overall value of the land.

But that is what the project is all about. It is an experiment, it is a new town in town. There are requirements for certain amounts of low and moderate income housing to be scattered around the project area, so I think it is true if the land were zoned in a traditional way it would be much more valuable, but since it was federally-owned land, this urban renewal plan was developed to achieve this new town in town, and the land prices, I think, are competitive. I think Mr. Werner wants to add something.

Mr. WERNER. I think I can explain a little bit more, Mr. Hogan. The value of that, as represented in Exhibit 66, is the price that HUD concurred in which is the minimum value that we can obtain from, which we are required to obtain from the developer to buy only those portions of the project which are designated for private development under the plan, that is about 176 acres. The balance of the area, approximately another 160 acres, is to be devoted to these public uses Mr. Mister described, parks and streets and other public areas, and the developer, and the price was determined on the basis of using it, those 176 acres for the private use if permitted in the plan with the understanding that the public agencies will undertake the expenses, the expense of developing the public areas.

Now, if your question is would the entire site, the entire 338 acres or so, if it were offered to him, he would have to value how much the public agencies, the infrastructure, the streets that are necessary for any site that large are worth, and that would, as Mr. Mister described, would have a negative effect on value.

Now, even with the price we have described here the developer can wind up paying a good deal more than the \$7.6 million as Mr. Mister stated, because the plan described a range of developments, and this is the minimum price for the land. It could wind up with the whole land worth \$2 or \$3 million more.

PURPOSES OF RLA HEARINGS

Mr. HOGAN. You are going to hold hearings when this plan comes up for consideration; when will that be?

Mr. GUNTHER. The law requires us to—

Mr. HOGAN. When will that be?

Mr. GUNTHER. 30 days, if the BSI and the HUD and the Agency come to agreement it will be before the 28th of May, it will probably take five days or so to get HUD concurrence in the agreement. They review it before we hold a public hearing. We then hold a public hearing—we then give a notice and hold a public hearing.

Mr. HOGAN. In the course of the land development agreement hearings, I assume you can address such issues as minority construction contracts and their participation and perhaps, even bonding on the part of the contractor?

Mr. GUNTHER. That is what the hearing is all about.

Mr. HOGAN. Would that be part of it?

Mr. GUNTHER. It is about all except whether or not the urban renewal plan is sound because that is not really part of the agreement. Really, that has already been decided by the Planning Commission and the City Council.

Mr. HOGAN. If they do not, then you are into this August-September period going out and getting a new prospectus and a much more delayed procedure?

Mr. GUNTHER. That is correct.

Mr. HOGAN. One further question. Mr. Werner, if you are involved in litigation before July I assume the U.S. Attorney will represent you. The question was asked, did you consult with the Corporation Counsel, and I assume that after 1 July you will be in consultation with the Corporation Counsel rather than the U.S. Attorney, is that not correct?

Mr. WERNER. Well, concerning litigation that might arise after July that is correct, although I would not want to prejudge the issue of whether or not the U.S. Attorney might not have a role to play even after that day.

Mr. HOGAN. Thank you, Mr. Chairman.

The CHAIRMAN. Do you have an official contract officer, RLA? Most Federal agencies have some kind of an official contract officer.

Mr. WERNER. Mr. Chairman, we do not have an agency employee denominated as such, generally, Mr. Mister as Executive Director, as the chief staff officer, is denominated the contract officer for the Agency.

The CHAIRMAN. So when you use the contract officer for the particular project he is the Executive Director of the RLA, is that correct?

Mr. WERNER. That is correct.

STATUS OF DEVELOPER'S COMPLIANCE

The CHAIRMAN. Now, on page 9 of your response to the Committee questions you state that upon receipt of a proposal by BSI to transfer responsibility for the Fort Lincoln development to a local minority investment group that RLA concluded that BSI was not complying with their agreement, is that correct?

Mr. GUNTHER. Yes, that is correct.

The CHAIRMAN. Now, on what basis did you reach such a conclusion?

Mr. GUNTHER. Yes, our problem there, Mr. Chairman, and this is why the Board insisted that, I think several times that we get further and deeper into it. At first, I think, just reading the idea it sounded like the new entity was, in fact, sort of just some extra people in with BSI, but we kept saying, "We really want to know who is it we are dealing with. Is it the people we originally contracted with or have they now substituted somebody else? Who do we look to to put up some money in case some more money is needed?" That is why we came to that conclusion. It was decided it was not the people we had the contract with.

The CHAIRMAN. Are you talking about some kind of hidden ownership here?

Mr. GUNTHER. No, no. It is just a question as to who, under the Fort Lincoln Development Corporation, does the Redevelopment Land Agency look to for performance and, in the first instance, it looks to us that we look to the new investors rather than to BSI.

Mr. MISTER. Mr. Chairman, if I can, we, back when the Fort Lincoln Policy Committee was making its recommendation of which of the three last front runners to select, there was a great deal of discussion about the principals in each of the proposals. For example, BSI is a joint venture in and of itself of three major and very strong organizations, the Henry C. Beck Company, Raymond D. Nasher Company,

and a European firm, and those are three very knowledgeable, experienced development organizations that have an outstanding track record, and it was largely on the basis of their involvement that they were selected as one of the developers.

During the course of the review and questioning of Westinghouse-BSI early in the game one of the strong concerns of the Policy Committee was the extent to which those principals were committed to BSI, because BSI is really kind of a shell corporation and its strength is really dependent upon the extent to which resources are invested in it by the three principal organizations that formed it.

And so when we got down to the Fort Lincoln Development Corporation we had to not only look at the Fort Lincoln Development Corporation and see whether or not it had the requisite financial and technical competence but our original arrangement was made with BSI, a group which, as we understood it, was strongly supported by these three other organizations, and it was really on reviewing total picture and determining the extent to which BSI and the groups that formed BSI were going to support the Fort Lincoln Development Corporation that we had to conclude we were really dealing with the new organization.

The CHAIRMAN. I will yield to counsel for intervention.

RLA-HUD RELATIONSHIP

Mr. WASHINGTON. In all fairness, we asked HUD earlier today how would they characterize their relationship with you and we had some degrees; excellent, good, fair, average, or terrible, and may I now ask you to respond to that, how would you characterize your relationship to date with HUD, and this is especially important in terms of the special concurrence that HUD has asserted and has with respect to RLA.

Mr. GUNTHER. I think that we recognize that HUD has made it possible for the District Government and the Redevelopment Land Agency to have Fort Lincoln as a possible new town in town. If GSA had not been authorized by the general laws of Congress, specifically the laws on surplus property, to transfer the holding of this Federal land to HUD, HUD would not now be in a position where it could, through us, sell land or make available land for public development, but sell it or lease it for private development.

LAND TRANSFER PROCESS

Mr. WASHINGTON. Could I ask you a question at that point, because I think that point has been a matter of confusion, is that a normal procedure? As I understand the process, GSA circulates excess lands, and Federal agencies have a priority, and RLA is a Federal corporation and that HUD responded to a circular of GSA excess land and got the land and, based on its acquisition of the land, it now has a special responsibility.

Is that not the normal procedure for GSA to convey the land to the urban renewal agency?

Mr. WERNER. Mr. Washington, the process which Mr. Gunther is touching upon is provided under Section 108 of Title I of the Housing

Act of 1949. It is a special provision for dealing with Federal surplus land that is designated by localities within whose political jurisdiction that land lies as being suitable for the carrying out of an urban renewal project.

It is a procedure laid out by 108 whereby the locality notifies HUD where the land is suitable for it, and GSA declares it surplus, transfers the land to HUD and then sells it to the LPA for resale. And the point, the important point is that HUD sells it at the price, at a price which enables the locality, the LPA, the local renewal agency, to sell it to the private developer at the appropriate reuse value to carry out the project.

Mr. WASHINGTON. I understand that procedure, Mr. Werner. But is there yet another procedure? Since RLA is a Federal corporation it could have sought the land as HUD did, you did not have to use Title I of the Housing Act of 1949. It was yet another procedure, and it is our understanding that RLA and HUD agreed to this procedure. That was not the only procedure available with respect to surplus lands?

Mr. WERNER. No, I think that was explored and it was concluded that RLA could not acquire the land from GSA and then control it and turn it around as a property that we have acquired. That was ruled out.

Mr. GUNTHER. Another obligation, Mr. Washington, that we recognized to HUD was that they did, in fact, earmark some special money for the District of Columbia to be channeled through the Redevelopment Land Agency, and for the development of Fort Lincoln, so if we have any problem with HUD it was that there was at one stage, after we thought we were ready to go, a requirement by not only on Fort Lincoln but many other programs that had been initiated, the Administration wanted to look at all of the programs that were going and decide which ones it wanted to move forward on, and this was one of them. And after the President—the Under Secretary's letter to the Planning Commission, then the reexamination of the question, it was decided to move forward on it, and since that time we have found no delays caused by HUD.

MINORITY EQUITY PLAN

Mr. WASHINGTON. I would like to have your views now, to the extent they are available, on the concept of equity, minority equity participation, and as reflected in the City Council hearings and Mr. Tucker's view. Does it really—are you satisfied that the purposes of the Council are achieved by having, three, four, five minority entrepreneurs participating in the development or is it your view that it ought to be full and widespread community participation and something short of a public offering or your views on a public offering for that matter?

Mr. GUNTHER. The view of the Agency with respect to minority equity is as set forth in the land disposition agreement which we forwarded for BSI's acceptance, and that is that at the outset we would like to see a substantial minority interest, and this because of some of the problems that were spelled out earlier by John Nevius probably would be a few people, a few investors.

The nature of this investment is such that it would not be appropriate to go to the street with a public offering at the outset, a threshold offer-

ing, I believe Mr. Nevius referred to it as, it is generally referred to in the investment business, but it is our view that down the road, and we suggested that the land disposition agreement in three years it would be appropriate to go and make the equity, the ownership of Fort Lincoln more broadly available in this community, and that is what we are asking be done.

Mr. Mister, I think, has a specific reference to that.

MR. MISTER. Mr. Washington, one of the things that has been, that was discussed earlier today was the extent to which the Agency carries out the policy of the City government, and during the course of the hearings on the Fort Lincoln project the City Council did put some language in their Committee report based on testimony at the City Council public hearings, and during the course of those hearings, on behalf of the Agency I stated that the Agency would do everything within its power to include in the land disposition agreement the things the City Council wanted in them, and I was questioned rather closely on that point by Mr. Tucker as the Chairman of the Urban Development Committee and other members of the Council, and the report which you read from earlier does say, in part, gives some suggestions to BSI and to RLA about the criteria for selection of individual investors, and it says, in part, "We suggest that the criteria include (a) a showing of sufficient economic, financial and managerial capability to protect the interests of the development company as well as the community and, (b) a workable plan to make investment available to the community on as wide a basis as possible and on a fixed time schedule.

"We further recommend that RLA and BSI begin discussions immediately on the mechanics of the sale of the additional 15 percent, including price, time of sale, timing for conversion to equity", et cetera.

Now, we subsequently, working with BSI and hiring special counsel, tried to determine what was the most effective way to carry that out, and what we attempted was to work out some joint language in LDA in our discussions with BSI. We did not come to any successful conclusion at that point.

We finally, in the LDA which we gave to them on the 26th of April, came to a specific conclusion and included language which represented the best knowledge that we could get about how to carry that out. As Mr. Gunther indicated, it involves a public offering somewhere down the road.

LAND DISPOSITION AGREEMENT

MR. WASHINGTON. Mr. Mister, how long have you been working on the LDA?

MR. MISTER. Since, I would say, I guess since the fall of 1972.

MR. WASHINGTON. Was BSI also working on one or was it jointly?

MR. MISTER. Jointly. We had meetings and exchanged drafts and so on.

MR. WASHINGTON. So BSI did not independently have its own, is that correct?

MR. MISTER. Oh, yes, BSI on each of these various points particularly regarding the 12 point economic program, BSI had language on how those 12 points should be reflected and so did we, and we went back and forth during the discussions about what precisely that language ought to be.

Mr. WASHINGTON. What features of BSI's LDA did you deem to be inadequate?

Mr. MISTER. Maybe Mr. Werner can answer more specifically.

Mr. WASHINGTON. I know we are not negotiating the LDA in public. I simply would like to have the features which seem to be inadequate or insufficient.

Mr. WERNER. I do not have a very clear recollection of point by point, but I know we exchanged a draft that we felt rather closely adhered to the 12 points as articulated in Mr. Taylor's 1972 testimony before the City Council and his subsequent letter, and I think there were certain points deleted or modified by BSI in its re-submission but, frankly, I cannot articulate right now and identify the specific points.

Mr. WASHINGTON. Can you make that available for the record?

Mr. WERNER. Yes.

Mr. WASHINGTON. I just have one last point that seems to me to be important and that is you said that the Board decided that RLA, excuse me, BSI constructively terminated the agreement in November and the Board had decided that. My query is whether or not that was decided at a meeting.

Mr. MISTER. Well, I think, I guess my difficulty in answering about a specific meeting is that we reported to the Board, Mr. Gunther and I did, on our separate meetings with BSI and if you watch somebody walking away from a project and tell some other people, "There is Joe Doe walking away from the project," I do not know that we could pass a resolution to say, "Yes, we agree that he is walking away from the project."

We described what had happened, and certainly before the January—we had a series of meeting about this in November discussing what to do about the project.

Mr. WASHINGTON. I was simply interested in that limited question that is whether the Board met on that question of termination and instructed the staff to advise on the anticipatory breach or termination and then, reflecting what Mr. Gunther said, and subsequently the Board changed its position, and I am wondering whether that was at a meeting.

Mr. GUNTHER. Yes. The January letter was authorized at a meeting, the February letter was authorized at a meeting, and the April letter was authorized at a meeting.

Mr. WASHINGTON. It would be helpful for me to have them.

Mr. GUNTHER. So we authorized three letters to BSI two of which told them we thought they had quit. The third one said, "We think you quit, but if you do not agree here is a land disposition agreement. We would like to get you to agree to it within 30 days."

Mr. WASHINGTON. Are you required to put your notice of meetings in the Register?

Mr. GUNTHER. We put then in the newspaper, is that not the way we do them?

Mr. WASHINGTON. May I just have the dates for the record, at subsequent points, at a meeting in which such points were disclosed?

Mr. GUNTHER. Yes, we will do that.

Mr. WASHINGTON. Thank you, Mr. Chairman.

[The information referred to was not received in time to be included herewith. See appendix.]

THE MAYOR'S ADVISORY COMMITTEE ON FORT LINCOLN

The CHAIRMAN. Just in conclusion here, the Mayor's Advisory Committee's letter dated the 24th of April listed seven problems over what they call irregularities in your actions relative to Fort Lincoln, and they concluded by questioning your Agency's capability to even handle the project, and I think it is only fair to give you equal time to answer those charges, of course, there in a comparable letter and you can answer it point by point, along with some additional questions we are not able to get around to, in the interest of time. But perhaps you would like to make a general comment. I am always concerned about these citizen participation agencies and their evaluation of the agencies with whom they are supposed to be working.

Mr. GUNTHER. Mr. Chairman, the Fort Lincoln, the Mayor's Advisory Committee, I think, has been of great help to us. It was the Mayor's Advisory Committee and, therefore, it was determined that our relationship with this, to keep them appropriate, should be through the Mayor and, at the Mayor's suggestion, and with our concurrence, we funded services to the Mayor's Advisory Committee. Their staff members were here this morning. They, two of them, I believe, were seated up here. The staff services to the Committee are paid for by RLA, not that we—not that they are employees of RLA but we make the fund available to the Mayor to bring about the citizen participation.

I think it is appropriate that we do that. It is an obligation of a public agency to assist the Mayor in that fashion.

However, that letter was to the Mayor, and specifically, I think, we always prepare for the Mayor what our view of the situation is. I think there were several misunderstandings, which do happen when you get people who are working part-time on a project, and maybe misunderstand the role they have been asked to—or been assigned to them.

We picked the developer; the Fort Lincoln Advisory Committee, the Mayor's Advisory Committee, did not pick the developer, the Mayor did not pick the developer. The law says this Agency has to pick the developer. We welcome the advice of the Mayor and his Advisory Committee and HUD and all those other committees that were advising us, but, in fact, the RLA picked the developer, and our Board spent a lot of time before it picked the developer.

As Mr. Mister indicated we, in fact, did check out the people involved to find out whether they were really interested, whether they had ever done this kind of work before, whether there was reason to believe they would stick with it, and after all of that, and whether there was reason to believe they would carry out the 12 points that the City Council had asked us to look after, and after all of that the Agency decided this was the appropriate developer.

We have met with the MAC, our staff has attended every meeting that they have held that we knew about and the staff has reported back to us.

It is clear to me, as it must be to you, Mr. Chairman, that as you know, Mr. Mister and I met with you earlier in the year to seek your assistance in several matters that are before Congress, one of which you are going to hold a hearing on the 22nd of this month which we

think the District needs, and at that time we told you, as we have told the public, that we were moving ahead to find a developer, and we told the Mayor's Advisory Committee we were moving ahead to find a developer. Now they say, "Well, you should have told us the BSI was not in compliance." We do not agree. We cannot conceive of what purpose would be served by telling the Mayor's Advisory Committee that we decided these people were not in compliance. There is nothing the MAC could do about it to help us or the Mayor.

But we do believe it would be appropriate if we change our position, as we did, as to how we were going to proceed, in looking back on it now there is no question, Mr. Chairman, but if I had used greater wisdom, and I have that wisdom by hindsight, I would have written you a letter and told you that, what we told you the last time we talked we had changed our mind about it and we felt that we had to go this route in order to move forward on this project. And we should have done the same with the Mayor and the MAC.

Mr. MISTER. Mr. Chairman, if I can, as Mr. Gunther has indicated, this letter from the MAC to the Mayor is something that I am sure the Mayor will be getting to us about and for us to provide some specific answers to, and I am really not prepared to respond to them now but perhaps would do so for the record if you desire.

There is one comment I would like to make, however, having to do with a statement made earlier by representatives of the Mayor's Advisory Committee. When the Advisory Committee was reconstituted, as Mr. Banks indicated, it was done by the Mayor's Executive Order dated February 10, 1971, and we have submitted that for the record, it is Exhibit No. 37, and part of that Executive Order states in point 4, Administration, "The Assistant to the Mayor for Housing Programs shall assist the Committee in matters of administration and shall provide the necessary staff services."

And after this Executive Order was promulgated the operations of the Agency with respect to the Mayor's Advisory Committee did, in fact, change.

Prior to this Executive Order RLA had the responsibility for providing staff services to the Mayor's Advisory Committee. After this Executive Order was promulgated that responsibility revolved around the Assistant for Housing Programs.

Despite that fact, however, Mr. Mays is here to testify to the fact that he attended virtually every meeting of the Mayor's Advisory Committee as a representative of RLA and is prepared to answer questions on behalf of the Agency on matters raised at meetings of the Mayor's Advisory Committee.

So when earlier today—there was a conscious decision that the Agency would work through the Mayor's office in its relationships with the Advisory Committee, since it is advisory to the Mayor and not to the RLA.

Now, the difficulty that has arisen that has caused some problems in our relationships with the Mayor's Advisory Committee have revolved around the extent to which the Agency has done all that the Advisory Committee feels it should have done in keeping the Mayor's office informed and subsequently the Mayor's office informing them. But I did want to be clear for the record that there was no effort and no attempt on the part of the Agency to contradict, to vacate, to not comply with

the Mayor's Executive Order on the formation and operation of the Mayor's Advisory Committee on Fort Lincoln.

The CHAIRMAN. Mr. Burgener.

Mr. BURGNER. Mr. Chairman, I think I can understand why two parties such as RLA and BSI might have dispute over the terms or the execution of a contract or an agreement, but I cannot understand, it is incredible to me, that there does not even seem to be agreement of a relationship or an agreement even exists. It seems almost casual. I have never heard of such goings on. It mystifies me and I cannot wait, are you going to hear from BSI today?

The CHAIRMAN. The next witness.

Mr. BURGNER. This should be a very interesting committee. [Laughter.]

The CHAIRMAN. I might say to the gentleman that part of the problem in the confusion that he so rightfully observes grows out of the maze of incredible organization of this community and its various agencies. Before we were able to get through with matters that are being voted on at this very moment before the distinguished Minority Leader of this Committee, Mr. Nelsen, with his 90 some odd recommendations, together with the most able assistance of Mr. Hogan, to bring some kind of organization into this morass of disorganization, you have such agencies as RLA that were independent agencies, that were not really accountable to the local government nor to the Federal Government. You had other hybrid organizations within the community where the Mayor had the power of appointing somebody who after the appointment was not accountable to him. And, as a result of it, you had one of the most amazing forms of municipal mismatches that I am sure you have ever experienced in California and certainly I have ever experienced in Michigan.

Following what we hope will be the successful result of the charter amendment today and the elections of this fall beginning in 1975 you will see a reorganized kind of government where a lot more sense can be ascertained at all of this, and so we understand the gentleman's dilemma but you have just heard half of it.

RLA RELATIONSHIP WITH MAYOR-COMMISSIONER

Mr. GUNTHER. Mr. Chairman, might I add that there, the kind of problem that has arisen here, I think, could arise again. The fact that we are by law an independent agency, some parts Federal, something seems to be local about it, I do not really think is what caused the problem. I was appointed to this Board by John Kennedy, I was re-appointed by Lyndon Johnson, I was appointed by Richard Nixon and now I have been appointed by Walter Washington, and all the time confirmed by the Senate. Now we are all appointed by Walter Washington and all confirmed by the Senate, and we all went, when the Mayor took over, we all went to see him and said, "Now, Mr. Mayor, regardless of how we got to where we are," there were then some of us appointed by the President, "we are yours. Regardless of what the laws say we want to be part of the city government."

I happen to be Executive Director of the U.S. Conference of Mayors and if there is anything I know, the way I make my living, is who is the boss of the city. And I went over there and I said, "Mr. Mayor, we

are yours. You tell us what you want us to do and what you do not want us to do and we will do it."

Now clearly there are some things by law which we have to decide, and that that would be true probably under any administrative machinery that the Mayor, the Council and the Corporation Counsel would end up creating unless they are going to sit down and hold all these public hearings on acquisition and disposition.

But I think that you have here really, there is a contract, there was, I mean there was a contract. Whether there still is is what the dispute is. I know this happens in cities around the country, that somebody thinks, the city says they breached the contract. And the contractor says "No, we didn't," and the contractor keeps delivering whatever it was the city said they have already breached, and somebody has to decide that, and we hope we do not get to the point where somebody has to decide this. We hope that we can reach an agreement by the end of this month and be under construction in 1975 with all of the financing, the savings of the 235 housing which is really important to this project, is that under the mechanism that Secretary Meeker outlined this morning which is a creative effort on the part of our staff. If we have a developer by the end of May, or if we have a developer in June, there is no question in my mind that HUD will not have to stretch very far to help us save the 235. If we do not have a developer, I do not think they will have to stretch too far, but they might.

The CHAIRMAN. Well, we appreciate you gentlemen's contribution. That he has a national reputation in this field adds a great deal of credibility to the panel which has been before us and I can assure you that our entire efforts here today, even during moments of irritation, merely reflect our desire to see this thing move.

We did not complete all of our questions. We will have some additional questions that we will submit to the witnesses for response for the record so that we can move along.

Mr. GUNTHER. Thank you very much, Mr. Chairman and members of the Committee.

The CHAIRMAN. The chair would now like to call the representatives of the Building Systems International as the final witnesses, Mr. Lawrence Wilson, the Executive Vice President of the Henry C. Beck Company of Atlanta, Georgia, accompanied by Howard R. Moskof, Counsel for BSI; and Mr. Ted Hagans of Washington, D.C.

Mr. Wilson has a very comprehensive statement here with some enclosures. They have been very patient and we will have to let them proceed in as expeditious a way as they can without unnecessarily restricting them in view of the time element. We want to be as cooperative as we can, and within that context you may proceed, sir.

STATEMENT OF LAWRENCE A. WILSON, EXECUTIVE VICE PRESIDENT, HENRY C. BECK COMPANY, ATLANTA, GA., (BSI); ACCOMPANIED BY HOWARD R. MOSKOF, COUNSEL FOR BSI; AND TED HAGANS OF WASHINGTON, D.C.

Mr. WILSON. Mr. Chairman, I will attempt to as best I can, summarize what we have said in this half inch thick document and then let you ask whatever questions you would like and we will submit this document for the record.

We appreciate the opportunity to be here and meet with you, Mr. Chairman and the other Members of the Committee.

I am Lawrence A. Wilson, Executive Vice President of the Henry C. Beck Company and I am located in Atlanta, Georgia.

At the time BSI first submitted its proposal for Fort Lincoln I was president of BSI and remained in that position for approximately one year after that date at which time Ralph Taylor took over as president. I am a member of the Board of BSI.

ROLE OF BUILDING SYSTEMS INTERNATIONAL (BSI)

BSI and Westinghouse submitted a proposal in the latter part of 1970 for the Fort Lincoln, and we were selected in December of 1970 to prepare a development plan for submission to RLA and HUD. We worked for approximately one year on the development plan and worked with HUD, RLA, the Mayor's Advisory Committee as well as many agencies, committees, sanctioned, not sanctioned, community groups in preparing what we felt was an outstanding proposal for the development of Fort Lincoln. This was submitted in approximately December of 1971.

Not long after that submission Westinghouse decided not to proceed with Fort Lincoln and withdrew. BSI stayed in the picture and was approved by RLA to proceed further with the development program.

In the summer of 1972 BSI was approved as developer and named as developer for Fort Lincoln. We feel like that BSI, working with RLA and HUD as well as others, accomplished many things regarding Fort Lincoln, some of which where the approval of the urban renewal plan by the NPCP. We secured OMB commitment for Federal support; the President's message naming Fort Lincoln as one of the principal Bicentennial projects; we secured HUD funding for Fort Lincoln; we secured major funding for implementing the project; we secured HUD grants to study the feasibility of a utility tunnel approach at Fort Lincoln, and we secured a HUD grant which was never acted upon because of the present situation to study social services at Fort Lincoln. In addition, we had an offer of major financial commitments from a private foundation that was interested in participating in Fort Lincoln.

In the summer of 1972, having been named the developer or approved as developer, we found ourselves with, I think, three major obstacles to overcome or resolve. Those were the LDA, land disposition agreement, the minority participation, the negotiation of an agreement with GSA for the occupancy of a sizeable block of commercial space at Fort Lincoln.

At a public hearing in the summer of 1972 the approval of BSI was delayed subject to securing certain commitments for financial participants in the BSI venture.

MINORITY EQUITY PLAN

Subsequent to that date the City Council approved BSI and approved the urban renewal plan, and I would like to read portions of the letter from Ralph Taylor, who at that time headed up our Fort Lincoln group and was president of BSI, concerning the qualifications

that BSI was making regarding the minority participation and also noting at that time that BSI anticipated working out some form of an agreement with a financial participant in the project.

That letter is dated July 24, 1972 and is attached to the document that you have.

Start from the second paragraph.

"BSI will offer to sell a ten percent equity in the overall development entity to local minority investors who will have a prorated share of all benefits and obligations. We will offer this ten percent equity interest for \$125,000 which reflects a preferred price. In the event that it becomes necessary for the stockholders of the development entity to advance additional equity funds, minority investors will, of course, be required to advance their pro rata portion of such sums.

"The selection of the investors will be a decision of the Board of Directors of BSI and we will initiate negotiations for participation without delay. We expect to complete this sale before execution of the Land Disposition Agreement (LDA). However, if this sale is not complete by that time, we agree to be bound to do so by the Land Disposition Agreement.

"In addition, we plan a financial participation agreement with an institution which would loan funds to a development entity and in consideration would receive the right to acquire an equity participation in the venture. If we determine to go forward with such an arrangement, we will require that local minority investors acceptable to the financial partner be permitted to participate with such financial partner on an identical basis," and so forth.

As I stated, subsequently the City Council approved the urban renewal plan, and I am now reading from the document that you have before you, page 5. At that time the Vice Chairman of the City Council, Mr. Sterling Tucker, reported:

"Beginning immediately, BSI will sell at a fixed price of \$125,000 a ten percent full partnership interest in the Fort Lincoln Development Company to black investors. These investors will be able to participate on the board of the development entity. Shortly after this sale, BSI will undertake additional investment arrangements to increase the local black ownership of the development company to 25 percent.

"BSI has reserved the right to select the minority investors. We agree that it should have this right. We trust that BSI will consult with RLA regarding a process of investor selection which will be as open as possible and permit full consideration of all persons who wish to become investors. We suggest that BSI and RLA establish criteria for selection of the individual investors or community entity or entities that will make the initial 10 percent and the further 15 percent investments. We suggest that the criteria include: (a) a showing of sufficient economic, financial and managerial capability to protect the interests of the development company as well as the community, and (b) a workable plan to make investment available to the community on as wide a base as possible, and on a fixed time schedule. We further recommend that RLA and BSI begin discussions immediately on the mechanics of the sale of the additional 15 percent, including price, time of sale, timing for conversion to equity, et cetera."

In a prepared statement Mr. Tucker stated:

"The negotiations leading up to this commitment have been long and hard. I am very impressed with the flexibility and sense of com-

mitment expressed by the management and owners of BSI, and I extend to them both my congratulations and a hearty welcome to the City of Washington."

From the date of approval of the Urban Renewal Plan by the City Council, BSI has undertaken to finalize (1) the provisions of the land disposition agreement; (2) the finalization of financial arrangements which would assure the availability of adequate equity capital and fulfill the commitments of aid to the D.C. City Council; and (3) negotiate with the General Services Administration to assure the availability of the major employment center required by the Urban Renewal Plan.

FINANCING AND MINORITY EQUITY PARTICIPATION

During this period we tried to keep RLA informed of our efforts. We had previously advised the RLA staff that a major charitable foundation had offered a satisfactory commitment to participate in the project. As a result of the D.C. City Council's demands, we reopened negotiations with the foundation. RLA was advised that the foundation was willing to permit a minority controlled institution to assume one-half of its position. We further indicated that we were willing to sell the additional ten percent equity interest to individual members of the minority community at a price representing our cost.

Having disclosed our intentions to RLA, our staff began to work with the RLA staff to identify the group of individuals to buy the ten percent equity interest. At the same time, our staff undertook to identify minority controlled institutions which could participate with the foundation. When it became apparent that no minority controlled institutions were willing or able to participate with the foundation, we reported our problem to the RLA. Although we were of the opinion that our obligation to secure minority equity participation required BSI only to make a good faith offer to participate in the financial partnership arrangement, we explored with the RLA staff and its legal counsel the feasibility of a public offering of this participation and undertook to see if this concept was acceptable to the foundation. After some discussion we advised the RLA that the foundation felt a public offering setting forth its participation would put it in the position of appearing to endorse a "high risk" investment to members of the minority community. The RLA staff persisted and additional negotiations were undertaken with the "Program Related Investment" (as distinct from the "Financial Investment") division of the foundation. This resulted in the issuance of a commitment which contained a series of conditions which in our opinion, were unrealistic or infeasible. These conditions included: a requirement that the urban renewal plan be amended; a guarantee that sewer permits be available for the life of the project; and a requirement that no funds would be disbursed until the GSA leasing was completed.

Having exhausted negotiations with the foundation, BSI accelerated its efforts to firm up negotiations with alternative sources which could satisfy the minority participation and financial requirements. At this time BSI undertook to finalize negotiations with groups which had the requisite experience and resources to participate with BSI. In this regard negotiations with Mr. Ted Hagans and his associates, a group of respected and experienced local businessmen, moved toward fruition.

THE NOVEMBER BSI-RLA MEETING

Having spent over one year in an effort to resolve the minority participation question, the BSI Board became frustrated by our inability to resolve this issue. Similarly, the Board was disturbed by our difficulty in finalizing negotiations with the RLA staff with respect to certain provisions of the Land Disposition Agreement (primarily issues related to the public commitment to the project and the remedies in the event of default by the public agencies) and the failure of GSA to consummate negotiations with respect to the one million square foot employment center (office building) required by the urban renewal plan. Mindful that over \$1 million had been spent on Fort Lincoln by BSI and, I might add Westinghouse, over \$500,000 during their participation, and that the project was costing BSI over \$25,000 a month in overhead and planning expenses, the Board directed me to advise the RLA that unless the outstanding issues were resolved by December 31, 1973, subsequent efforts would be abated. At the same time, the Board directed the staff to accelerate its efforts to finalize preliminary negotiations with Mr. Theodore Hagans as it appeared these negotiations offered a means of resolving the critical minority financial participation issues. Finally, the staff was directed to accelerate its efforts to finalize the LDA and GSA matters.

Against the background of the Board's actions, Mr. Raymond Nasher met with Mr. Gunther and Mr. Mister and explained our objectives. The meeting to explain our intention to make one last effort has subsequently been characterized as a "withdrawal". Obviously, we did not withdraw since our staff continued to work with the RLA staff to resolve all outstanding issues. The continued activity of the RLA staff in negotiating with us indicated that the staff did not consider that we had withdrawn. In fact, our staff was able to negotiate an arrangement with Mr. Hagans which appeared to resolve the financial and minority participation issue. Most importantly, we felt Mr. Hagans' group strengthened our development team by adding their considerable local business know-how and leadership qualities.

THE BSI PROPOSALS

Shortly after my meetings with Messrs. Gunther and Mister, BSI's staff and Mr. Hagans' development team met with the RLA Board and explained our proposal. At that meeting we were invited to submit a formal proposal which was transmitted shortly thereafter. After two months of further negotiations on the land disposition agreement our proposal was rejected. By letter dated January 21, 1974 (see attached). This letter does not detail the basis of its rejection. An amended proposal designed to satisfy RLA's assumed objections and I might point out at this time, at the time we received the rejection from the RLA Board we had not met with the RLA Board to hear their comments or their concerns nor did we meet afterward with the RLA Board.

After one month of review and negotiations the amended proposal was rejected by letter dated February 20, 1974. The reason stated for the rejection was that we had withdrawn in October, 1973 (apparently intended to refer to the November meetings of 1973). In rejecting the amended proposal RLA did not indicate any dissatisfaction with the substance of the proposal.

CURRENT STATUS

The RLA letter of February 20, 1974, came as a surprise and disappointment. BSI had fulfilled all of its obligations. Substantially through the efforts of BSI, the urban renewal plan had been approved and all the necessary funding had been approved. Through our attorneys two separate drafts of the land disposition agreement had been prepared and there had been agreement on substantially all the provisions and I might point out that over a period of two years there were some 40 or so meetings regarding the LDA while RLA—meetings or discussions regarding LDA.

While RLA had not prepared a final land disposition agreement, BSI was under the impression that most of the major items had been finalized. Finally, BSI had arranged the necessary financing to complete the project and had involved an experienced and able group of local partners who more than met the minority participation commitments made by BSI to the City Council. Furthermore, RLA did not explain the basis for its rejection and refused to meet with BSI to discuss the situation. Having no alternative, BSI advised RLA by letter dated March 7, 1974, that it considered RLA's action a breach of its obligation.

RLA responded by advising BSI that there was no purpose in meeting to discuss the situation.

BSI responded to the March 13, 1974 letter requesting RLA to clearly indicate that BSI's only alternative was to file a lawsuit. In response to the March 24, 1974 letter, RLA called a meeting with BSI. The meeting was held on April 26, 1974 and at that time RLA transmitted a new land disposition agreement and indicated a new willingness to negotiate with BSI. As I have previously indicated, we are in the process of analyzing the new land disposition agreement. We are preparing to meet with RLA to negotiate. It is our intention to seriously negotiate this land disposition agreement to a successful conclusion and to proceed forthwith with the long-delayed business of developing Fort Lincoln.

Thank you.

[Mr. Wilson's statement follows:]

PREPARED STATEMENT OF LAWRENCE A. WILSON, MEMBER OF BOARD OF DIRECTORS,
BUILDING SYSTEMS INTERNATIONAL, INC.

Mr. Chairman, members of the Committee, my name is Lawrence A. Wilson. I am Vice President of the Henry C. Beck Company, general contractors, in charge of operations in the south-eastern portion of the United States, including Washington, and a member of the Board of Directors of Building Systems International, Inc. ("BSI") My business address is 2930 First National Bank Building, Atlanta, Georgia.

The Board of Directors of BSI have asked me to express their appreciation of the opportunity to appear before your Honorable Committee to review our participation in the Fort Lincoln New Town In-Town project. BSI has spent over \$1 million in fulfilling its obligations to bring the Fort Lincoln New Town ("FLNT") to the point of development. We believe we have fulfilled all our obligations and stand ready and able to begin development. Up until early 1974 we had been working closely with the staff of the D.C. Redevelopment Land Agency ("RLA") on the land disposition agreement ("LDA") governing the details of the development of the project and the composition of the development entity responsible for the project. On January 21, 1974 our proposal was rejected without detailed explanation. A subsequent proposal, which we believed addressed the apparent concerns of the agency was rejected on February 20 of

1974. The January 21st proposal was rejected in February because we had allegedly withdrawn in November. Let me assure you that given our considerable efforts after November 1973 this came as quite a surprise.

Until April 26, 1974, despite our persistent efforts, RLA has refused to meet with BSI to explain reasons for the rejection or to set forth the provisions which it required as a condition of going forward with the project. By letter dated April 26 the RLA has finally transmitted a land disposition agreement setting forth its requirements. We are in the process of reviewing these requirements and I am presently attempting to arrange a meeting with RLA to discuss this new agreement. BSI wants to go forward with the project and if we can negotiate a realistic and practical land disposition agreement, we will go forward.

SELECTION OF CONTRACTORS

In the late summer of 1970 RLA invited developers to submit proposals which would require the selected developer to prepare plans for the development of Fort Lincoln at its own expense. The prospectus provide that if the development plan prepared by the selected contractor was approved by the appropriate local authorities, found economically feasible by HUD and received the necessary funding allocations, the redeveloper would be entitled to develop the project. The BSI-Westinghouse Joint Venture was selected by RLA on December 4, 1970. The selection process involved the participation of the Federal Coordinating Committee, including representatives of the District of Columbia, National Capital Planning Commission, RLA and HUD, and the Mayor's Advisory Committee ("MAC") a panel of citizens appointed by the Mayor to represent community interests in the planning of the project. The BSI-Westinghouse Joint Venture was approved by the MAC and after a public hearing BSI was given a formal go ahead.

PREPARATION OF DEVELOPMENT PLAN

For the next year BSI and Westinghouse worked closely with the MAC, RLA, the Mayor's Office, the National Capital Planning Commission, HUD and other appropriate local and federal agencies. At the request of RLA and the Mayor's Office we had monthly meetings with the MAC to review detailed planning proposals and alternatives. After twelve months of intensive effort the Joint Venture submitted a development plan in compliance with its obligations. At that time Westinghouse Electric Corporation advised RLA that it was withdrawing from the Venture. BSI, however, advised that it was prepared to go forward with the project. After some six months of discussion and review by RLA, including an indication of our intent to create a subsidiary corporation to develop the project, the District government, the MAC, an HUD, the economic feasibility and practicality of BSI's Development Plan was confirmed and RLA approved the assignment of the contract rights by the BSI-Westinghouse Joint Venture to BSI.

PUBLIC APPROVALS OF FORT LINCOLN

Following the preparation of the Development Plan, BSI negotiated with HUD, National Capital Planning Commission, the Office of Management and Budget and District Government to complete the Urban Renewal Plan and assure the availability of the fund necessary to complete the construction of public improvements (schools, streets, sewers, etc.). Primarily through the efforts of BSI: (1) a HUD loan and grant agreement was offered in the amount of \$27.9 million; (2) an Urban Renewal Plan was approved by the National Capital Planning Commission; and (3) satisfactory assurances were provided by OMB and the District of Columbia regarding the availability of a substantial amount of the other funds necessary to implement the project. In May, 1972 the Urban Renewal Plan was submitted to the D.C. City Council. At that time the City Council required assurances with respect to the minority participation in the project. BSI's initial development plan had included one of the most comprehensive programs yet prepared for minority participation in and benefit from the development process. This proposal detailed in Mr. Taylor's testimony before the City Council on June 30, 1972 included 12 specific proposals spelling out the development ownership benefits. In addition to the specific proposals, the City Council required minority equity participation in the development entity. In response to this demand, BSI advised RLA by letter dated July 24, 1972 that BSI would offer to sell a 10% equity to minority investors selected by BSI. In addition, BSI advised

that it would offer minority investors the opportunity to assume one-half of a financial participation agreement which required the loan of a substantial amount of money in exchange for an equity participation in the Venture (See attached letter of July 24, 1972). Subsequently, the City Council approved the Urban Renewal Plan. At that time the Vice Chairman of the City Council, Mr. Sterling Tucker, reported:

Beginning immediately, BSI will sell at a fixed price of \$125,000 a 10% full partnership interest in the Fort Lincoln Development Company to Black investors. These investors will be able to participate on the board of the development entity. Shortly after this sale, BSI will undertake additional investment arrangements to increase the local Black ownership of the development company to 25%.

BSI has reserved the right to select the minority investors. We agree that it should have this right. We trust that BSI will consult with RLA regarding a process of investor selection which will be as open as possible and permit full consideration of all persons who wish to become investors. We suggest that BSI and RLA establish criteria for selection of the individual investors or community entity or entities that will make the initial 10% and the further 15% investments. We suggest that the criteria include: (a) a showing of sufficient economic, financial and managerial capability to protect the interests of the development company as well as the community, and (b) a workable plan to make investment available to the community on as wide a base as possible, and on a fixed time schedule. We further recommend that RLA and BSI begin discussions immediately on the mechanics of the sale of the additional 15%, including price, time of sale, timing for conversion to equity, etc.

In a prepared statement Mr. Tucker stated:

The negotiations leading up to this commitment have been long and hard. I am very impressed with the flexibility and sense of commitment expressed by the management and owners of BSI, and I extend to them both my congratulations and a hearty welcome to the City of Washington.

From the date of approval of the Urban Renewal Plan by the City Council, BSI has undertaken to finalize (1) the provisions of the land disposition agreement; (2) the finalization of financial arrangements which would assure the availability of adequate equity capital and fulfill the commitments of aid to the D.C. City Council; and (3) negotiate with the General Services Administration to assure the availability of the major employment center required by the Urban Renewal Plan.

FINANCING AND MINORITY EQUITY PARTICIPATION

During this period we tried to keep RLA informed of our efforts. We had previously advised the RLA staff that a major charitable foundation had offered a satisfactory commitment to participate in the project. As a result of the D.C. City Council's demands, we reopened negotiations with the foundation. RLA was advised that the foundation was willing to permit a minority controlled institution to assume one-half of its position. We further indicated that we were willing to sell the additional 10% equity interest to individual members of the minority community at a price representing our cost.

Having disclosed our intentions to RLA, our staff began to work with the RLA staff to identify the group of individuals to buy the 10% equity interest. At the same time our staff undertook to identify minority controlled institutions which could participate with the foundation. When it became apparent that no minority controlled institutions were willing or able to participate with the foundation, we reported our problem to the RLA. Although we were of the opinion that our obligation to secure minority equity participation required BSI only to make a good faith offer to participate in the financial partnership arrangement, we explored with the RLA staff and its legal counsel the feasibility of a public offering of this participation and undertook to see if this concept was acceptable to the foundation. After some discussion we advised the RLA that the foundation felt a public offering setting forth its participation would put it in the position of appearing to endorse a "high risk" investment to members of the minority community. The RLA staff persisted and additional negotiations were undertaken with the "Program Related Investment" (as distinct from the "Financial Investment") division of the foundation. This resulted in the issuance of a commitment which contained a series of conditions which in our opinion were unrealistic or infeasible. These conditions included: a requirement that the Urban Renewal Plan be amended; a guarantee that sewer permits be available for the life of

the project; and a requirement that no funds would be disbursed until the GSA leasing was completed.

Having exhausted negotiations with the foundation, BSI accelerated its efforts to firm-up negotiations with alternative sources which could satisfy the minority participation and financial requirements. At this time BSI undertook to finalize negotiations with groups which had the requisite experience and resources to participate with BSI. In this regard negotiations with Mr. Ted Hagans and his associates, a group of respected and experienced local businessmen, moved toward fruition.

THE NOVEMBER MEETING

Having spent over one year in an effort to resolve the minority participation question, the BSI Board became frustrated by our inability to resolve this issue. Similarly, the Board was disturbed by our difficulty in finalizing negotiations with the RLA staff with respect to certain provisions of the Land Disposition Agreement (primarily issues related to the public commitment to the project and the remedies in the event of default by the public agencies) and the failure of GSA to consummate negotiations with respect to the 1,000,000 square foot employment center (office building) required by the Urban Renewal Plan. Mindful that over \$1 million had been spent on Fort Lincoln by BSI and that the project was costing BSI over \$25,000 a month in overhead and planning expenses, the Board directed me to advise the RLA that unless the outstanding issues were resolved by December 31, 1973, subsequent efforts would be abated. At the same time the Board directed the staff to accelerate its efforts to finalize preliminary negotiations with Mr. Theodore Hagans as it appeared these negotiations offered a means of resolving the critical minority financial participation issues. Finally, the staff was directed to accelerate its efforts to finalize the LDA and GSA matters.

Against the background of the Board's action, Mr. Nasher met with Mr. Gunther and Mr. Mister and explained our objectives. The meeting to explain our intention to make one last effort has subsequently been characterized as a "withdrawal." Obviously we did not withdraw since our staff continued to work with the RLA staff to resolve all outstanding issues. The continued activity of the RLT staff in negotiating with us indicated that the staff did not consider that we had withdrawn. In fact, our staff was able to negotiate an arrangement with Mr. Hagans which appeared to resolve the financial and minority participation issues. Most importantly, we felt Mr. Hagans' group strengthened our development team by adding their considerable local business know-how and leadership qualities.

THE BSI PROPOSALS AND RLA REJECTIONS

Shortly after my meetings with Messrs. Gunther and Mister, BSI's staff and Mr. Hagans' development team met with the RLA Board and explained our proposal. At that meeting we were invited to submit a formal proposal which was transmitted shortly thereafter. After two months of further negotiations on the Land Disposition Agreement our proposal was rejected. By letter dated January 21, 1974 (See attached). This letter does not detail the basis of its rejection. An amended proposal designed to satisfy RLA's assumed objections was submitted shortly thereafter. After one month of review and negotiations the amended proposal was rejected by letter dated February 20, 1974. The reason stated for the rejection was that we had withdrawn in October 1973 (apparently intended to refer to the November meetings). In rejecting the amended proposal, RLA did not indicate any dissatisfaction with the substance of the proposal.

CURRENT STATUS

The RLA letter of February 20, 1974 came as a surprise and disappointment. BSI had fulfilled all of its obligations. Substantially through the efforts of BSI the Urban Renewal Plan had been approved and all the necessary funding had been approved. Through our attorneys two separate drafts of the land disposition agreement had been prepared and there had been agreement on substantially all the provisions. While RLA had not prepared a final land disposition agreement, BSI was under the impression that most of the major items had been finalized. Finally, BSI had arranged the necessary financing to complete the project and had involved an experienced and able group of local partners who more than met the minority participation commitments made by BSI to the City Council. Furthermore, RLA did not explain the basis for its rejection and refused to meet with BSI to discuss the situation. Having no alternative, BSI

advised RLA by letter dated March 7, 1974 that it considered RLA's action a breach of its obligation (see attached letter). RLA responded by advising BSI that there was no purpose in meeting to discuss the situation. (See attached letter of March 13, 1974.) BSI responded to the March 13, 1974 letter requesting RLA to clearly indicate that BSI's only alternative was to file a lawsuit. In response to the March 24, 1974 letter, RLA called a meeting with BSI. The meeting was held on April 26, 1974 and at that time RLA transmitted a new land disposition agreement and indicated a new willingness to negotiate with BSI. As I have previously indicated, we are in the process of analyzing the new land disposition agreement. We are preparing to meet with RLA to negotiate. It is our intention to seriously negotiate this land disposition agreement to a successful conclusion and to proceed forthwith with the long-delayed business of developing this interesting, innovative New Town.

JULY 24, 1972.

Mr. MELVIN A. MISTER,
Executive Director,
D.C. Redevelopment Land Agency,
Washington, D.C.

DEAR MR. MISTER: This letter is intended to clarify and explain Point 10 in the Economic Opportunity Program submitted by Building Systems International (BSI) to the District in March of this year and reiterated as one of the points in the twelve-point program in my testimony before City Council on June 13, 1972.

BSI will offer to sell a 10 percent equity in the overall development entity to local minority investors who will have a prorated share of all benefits and obligations. We will offer this 10 percent equity interest for \$125,000 which reflects a preferred price. In the event that it becomes necessary for the stockholders of the development entity to advance additional equity funds, minority investors will, of course, be required to advance their pro rata portion of such sums.

The selection of the investors will be a decision of the Board of Directors of BSI and we will initiate negotiations for participation without delay. We expect to complete this sale before execution of the Land Disposition Agreement (LDA). However, if this sale is not complete by that time, we agree to be bound to do so by the Land Disposition Agreement.

In addition, we plan a financial participation agreement with an institution which would loan funds to a development entity and in consideration would receive the right to acquire an equity participation in the venture. If we determine to go forward with such an arrangement, we will require that local minority investors acceptable to the financial partner be permitted to participate with such financial partner on an identical basis. We expect that the financial partner arrangement will be worked out by the time of the LDA. If it is not, we agree to be bound by the LDA to offer to local minority investors on competitive market terms the opportunity to loan funds in consideration for the right to acquire an additional 10 percent equity interest.

The combination of the 10 percent equity investment together with the additional opportunity for equity participation by one of the financial partner arrangements suggested above will provide an overall equity opportunity available to the minority community of 20 percent. We will endeavor in our negotiations with prospective financial partners to obtain for minority investors the opportunity to acquire up to an additional 5 percent equity interest. We hope this will clarify our proposed Economic Opportunity Program in connection with the Fort Lincoln Plan.

Very truly yours,

H. RALPH TAYLOR,
Vice President.

STATEMENT OF VICE CHAIRMAN STERLING TUCKER ON MINORITY EQUITY
INVESTMENT IN THE FORT LINCOLN DEVELOPMENT PROGRAM

I am pleased to learn that Building Systems International, Inc., the proposed developer of the Fort Lincoln New Town, has agreed to sell up to a 25% ownership interest in the Fort Lincoln development to local black investors. Through this innovative commitment, the local minority community will have the opportunity to participate directly in both the profits and the risks of the largest single private development in the history of the Nation's Capital.

In a letter delivered today to the Redevelopment Land Agency, BSI agreed to begin immediately to sell a 10% ownership interest in the Fort Lincoln Develop-

ment Company at the price of \$125,000 to local minority investors to be chosen by BSI. These investors will be in the same position as all other investors in the development company to be formed before the ground is broken at Fort Lincoln. Shortly after the initial sale of the 10% interest, BSI plans a financial partnership arrangement. In return for loaning money to the development company, local minority investors will be able to participate in ownership up to an additional 15%.

The Fort Lincoln economic development program, including the 25% equity interest for local black investors, constitutes the most extensive commitment in the nation's history by private enterprise to the minority community. We are convinced that this commitment will generate an atmosphere of mutual trust and respect between the developer and the local community which will make Fort Lincoln a success. Not only will local Blacks share in the construction and management of Fort Lincoln, but also in the basic management and financial decisions of the overall venture. An important by-product of Fort Lincoln will be the development of new local minority talent in the field of large-scale real estate development.

The committee which I chair endorses and supports, without reservation, the Urban Renewal Plan for Fort Lincoln which is presently before the Council. The Council has agreed to schedule a special legislative meeting for tomorrow at 9:00 A.M. to take action on the Fort Lincoln plan. Council clearance of the plan will permit construction at Fort Lincoln to begin late this year. Current planning calls for a completion of 40% of the Fort Lincoln development by the Bicentennial, July 4, 1976.

Fort Lincoln will include 4,600 dwelling units in high and low rise apartments and townhouses for middle, moderate and low income families and elderly persons, as well as a town center containing up to 2.4 million square feet of office and retail space and a 10,000 student campus for the Federal City College. 50% of the units will be subsidized, and 70% of the units will be available for sale. The Fort Lincoln Development Company will establish a community corporation to ensure resident participation in the operation of the project and to carry out the sale and leasing of the commercial and residential space.

The negotiations leading up to this commitment have been long and hard. I am very impressed with the flexibility and sense of commitment expressed by the management and owners of BSI, and I extend to them both my congratulations and a hearty welcome to the City of Washington. A number of people have worked to make this commitment a reality. In this regard I would like to recognize particularly Chairman John A. Nevius, Mr. Melvin Mister, of the Redevelopment Land Agency, and Mr. James G. Banks, Special Assistant to the Mayor for Housing Programs.

DISTRICT OF COLUMBIA CITY COUNCIL REPORT

To: Members of the Council.

From: Sterling Tucker, Chairman, Housing and Urban Development Committee.

Date: July 26, 1972.

Subject: Approval of Fort Lincoln Urban Renewal Plan.

In the attached resolution, the Committee recommends Council approval of the Urban Renewal Plan and the filing of an application for Federal financial assistance for the Fort Lincoln Urban Renewal Area, adopted by the National Capital Planning Commission on May 19, 1972. The resolution also approves modifications to the Comprehensive Plan for the National Capital relating to Fort Lincoln, adopted by the Planning Commission. A further resolution approves execution by the D.C. Redevelopment Land Agency of an amendatory contract for a planning advance from HUD for the Fort Lincoln project. Our recommendation is based on a thorough review of plans for the project and the record of the public hearing held on June 13, 1972.

Fort Lincoln is about to become a reality. It can and will be built; it is no longer just an expensive planning exercise. The development of Fort Lincoln will not solve our serious problems of overcrowding, inadequate housing for large, poor families or our inability to rebuild the riot corridors. It will, however, demonstrate to the skeptics that Washingtonians can create something unique and of lasting value if they commit their talents to the job.

Everyone who has worked on the project can take pride in producing plans for a feasible product—a place where real people will live. We give our thanks to the quiet and thorough work of a few of the dedicated people who have had faith in Fort Lincoln: John Gunther, Mel Mister and Arnold Mays of RLA, Charles Conrad, Daniel Shear and others at NCPC, James G. Banks, who has patiently seen the project through to this point, Emanuel Lipsecomb, Jesse Jackson, and all

the members of the Mayor's Advisory Committee who have given untold hours of skillful volunteer time, and H. Ralph Taylor and his staff at Building Systems International, Inc., the proposed developer. We also express our thanks to Under Secretary Richard Van Dusen of HUD and the many other Federal officials who have agreed to make the financial commitments that will ensure the success of the project. President Nixon referring to Fort Lincoln in his District Bicentennial Message said, "We are determined to make it happen."

The Committee supports the Fort Lincoln development without reservation. The "new-town" will provide an exciting living environment for the 16,000 people, most of whom are in the moderate and middle income ranges. These are the families we want to encourage to remain in the city.

MINORITY EQUITY INVESTMENT IN FORT LINCOLN

An equally important benefit involves local economic development, particularly for the Black community. We are determined that Fort Lincoln assist local minority people to enter the fields of large-scale real estate development, banking, securities, etc. To miss this opportunity in this last major redevelopment project, would be a tragic mistake.

At the request of the Committee, the prospective developer, BSI, recently clarified its offer of minority equity participation in the development entity that will construct Fort Lincoln. Beginning with an immediate sale of a 10% ownership interest to local Black investors, BSI agrees to share a total of 25% of the ownership and control of the development corporation with local Blacks. This means local minority voting participation on the board of the development company and a local share in profits as well as risks. BSI's agreement on minority investment is fully binding and will be expressed in the land disposition agreement under which RLA will transfer the land to BSI.

Other economic development benefits of the project include: construction "set-asides" for minority contractors, percentages for Black construction workers, establishment of the Fort Lincoln Community Corporation and a local subsidiary to handle sales and leasing in Fort Lincoln, as well as joint venture and limited partnership investment opportunities in elements of the project such as the retail and commercial centers, and rental units.

These are important and innovative commitments. They have never been made before in the development of a new community. Our initial concerns about the lack of specificity in BSI's offer of minority equity participation have been met in a letter from BSI to RLA which contains a contractual agreement to offer 25% equity to local Black investors.

Beginning immediately, BSI will sell at a fixed price of \$125,000 a 10% full partnership interest in the Fort Lincoln Development Company to Black investors. These investors will be able to participate on the board of the development entity. Shortly after this sale, BSI will undertake additional investment arrangements to increase the local Black ownership of the development company to 25%.

BSI has reserved the right to select the minority investors. We agree that it should have this right. We trust that BSI will consult with RLA regarding a process of investor selection which will be as open as possible and permit full consideration of all persons who wish to become investors. We suggest that BSI and RLA establish criteria for selection of the individual investors or community entity or entities that will make the initial 10% and the further 15% investments. We suggest that the criteria include: (a) a showing of sufficient economic, financial and managerial capability to protect the interests of the development company as well as the community, and (b) a workable plan to make investment available to the community on as wide a base as possible, and on a fixed time schedule. We further recommend that RLA and BSI begin discussions immediately on the mechanics of the sale of the additional 15%, including price, time of sale, timing for conversion to equity, etc.

DESCRIPTION OF FORT LINCOLN NEW TOWN

Fort Lincoln has had a long history. In 1967, RLA retained the urbanologist Edward J. Logue to prepare a general plan to transform the old National Training School Site into a socially, racially and economically balanced new community of 4500 dwelling units. In September, 1970, to test the feasibility of the Logue plan, RLA issued a prospectus to private firms to prepare a development plan. By the terms of the prospectus, the firm chosen to prepare the plan would become the developer of the project if the plan won approval from the public agencies. The joint venture of Building Systems International, Inc./Westinghouse Electric Corporation was chosen to prepare a development plan.

In January, 1972, the joint venture submitted a General Development Proposal for Fort Lincoln with the recommendation that BSI alone carry out the plan. This Proposal was found feasible by both RLA and HUD. The development will involve the investment of approximately \$200 million in private funds and an initial public investment of \$28 million in Federal renewal funds, and \$50 million in District funds for schools and other facilities. In addition, RLA is expecting Federal financial assistance for the transit connection from the project to the Metro at either Deanwood or Rhode Island Avenue.

The objective of Fort Lincoln is the creation of "an attractive and racially, socially, and economically innovative community of approximately 16,000 persons". The plan provides for between 4,200 and 5,000 dwelling units. Approximately 20% of these units will be high-rise apartments and the balance will be garden apartments and townhouses. The plan further provides that 53% of the units will be at market rate and 47% will be subsidized under several HUD programs. Up to 70% of the units will be available for sale. The housing program will provide approximately 2,000 sales units for families earning between \$10,000 and \$18,000, and approximately 1,200 sales units for families earning between \$7,000 and \$10,000. In addition, there will be approximately 400 units for larger families with incomes less than \$6,500. 400 units of rental housing will also be available for elderly families or individuals with public housing incomes.

The development plan includes the following features:

- A town center with approximately 2 million square feet of office and retail space for which a GSA lease commitment has been requested for up to 1.2 million square feet of office space. The town center will include a health facility, art center and a library.
- Three community malls for neighborhood convenience shopping and social service facilities including day care.
- Three elementary schools and one secondary school for approximately 5,000 children. Funds have been appropriated for the first elementary school which will enter construction before the end of the year. The School Board has agreed to an innovative educational program which is being designed with the assistance of the General Learning Corporation.
- The plan provides for a thirty acre campus for the Federal City College to house approximately 7,500 full-time students in about 2 million square feet of building space.
- The recreation program includes approximately 32 acres of parkland and to be maintained by the National Park Service, 15 acres under the jurisdiction of the D.C. Department of Recreation and 30 acres under the jurisdiction of the School Board. In addition, there will be approximately 25 acres of private open space reserved for recreation purposes.
- An essential element of the Fort Lincoln community will be a transportation link adjoining Fort Lincoln to the METRO system. Studies are now going forward with WMATA to determine the cost and engineering feasibility of connecting the project with either the New Carrollton line at Dean Avenue or the Glenmont line at Rhode Island Avenue. It is hoped that the METRO connection will be extended to link the various activity centers within the project.

ISSUES RAISED AT THE HEARING

Apart from the issue for minority participation in the development, several other issues were raised by witnesses at the public hearing. These include: additional housing for low income families, additional housing for the elderly, additional rental units, and the urgent need for a METRO connection at Fort Lincoln. The Committee agrees that a rapid transit link is essential to the success of Fort Lincoln and urges public agencies to resolve this issue as promptly as possible.

With respect to the issue of increasing the number of low income and elderly units and of increasing the number of rental units, the Committee at this time is convinced that the income and tenure mixture of the plan is both feasible and desirable. We would, of course, prefer that a larger number of units be made available for low income families to meet the need for this type of housing. We would, therefore, suggest that both the developer and RLA consider increases in these units if changes in the federal housing assistance programs will make such changes possible. We urge RLA and the developer to re-examine at periodic intervals the housing mix at Fort Lincoln with a view to increasing the number

of units for low income families and the elderly. In addition, RLA and the developer should study the experience in the sale of rental units and make appropriate adjustments in the percentage of units for sale and units for rent.

THE NEED FOR COOPERATION OF PUBLIC AGENCIES

The success of Fort Lincoln will depend in large part on a high degree of cooperation and coordination among the local and federal agencies involved in the project's development.

The proposed order of the Mayor to designate Mr. James G. Banks as the District's coordinating officer is an important step toward this cooperation. We cannot express too strongly the importance of the observance of development timetables particularly by agencies of the District Government. In our opinion, there will be no excuse for delays caused by District Departments desiring to preserve their individual prerogatives. We understand that RLA is preparing a development schedule for the overall project and we will expect every District agency to adhere to this schedule.

SUMMARY OF RESOLUTIONS

The first resolution before you would authorize RLA to execute a "plan advance" contract for the Fort Lincoln project of \$194,000 to assist in establishing the value of the site, technical services for coordination of development activities and a study of methods to increase public safety in Fort Lincoln.

The second Resolution before you would: (1) determine that the Fort Lincoln area is eligible for urban renewal treatment; (2) approve the urban renewal plan and boundaries adopted by NCPC on May 19; (3) approve conforming amendments to the Comprehensive Plan adopted by NCPC; (4) determine the need for additional units of transient housing in the District; (5) authorize RLA to file with HUD an application for financial assistance and to execute a contract for such assistance; and (6) authorize and approve execution of a Cooperation Agreement between RLA and the District for the provision of public facilities. The second resolution also includes several other findings required by law.

I move Council adoption of the attached resolutions. Notice of intent was published in the *D.C. Register* on May 30, 1972.

DISTRICT OF COLUMBIA
REDEVELOPMENT LAND AGENCY,
Washington, D.C., January 19, 1973.

H. RALPH TAYLOR,
Vice President, Building Systems International, Inc.
Colorado Building, Washington, D.C.

DEAR MR. TAYLOR: We have discussed in recent conversations, the need for a clear, detailed understanding of how BSI will carry out its commitment to afford minority investors the opportunity to purchase up to 25% interest in the overall Ft. Lincoln development entity. Unfortunately, as of this date, you have not provided us a detailed proposal which we might review and approve.

As you well know, BSI's programs and commitments relating to minority groups are among the more important aspects of the land disposition agreement still to be negotiated. We want to reach agreement on these provisions at an early date, particularly the provisions relating to minority investment programs. As we said in our letter of August 3, 1972, we believe every effort should be made to have the minority investment program completed and the investors on board prior to the public hearing on the land disposition agreement.

Therefore, we urge you to submit in the next few days, a detailed written proposal of how BSI would achieve the level of minority investment to which it is committed. Proposals should indicate, among other things, the following in detail:

(a) A description of the legal entity that will be the overall redeveloper of Ft. Lincoln.

(b) A list of the current shareholders or partners in that entity and a statement of their respective interests.

(c) A statement of the ownership pattern of the development entity after the minority investment commitment is carried out, specifically indicating to the extent practicable known shareholders or partners and their respective interests including the minority investors and the percentage of their interests (and others, if any).

(d) A statement of how the first ten percent will be sold to minority investors indicating (i) the method by which the offering will be made, (ii) what persons, organizations or firms will be solicited or permitted to invest, (iii) what clearances and approvals will be required under state and Federal law, and (iv) the proposed time schedule for completing such offering and sale. If more than one offering is contemplated, please indicate this information for each such offering.

(e) A statement of the exact nature of the interest being offered, minority investors, i.e. stock (common or preferred) debt equity, warrants, partnership interests, etc. A comparable statement covering all other ownership interests in the entity. Please describe the attributes of all such interests such as voting rights, pre-emptive rights and the obligations, etc. of the holder.

(f) How was the \$125,000 consideration for sale of first ten percent determined? What will be the price of the remaining interests being offered to the minority groups, individuals and to others? How will such price be paid?

(g) What relationship, if any, is there between making a portion of this interest available to minority investors and the presence of other financial partners in the development entity. Please clarify your letter of July 24, 1972.

(h) Please indicate any reservations you have concerning the legality or feasibility of your proposal.

We have retained a special consultant to assist us in reviewing your proposal and we shall be prepared to review it promptly upon receipt and meet with you to resolve any controversy on the specific terms.

In conclusion, I want to emphasize the need to reserve enough time to work out this important aspect of our agreement in consultation with each other so that we both may devote sufficient attention and care to this matter before submitting any part of the agreement to public scrutiny.

Sincerely,

MELVIN A. MISTER,
Executive Director.

DISTRICT OF COLUMBIA
REDEVELOPMENT LAND AGENCY,
Washington, D.C., March 14, 1973.

BUILDING SYSTEMS INTERNATIONAL, INC.,
Colorado Building,
Washington, D.C.

GENTLEMEN: Following our meeting on February 7 concerning the proposed participation of the minority community in the developer entity for Fort Lincoln New Town, we have given consideration to the various alternatives developed at that meeting and in subsequent discussions with you, with our special counsel and with our Board of Directors.

A number of the alternatives presented serious difficulties, which we believe may be overcome in the course of action presented below. In the first place, it appears that great practical difficulty will be encountered in finding individuals or institutions to undertake the two or three year "warehousing" that we discussed. Secondly, we have reservations about the propriety of making the 10% interest (offered at \$125,000) available only to a pre-selected group of minority leaders and institutions. Thirdly, a public offering of the 10% interest alone would be financially unwarranted since the cost would be disproportionate to the funds to be derived from the offering.

In the light of these and other considerations, including anticipated finalization in the early Fall of the GSA lease and the permanent financing commitments, it is our present view that the best way of making the total investment package available to the minority community is through a public offering, to be completed approximately six months from the signing of the Land Disposition Agreement.

The public offering would include both the 10% interest, which would be in the form of voting common stock in the developer corporation, and the 15% interest accompanying \$2,000,000 of debentures, with attached warrants exercisable at a nominal price. The warrants would represent a 15% common stock interest when exercised. The securities representing the 10% interest and the 15% interest and debentures would not be "linked" together in a package, so that the investing public could purchase the 10% stock alone, or the 15% debentures and warrants alone, or a combination of the two. This would insure a wider distribution and afford a more flexible investment opportunity to the community.

Hopefully, the public offering would be so arranged that a number of community leaders and institutions would have committed to take up any of the

10% stock that is not disposed of initially in the public offering. It is further contemplated that the financial partner would be willing to keep in effect its commitment as to the \$2,000,000 loan long enough to permit the registration and effectuation of the public offering, so that any of the debentures and warrants not successfully marketed would be taken up by the financial partner.

This program seems preferable to other alternatives for a number of reasons. Most importantly, it would bring about minority community participation at the earliest feasible date, rather than have such participation remain as a mere expectancy for several years. The public relations advantages of this are obvious. Furthermore, it would discharge in a fair and equitable manner the obligation of the developer to use reasonable efforts to accomplish broad minority participation. A delay of several years in marketing the securities would not necessarily, in our opinion, make them more marketable than they would be in the Fall of 1973. Further, an offering two years down the line may not involve less risk than an offering at the present time. In this respect, as above mentioned, the assurance of the GSA lease and the permanent financing commitments are probably the key factors in reducing the speculative aspect of the project. Moreover, an SEC registration at the present time might be easier to effectuate than a registration two years from now after the developer will have sustained the usual start-up losses.

The price at which the securities would be offered would consist of an aggregate price of \$125,000 for the 10% stock interest, and \$2,000,000 for the debentures with warrants attached plus some reasonable increment for the costs and fees of the offering. The exact characteristics of the securities to be offered, including the interest rate on the debentures, should be determined in accordance with advice from the investment bankers handling the offering.

We suggest a meeting with your representatives as soon as convenient to discuss the approach outlined above, and also to take up certain matters that remain unresolved. Among these is the question whether the minority interest is to be 25%, as originally proposed, rather than the 22% as was indicated by you at our last meeting. It is also important to clarify the nature of the debentures to be issued, i.e. whether they will be guaranteed by BSI, which may critically affect the marketability of the bonds.

Before concluding, we must also note that we have been handicapped in our efforts to help you achieve the Ft. Lincoln minority investment objectives by a lack of necessary specific information. We have great difficulty considering your proposals without knowing such details as the precise form of the redeveloper entity, the specific attributes of the 10% stock and the \$2,000,000 debentures and warrants to be sold. For example, will the stock be interest assessable, and if so, to what extent? Advice on these matters, which we requested in our January 19, 1973, letter is essential to both of us as well as to any potential underwriter or investor before judgments can be made on the preferred course of action.

We are prepared to discuss these matters with you and your representatives at your early convenience, but suggest that you provide us the above information before that meeting.

Sincerely,

MELVIN A. MISTER,
Executive Director.

BUILDING SYSTEMS INTERNATIONAL, INC.,
Washington, D.C., February 6, 1973.

Mr. MELVIN MISTER,
Executive Director,
D.C. Redevelopment Land Agency,
Washington, D.C.

DEAR MEL: This is in response to your letter of January 19 requesting information regarding the entity which will be the Redeveloper of Fort Lincoln New Town and our intentions regarding minority equity participation. We would appreciate your keeping this information confidential, as it reveals financial negotiations which are currently under way. I am sure you understand that any public statement at this time would be premature and might be damaging.

Building Systems International, Inc. intends to organize a corporation or a joint venture to be the Redeveloper of Fort Lincoln. The precise form of the vehicle will be based on a study of the tax implications of each of the forms and the desires of the institutional financial partners for the project described

below. On creation the Redeveloper entity will be entirely owned by BSI. In my letter of July 24, 1972, BSI offered to make available a 10 percent equity interest to local minority investors for \$125,000, with such minority investors being obligated to invest additional capital prorated with BSI. Further, BSI indicated its intention to make available up to 30 percent of the total equity interests to institutional financial partners which, we anticipate, will make an unsecured loan of up to four million dollars (\$4,000,000) in exchange for a satisfactory rate of return on the loan and the right to purchase, at a nominal price, the aforesaid 30 percent equity interest. If such 30 percent interest is acquired, BSI would be left with a 63 percent interest in the Redeveloper, and the initial minority group would have a 7 percent interest. However, one-half of the institutional financial participation (or a 15 percent interest in the Redeveloper) will also be made available to the minority community, bringing the total potential minority investment to 22 percent.

We have been working diligently to finalize our negotiations with the institutional financial partner and determine the best method of fulfilling our obligations to provide to the minority community an opportunity to invest in the Redeveloper entity. In this regard, our goal has been to find a method of distribution which will provide an opportunity to the greatest number of individuals, but which does not expose the investors to undue risks. As you know, the accomplishment of this goal involves serious legal, financial and political issues. The following is an outline of some of the problems as we see them and our current thinking as to the best way to resolve these issues.

1. *Securities Law Requirements.* Our attorneys advise that the sale of both the 10 percent equity interest and the four million dollar (\$4,000,000) debt-30 percent equity interest will constitute a sale of securities regulated by the Securities Act of 1933. While the Securities Act generally requires that sales of securities be registered, certain sales in "private placements" may be made without registration in certain limited circumstances, including restriction of offers to a very limited group of investors who have the financial capacity and sophistication to analyze, understand and bear the risks involved in the investment and who have access to considerable information about the issuer. Our attorneys have also advised us that recent court decisions may have severely restricted the availability of this exemption from registration.

A registered public offering involves the preparation and the filing with the Securities and Exchange Commission (SEC) of a detailed registration statement, including a prospectus. This is a substantially more expensive and time-consuming process than the private placement method. On the other hand, a registered offering would achieve a wider distribution. The registered offering would also eliminate the restrictions of the private placement offering pertaining to the number of offerees and their ability to analyze investment risks. The extremely preliminary status of the Fort Lincoln project makes it doubtful, however, that the SEC would allow a registration to become effective in the near future. Furthermore, disclosures of projected profitability for the Redeveloper could not be included in a registered prospectus.

2. *Risks to Investors.* An investment in the Fort Lincoln New Town Redeveloper entity would be characterized as "a high risk investment" by the financial community. The principals of BSI do not wish to attract investments by people unable to take the risk. At this time the project has no track record and some of the risks may not be readily apparent. For these reasons it would be better to defer any broad-based offering until there is some operating information which would permit investors to better assess the risks. We are particularly concerned about this issue, since initial community enthusiasm for the project may mislead unsophisticated investors.

3. *Timing of Investment.* The issue here is the relationship of our immediate need to be assured of the availability of necessary capital to the advantages (described in paragraph two above) inherent in the delay of the investment. This problem is compounded by the fact that the substantial investment contemplated in the debt-equity arrangement (including the minority participation therein) must be negotiated at the outset, since the financial partner would be unwilling to make financial investments at the early stages and then share the equity benefits equally with an investor who comes in at a later date.

4. *Political Problems.* We recognize the importance of fulfilling our obligations set forth in my letter of July 24, 1972. In this regard, it would be better to accomplish all or a portion of the equity distribution prior to or immediately after the execution of the Land Disposition Agreement. However, we do not

think that this commitment should result in premature distribution of high risk securities to the minority community. We do recognize that a contractual obligation to accomplish certain events by a specified date, without the existence of an independent entity which can enforce this obligation, would meet with criticism.

5. *Costs.* We have been advised by our attorneys that a registered offering could cost anywhere from 50 to 100 thousand dollars. This is many times more expensive than the cost of a private placement offering. It is clear that the registered offering of only the 10 percent equity for \$125,000 would not be economically practical in view of the expense of registration. On the other hand, a registered offering would be more feasible for the debt-equity offering, particularly in view of its size.

During the past several months we have attempted to develop a method of distribution which would accomplish the following: (i) demonstrate our good faith; (ii) secure the necessary financing; (iii) comply with the federal securities laws; and (iv) minimize investor risks.

Towards these ends, we have considered several basic approaches. One approach is to sell one-half of the debt-equity arrangement to institutions which would "warehouse" the investment for future minority investors by acquiring this investment on the condition that they sell their participation by registered offering to the minority community at some time in the future (preferably 2 to 3 years after execution of the Land Disposition Agreement). We are proceeding with this inquiry and hope to be able to advise you of the status of this in the near future. We are not optimistic about this possibility.

Although it may be possible to sell the 10 percent minority interest currently in a registered offering, the expense and difficulty involved in registering the Redeveloper's securities at this early stage of its activities make this alternative undesirable. As described above, there are difficulties involved in effecting a private placement in compliance with the securities laws. As an alternative, we feel that the interests of the potential investors, of the Redeveloper and of the Agency would be best served by placing the initial 10 percent with the same entity which would purchase one-half of the institutional financial participation, on the condition that the entity would resell such 10 percent to a wide-spread group of members of the minority community in a future registered offering which could be combined with the registered offering of the minority portion of the institutional financial participation. In this offering, investors from the minority community would be in a position to review the operating results of the Redeveloper for a significant period. By virtue of registration, the securities law problems attendant upon a private placement would be eliminated. The Agency and the Redeveloper would have insured the availability of participation in the Redeveloper to the minority community without imposing upon the minority community undue speculative risks and without requiring the Redeveloper to confront substantial difficulties in complying with the securities law.

If we are unable to arrange this "warehousing" method of distribution, another alternative is to offer the debt-equity arrangement to minority institutions which would retain said interest. The 10 percent equity interest could be made part of the package or placed separately. Because of the amount of money and the risk involved we are not hopeful about this approach.

We hope this letter clarifies our thinking to date. Any comments or suggestions you may have with respect to each of these alternatives would be greatly appreciated.

Sincerely,

RALPH TAYLOR, *President.*

BUILDING SYSTEMS INTERNATIONAL, INC.,
Washington, D.C., April 2, 1973.

Mr. MELVIN MISTER,
Executive Director.
D.C. Redevelopment Land Agency,
Washington, D.C.

DEAR MR. MISTER: We welcome the opportunity to discuss the history and future of the FLNT development. Our meeting on Wednesday at 3:00 should help clarify alternatives relative to shared objectives concerning minority participation. Hopefully, it will also permit us to explore necessary strategies to move the project at a faster pace. At the present time, delays in receiving promised public commitments have exposed BSI to severe unanticipated financial risks and ex-

posure. Although we are committed to moving ahead, we must ask your help in removing roadblocks still in the way of successful initiation of Fort Lincoln, as a significant development.

This letter briefly sets forth our year long efforts to respond to obligations relative to minority investment. It responds to your letter of March 14, 1973, setting forth your agency's preferences regarding the methods we may use to comply with our commitment to make available (i) the 10% equity interest in the Redeveloper of Fort Lincoln (the "10% equity interest") to local minority investors for \$125,000, with such investors being obligated to invest additional capital pro rata with Building Systems International, Inc.; and (ii) up to one-half of the arrangement we are negotiating with an institutional financial partner to make an unsecured loan to the Redeveloper of up to \$4,000,000, with the financial partner also acquiring the right to purchase, at a nominal price, a 30% equity interest in the Redeveloper (the "debt/equity investment"). In effect, this letter sets forth how we have tried and will continue to try to fulfill our obligations. It also provides background information concerning each alternative we have explored and/or considered; as well as legal and institutional constraints preventing the initiation of several RLA and developer preferred alternatives.

With respect to the placement of the 10% equity interest, our goal has been to establish some procedure which would allow a placement of said interest with minority investors prior to the public hearing on the Land Disposition Agreement, thereby demonstrating at an early stage our commitment to minority community participation in the Fort Lincoln Project. We have considered the feasibility of a broad public offering of the equity interest and have determined it is not feasible since, as you have recognized, the costs of registering the 10% equity interest with the SEC in compliance with its security laws would be prohibitive in that it would substantially increase the promised \$125,000 selling price.

As suggested in your letter of March 14, we have thoroughly explored the possibility of minimizing the registration cost applicable to the 10% equity interest by the simultaneous public offering of the 10% equity interest and the debt/equity investment. It is our considered judgment this proposal was and now is infeasible. It is realistic to anticipate that the financial partner's investment might be viewed by local minority investors as an endorsement upon which they would base their own investment judgments, therefore, it would be unfair to place our financial partner in such a posture, particularly in view of the speculative nature of any investment in the Redeveloper at this time.

We have also considered the feasibility of requiring the financial partner to divest itself of one-half of the debt/equity investment through a public offering some time in the future—in effect, asking the financial partner to "warehouse" the investment. This approach, unfortunately, is economically unrealistic, and raises some important tax problems.

We have spent considerable time and energy to find an institution willing to assume the role of a "warehousing" entity. We have had extensive negotiations with a number of local tax-exempt foundations in the hope that such a foundation, or a group of such foundations, would agree to purchase one-half of the debt/equity investment currently, with a commitment to reoffer such investment to the local minority community at some time in the future in a registered public offering. Unfortunately, we have been unable to find tax-exempt foundations that are interested in making such a commitment.

Finally, we have attempted to identify local minority controlled entities which might purchase for their own account, all of the equity investment. While this would not assure a broad distribution, it would result in the desired minority participation. We have had conversations with officers of a corporation which has expressed a preliminary interest in acquiring both the debt/equity investment and the 10% equity interest, however, no firm commitment has been received to date and it seems clear that we will be unlikely to find an institution willing to make the \$2,000,000 investment.

At the present time, given our financial exposure resulting from delays in the project to date and the practical constraints narrowing alternatives, our only realistic option is to offer the 10% equity interest on a private placement basis structured to qualify for an exemption from registration under the Securities Act of 1933. We are now preparing documentation to be used in connection with such a private placement which to qualify for the exemption must be offered to a very limited group (we intend to offer to no more than 20 persons).

This offering will be made to members of the local minority community who are sophisticated investors with sufficient resources to bear the risks inherent in an investment in the securities of the Redeveloper at this time.

Enclosed for your review is a draft of the language we propose for insertion in the Land Disposition Agreement, setting forth this commitment. We believe this proposal is consistent with the commitment we made in our letter of July 24, 1972.

This proposal represents many long months of serious effort to develop a realistic method of providing the minority community with an investment opportunity. As indicated above, legal and financing requirements have narrowed the range of alternatives which are viable. Assuming there are investors in the minority community willing to assume the economic risks, we believe the procedures outlined will result in the minority-ownership contemplated and is consistent with our obligations.

We look to your assistance in moving this project forward at a rapid pace. We have been and continue to be committed to the social objectives inherent in developing Fort Lincoln. Our efforts have been premised on our desire to achieve these objectives.

Sincerely yours,

H. RALPH TAYLOR.

Enclosures.

Subject: Efforts to Achieve Minority Equity Participation in FLNT.

BSI's commitment to offer investors in the local minority community the opportunity to participate in the overall development entity for FLNT is totally unprecedented in the history of large-scale development ventures in this country. The commitment was made despite the awareness of BSI that there was no plan by which the objective could be sure of achievement. The commitment was to "offer," not to assure what is not in BSI's control, i.e., acceptance.

In making the commitment, BSI followed three principles:

- (1) The opportunity to invest has to be on a business basis or it would not be replicable as a precedent;
- (2) In any business venture, the owners have the unquestioned right to select their associates;
- (3) The opportunity to invest has to fit into the overall financing program for the total development.

The two phases of the commitment set out in the July 24, 1972 letter reflect these principles:

First, BSI agreed to offer 10 percent of the equity in the overall development entity to local minority investors who would have a prorated share of all benefits and obligations. The price of this 10 percent equity interest is set at \$125,000 which clearly reflects a price consistent with the social objectives of this project.

Second, with respect to the remainder of the equity investment opportunity, BSI's commitment was based upon its expectation of successful negotiations with an institutional investor which would loan approximately \$4,000,000 to the development entity and in consideration would receive 9 percent interest on a current basis on funds loaned to the venture, a priority in cash flow until the debt is repaid, plus the right to acquire 30 percent equity interest in the venture for a nominal sum. As a part of the arrangement with the institutional investor, BSI has required that the minority community be offered the opportunity to participate in up to one-half of the financing package, under the same terms and conditions. In other words, the minority community would be offered the opportunity to invest in the Fort Lincoln Development Company in an amount up to 2 million dollars, receiving a call on up to 15 percent of stock, depending upon their investment, thus reducing the institutional investment arrangement by up to one half.

The efforts to meet this commitment are a classic case study of the problems and difficulties inherent in attempting to achieve a pioneering objective.

Early discussions of the problem made it very clear that:

- (1) the institution could not purchase and hold the \$2,000,000 for later offering to the public (i.e., "warehouse" the security).
- (2) the institution and the owners of BSI agreed that they could not participate in a public offering before the development is market-tested, where their reputation and involvement might be the basis for the decision to purchase a highly-speculative security;
- (3) moreover, the time required for a public offering at that stage of the development would make it impossible to have the firm long-range financing

commitment necessary for the development to proceed. Since there could be no offering until after LDA execution with marketing necessarily on a "best efforts" basis, and the time requirements for SEC approval, the project could not survive the uncertainties and delays.

The first decision was to attempt to combine the two offers for equity participation and to find an institution, preferably a minority one, to commit itself to the \$2,000,000 financing, and to offer, at a later date, the equity in the development entity to the local minority community on a broad basis facilitated by a SEC registration. To this end, BSI was hopeful that it would convince the Cooperative Assistance Fund to participate. CAF is a national fund located in Washington, operated by minorities and contributed to by several national foundations. Much time and effort went into this which included a BSI presentation in New York to its board of directors. As it turned out, CAF was interested, but unable to participate to the extent required. They did, however, indicate an interest in, but no firm commitment to, participation to the extent of assisting with the capital needed for the first 10 percent equity.

Accordingly, the decision was made to proceed with the development of a process for identifying the individuals with the interest and ability to purchase the front-end 10% equity. At the same time, efforts continued to find an institution or institutions that would "warehouse" the \$2,000,000 representing half of the institutional arrangement debt for later distribution to the minority community.

BSI has initiated discussion with prospective investors concerning the purchase of the first 10% of the equity of the Fort Lincoln Development Company. These discussions basically were held to give a brief summary of FLNT and to obtain an expression of interest for further consideration from the prospective investors. Also, during these discussions, the prospective investors were required to submit names of other prospective investors that BSI might talk to about FLNT. BSI to date has an expression of interest from a number of investors but no commitments have been made either by BSI or interested individuals.

The search to find entities that could be approached on a private placement basis, and that might have the resources and interest required, uncovered a number of possibilities, of which only one has survived.

BSI asked American Security and Trust Company, the bank that we expect to work with most directly during the development of FLNT, to assist us in warehousing the equity. AS&T discussed the proposal, and the risks and economics of the venture, with seven local foundations and institutions. A copy of Mr. Conit's report on this effort is attached.

Several meetings were held with the Reconstruction Development Corporation, a local organization, in the hope of gaining their participation as a part of a total package. Other priorities, however, forced RDC to decline.

Initial discussions were held with William Fitzgerald as representative of the group which appeared at the urban renewal plan hearing. He registered interest in the second fifteen percent, but additionally wanted his group to be offered the first ten percent equity. This was described as virtually a condition of their participation. BSI was firm in its decision to consider the private placement of the first 10% to individuals and the placement of the debt/equity with an institution, and no further substantive discussion have been held with that group.

The remaining possibility is the Opportunity Funding Corporation (OFC), a Washington based national non-profit entity created and funded to promote minority entrepreneurial ventures. The Board of OFC is interested in an investment in FLDC, if the restrictions that control OFC's investment and their policy objectives can be met. OFC's investment capability in Fort Lincoln is limited to \$500,000. It was agreed at a meeting on 3/30 in New York that application of this amount to cover 25% of the \$2,000,000 debt equity requirement would not meet OFC's objective in terms of size of equity interest available for later distribution to the minority community.

Therefore, OFC is not a realistic possibility to invest in the \$2,000,000 debt equity. We and OFC agreed that an attempt to create a consortium of Foundations and interests with similar objective that would join with OFC in creating the capacity to commit \$2,000,000 would be both very time consuming and would have a very small likelihood of success.

BSI can place privately the 10% front-end equity investment. Although we have explored a variety of possibilities, as described above, BSI has not succeeded in its efforts to find an institution or group of institutions that are able to meet the necessary objectives of committing \$2,000,000 so that the institutional financial partnership that is required for Fort Lincoln New Town development can proceed with certainty.

Section 7.7. Minority Investment Opportunity Program.

(a) The Redeveloper agrees that it will offer to members of minority groups located in the Washington, D.C. metropolitan area the following opportunities to acquire an equity interest in the Redeveloper in the manner described in this Section 7.7.

(1) The Redeveloper shall submit to individual minority group members who reside in the District of Columbia, to entities organized in the District of Columbia which are owned or controlled by minority group members, and/or to entities created to benefit the minority community (the individuals and entities described above being hereinafter collectively referred to as the "Minority Investors") an opportunity to acquire from the Redeveloper for an aggregate purchase price of \$125,000 a number of shares of stock of the Redeveloper such that, upon the issuance of such stock, the Minority Investors would own ten percent (10%) of the outstanding shares of each class of stock of the Redeveloper then outstanding; provided, that in no event shall such opportunity be submitted to more than an aggregate of twenty (20) such individuals and/or entities. The offering shall be made by a private solicitation structured to qualify for an exemption from registration pursuant to Section 4(2) of the Securities Act of 1933. Such stock shall be subject to restrictions on transfers, lending requirements and other conditions limiting transferability. The aggregate ten percent (10%) interest shall be offered in minimum units costing \$12,500, each comprised of 7,000 shares of common stock (\$1 par value) and 11,800 shares of non-voting preferred stock (\$10 par value). Minority Investors and the owners of shares of stock outstanding at the time of such issuance shall also be required to enter contracts committing said Minority Investors and owners to make additional contributions of capital as determined by the Board of Directors of the Redeveloper up to a maximum of \$10 for each share of common stock purchased. The holders of common stocks and the preferred stock will be subject to dilution of their interests by any future issuance of stock or rights to purchase stock.

The preferred stock shall be redeemable at any time at the option of the Redeveloper upon payment of \$10 per share. The Redeveloper in its own discretion shall select minority investors on the basis of their ability to bear the economic risk of investment, their knowledge and experience (either individually or by the use of investment advisers) in financial and business matters, and their ability to evaluate the risk of the investment.

All minority members receiving offers pursuant to this Section 7.7(a) (i) shall have an opportunity to meet with the management of the Redeveloper and have access to such information as they may need to evaluate the investment.

(b) The Redeveloper agrees that it will complete the offering described in Section 7.7(a) no later than 30 days from the date of this Agreement and, upon completion of such offering, the Redeveloper shall submit to the Agency a report describing the results of such offerings, including the names of persons solicited. Upon submission of the aforementioned report the Redeveloper shall have no further obligation under this Section 7.7.

BUILDING SYSTEMS INTERNATIONAL, INC.,
Washington, D.C., December 18, 1973.

Mr. MELVIN MISTER,
Executive Director, D.C. Redevelopment Land Agency,
Washington, D.C.

DEAR MR. MISTER: As indicated in my letter of November 30, 1973, BSI has concluded successful negotiations with an outstanding local black investment group headed by Mr. Theodore R. Hagans, Jr. In addition to fulfilling our commitment to provide minority equity participation, Mr. Hagan's group has agreed to be the financial partner which as you know, we have been discussing for the past year.

By providing new and needed development funds to Fort Lincoln Mr. Hagan's group will receive a 70% interest in the project. I am sure you can appreciate that a financial partner will require approval of the staff, budget, development timetable, contracts, and financial commitments. The corporate arrangements described in my previous letter express the realities of this traditional financial partnership.

I want to assure you that the BSI commitment will remain the same as it always has been. Apart from our interest in BSI's significant investment to date, we view the project as a major milestone in the nation's efforts to solve urban

problems. Further, according to an agreement between Mr. Hagans and me, speaking for BSI:

1. Mr. Henry C. Beck of the Beck Company, and I, as president of the Nasher Company will continue to serve on the board of directors of the FLDC. If the board deems it is in its best interest, I, in turn, will serve as the chairman of the board. As Mr. Beck and myself are proud of our record of accomplishments, we believe our service on the board of FLDC is evidence of our commitment to the project.

2. Mr. Ralph Taylor, presently BSI's president, will continue to serve as project manager of FLDC.

3. Both Henry Beck and I will make available to the FLDC on an equitable basis the needed expertise available in our respective companies, and will continue to actively assist the corporation in any way we can.

4. The financial commitments made by Mr. Hagans and his associates will provide the additional capital necessary to complete Fort Lincoln New Town. While it is important to anticipate the future needs for capital, as you know, this depends on several factors not entirely within the control of FLDC. I can assure you, however, that as a member of the board, I will be most interested in continuously appraising the project's need for new resources and will, as I assume other members of the board will, help to find and implement necessary alternatives as that need arises.

I hope the above is testimony of my continued interest in this project and my continuous commitment to its success. Fort Lincoln New Town is a project whose time has come. It can and will be a profitable and quality endeavor. More important, it can and will provide the nation with a worthy experiment in city re-building.

Sincerely,

RAYMOND D. NASHER.

WASHINGTON D.C., December 26, 1973.

Mr. MELVIN MISTER,
Executive Director,
D.C. Redevelopment Land Agency,
Washington, D.C.

DEAR MR. MISTER: In accordance with your request I have reviewed certain key documents prepared by Building Systems International ("BSI") in connection with the Fort Lincoln New Town project to identify the evolution of the BSI commitment with respect to the formation of the Fort Lincoln Development Corporation ("FLDC"), the development entity for the Fort Lincoln New Town, and the investments to be made by others in this entity.

In the January 1972 Report of the BSI/Westinghouse Joint Venture concerning the Fort Lincoln New Town, the Joint Venture identified on page 147 that the development responsibility for Fort Lincoln would be carried out by a corporation to be specifically created for said purpose. Inherent in this proposal, and in the description of private capital investment requirements set forth on pages 164-165, was the necessity of providing an entity separate from BSI which could serve as the vehicle for the investment by various other entities of the substantial amounts of capital required for the development of Fort Lincoln.

In the testimony of Ralph Taylor before the District of Columbia City Council on June 13, 1972, BSI acknowledged the concern, expressed by RLA and by the District of Columbia government, that members of the Washington community, and particularly members of minority groups within the Washington community, should have made available to them the benefits of the Fort Lincoln New Town. In this connection, BSI committed in Point 10 of its twelve-point program to offer FLDC equity participation opportunities to individual investors or investment groups, particularly investors in the Black community, having economic capabilities to assume the risks involved, noting that BSI would initiate discussions with interested institutions and individuals to this end.

In his letter to you of July 24, 1972, Ralph Taylor provided further clarification of this BSI commitment, stating that BSI anticipated investments in FLDC by local minority group investors and by a financial institution, which financial institution would provide funds in the dual roles of institutional lender and of equity investor. Mr. Taylor's July 24, 1972 letter also indicated that efforts would be made to assure that local minority group investors would be given an opportunity to loan funds and to acquire additional equity interests on an equivalent basis with any such institutional investor.

In his letter to you of February 6, 1973, Mr. Taylor again reiterated the commitment of BSI to assure investment opportunities in FLDC to local minority group investors. In addition, Mr. Taylor outlined the proposed participation by institutional financial investors involving loans and purchases of equity, with respect to which minority group members would be given an opportunity to share on an equal basis with the institutional financial investor. It should be noted that, insofar as the institutional investor was to provide loans, such an institutional investor would have insisted in imposing conventional affirmative and negative covenants upon FLDC which would have provided to the institutional investor effective control over the activities of FLDC so long as the loan remained outstanding.

As described in the letter of November 30, 1973 to John Gunther from Raymond D. Nasher, BSI negotiated with several potential investors in attempting to structure a development team which would provide sufficient private capital investment for the development of Fort Lincoln while at the same time assuring fulfillment of the BSI commitment to provide investment opportunities for minority group members in the Washington area. As described in that letter, BSI has negotiated with Mr. Theodore Hagans a combination of debt and equity investment by a new development company formed by Mr. Hagans which will provide the funds required by FLDC in the successful completion of Fort Lincoln New Town. As described in that letter, and in the attached draft Statement of Public Disclosure and Financial Disclosure, it is expected that Mr. Hagans' investment company will acquire approximately seventy percent of the outstanding stock of FLDC and will also cause the loans which are required by FLDC to be provided by institutional lenders. This combination of corporate structure and loan commitment will be equivalent to the institutional financial participation previously contemplated and will also satisfy the commitment of BSI to provide the maximum possible investment opportunity in FLDC to members of minority groups within the Washington area.

Sincerely yours,

HOWARD R. MOSKOF.

DISTRICT OF COLUMBIA
LAND DEVELOPMENT AGENCY,
Washington, D.C., January 21, 1974.

Mr. RAYMOND D. NASHER,
Chairman, BSI—Westinghouse Joint Venture, Republic National Bank Tower,
Dallas, Tex.

DEAR MR. NASHER: The Agency has carefully considered your November 30, 1973 proposal to carry out the development of the Fort Lincoln New Town. We have concluded that the proposed development organization does not conform to our agreement and is not acceptable.

Your conversation with me late last year, confirmed by the Memorandum of Understanding between BSI and Mr. Hagans, which states that BSI will no longer be responsible for project expenses after December 31, 1973, has made it clear that BSI no longer intends to control the Fort Lincoln development entity.

The Agency, therefore, now believes that the interests of the project would be best served by a public offering whereby all interested would have an opportunity to compete for primary development responsibility for Fort Lincoln.

Within 30 days, we intend to announce publicly the terms and conditions under which development rights to Fort Lincoln will be offered.

Sincerely,

(S) John J. Gunther,
JOHN J. GUNTHER,
Chairman.

BUILDING SYSTEMS INTERNATIONAL, INC.,
Washington, D.C., January 25, 1974.

Mr. JOHN J. GUNTHER,
Chairman, D.C. Redevelopment Land Agency, Washington, D.C.

DEAR MR. GUNTHER: Your letter of January 21, 1974 rejecting our proposal to proceed with the development of Fort Lincoln New Town was both a surprise and a disappointment.

Since being selected in accordance with the terms of your Prospectus for the Feasibility Study and Development Proposal for the Fort Lincoln New Town,

BSI has spent to date approximately \$1 million in planning the development of Fort Lincoln New Town. With our time, money and efforts, and your staff's support, a master plan for the development of the site has been prepared, a financing program developed and an urban renewal plan approved by local authorities and funded by the Department of Housing and Urban Development. Finally, we have nearly completed negotiations with GSA which would assure initiation of the steps necessary to secure the major employment center we have all envisioned for Fort Lincoln. While completing these efforts we have been attempting to: (a) satisfy the Washington community's expressed desire to provide an opportunity for members of the minority community to participate in the development; (b) finalize our financial plan; and (c) secure commitments which would assure the availability of the financing required to complete the project. These three efforts were accomplished as reflected in our proposal of November 30, 1973.

Our proposal contemplates the formation of the Fort Lincoln Development Corporation by BSI in conjunction with Mr. Theodore Hagans, Jr. and his associates, Miss Flaxie Pinkett and Mr. Emmett Rice. We believed the involvement of Mr. Hagans and his associates satisfied our commitment for local participation. As part of our negotiations, we considered the advisability of retaining a controlling position in the project. We determined that local control would enhance the success of the project by minimizing some of the demands and criticisms which, as you know, have occupied a significant amount of our time and effort. Your letter of January 21, 1974 states as a reason for objecting to our proposal that "BSI no longer intends to control the Fort Lincoln Development entity." In light of this objection to local control, a consideration which we thought reflected community desires and to be in the best interest of the project, we would like to submit an alternative proposal for your consideration. This proposal, again prepared with Mr. Hagans and his associates, satisfies your requirement that BSI retain its position of control. Further, I believe the financial arrangement will indicate the availability of adequate funds and our continuing financial interest in the project.

Enclosed you will find the following documents for your consideration:

1. A Statement of Public Disclosure and Financial Disclosure detailing BSI maintaining a 60% controlling interest and the participating interests of Mr. Hagans and his associates together with an indication of the sources of funds available to contemplate the project.
2. Financial analyses showing cash requirements to complete the project. Again, this material is submitted to you on a confidential basis.
3. Financial commitments showing the finances committed to complete the project.
4. Articles of Incorporation of FLDC (previously submitted).

The foregoing documents clearly indicate that BSI wants to go forward with the development of Fort Lincoln New Town. In response to your objections to our previous proposal, we have retained control of FLDC. Further, they indicate BSI's continuing financial involvement in the project. At the same time, we are delighted with the participation of Mr. Hagans and his group and appreciate their confidence in the project and this organization.

Your letter of January 21, 1974 indicated that "BSI will no longer be responsible for project expenses after December 31, 1973." This shows a misunderstanding of our financial arrangements, which contemplate that at least \$1.5 million in funds to be borrowed by FLDC would be used prior to contribution of additional capital by the stockholders or by securing additional loans. These funds should be sufficient to complete the project. As I have indicated to you, in the event additional funds are required, FLDC will seek to borrow additional funds or seek additional contributions from the shareholders. I am sure you are aware that this is a customary financial arrangement. Contrary to the impression suggested in your letter, it has always been our intention that BSI would provide all funds required prior to December 31, 1973, and thereafter, expenses would be paid from loan proceeds. In fact, we have continued to incur expenses subsequent to that date while this matter is explored.

We hope you will review the enclosed material and advise us whether this arrangement is acceptable to your agency. Please be advised, as the proposal reflected in our November 30th letter was contingent on your approval, it should not in any way be construed as an indication of our unwillingness to go forward with the project. I believe the proposal reflected in this letter indicates our intention and commitment to go forward in accordance with the Prospectus. Accordingly, we anticipate you will not take any action to offer the development to

others since we have a continuing intention to proceed with Fort Lincoln in accordance with our earlier agreements. We hope to receive a timely response to this proposal, since any delay would further jeopardize our ability to complete a significant portion of the development in the Bicentennial year which, I am sure you are aware, was a factor in HUD's approval of the project. In this regard, we do not believe that Fort Lincoln can be rebid and another developer selected with any reasonable assurance that HUD's timetable will be honored.

Sincerely,

RAYMOND D. NASHER.

DISTRICT OF COLUMBIA
REDEVELOPMENT LAND AGENCY,
Washington, D.C., February 20, 1974.

Mr. RAYMOND D. NASHER,
*Chairman, BSI-Westinghouse Joint Venture, Republic National Bank Tower,
Dallas, Tex.*

DEAR MR. NASHER: We have reviewed your January 25, 1974 letter and find no basis for altering our decision to select a Fort Lincoln developer through a public offering process.

In October 1973, you indicated that BSI had decided to withdraw from its role as developer of Fort Lincoln as of December 31, 1973. We understood this to mean that our obligations to BSI stemming from our selection of the Westinghouse-BSI Joint Venture as Fort Lincoln contractor had ended. If BSI or the Fort Lincoln Development Corporation desires consideration as the developer of the Fort Lincoln Project, I suggest that you submit an offer in accordance with the terms of the prospectus which will be issued in the near future.

We apologize for the premature release of the Board's decision on your January 25, 1974 proposal. Mr. Gunther apparently thought that a letter had been sent to you before he talked to the Washington Post reporter. We are sorry for any embarrassment caused BSI or the Fort Lincoln Development Corporation.

Sincerely,

STEPHEN S. DAVIS,
Acting Chairman.

HENRY C. BECK CO.,
Atlanta, Ga., March 7, 1974.

Mr. JOHN GUNTHER,
Chairman, D.C. Redevelopment Land Agency, Washington, D.C.

DEAR MR. GUNTHER: We are in receipt of Mr. Stephen S. Davis' letter of February 20, 1974, addressed to Mr. Raymond D. Nasher, Chairman, BSI-Westinghouse Joint Venture. Since all development rights to Fort Lincoln New Town were assigned (with your agency's approval) by Westinghouse to BSI in 1972, we assume that the letter was intended to be addressed to Mr. Nasher in his capacity as an officer of Building Systems International ("BSI").

Mr. Davis' letter indicates that the District of Columbia Redevelopment Land Agency ("RLA") has terminated our opportunity to develop Fort Lincoln New Town because "[i]n October, 1973, you indicated that BSI had decided to withdraw from its role of developer of Fort Lincoln as of December 31, 1973." Furthermore, the letter asserts RLA's intention to select another developer through a public offering process. Notwithstanding Mr. Davis' assertion, BSI did not and has not withdrawn from its role as developer of Fort Lincoln. At no time did BSI send "written notice of termination to the RLA" as required in Section E.2.b. of the "Prospectus for the Feasibility Study and Development Proposal for the Fort Lincoln New Town" (the "Prospectus"). In November, 1973, BSI had indicated orally that it was *considering* withdrawing if by December 31, 1973, we were unable to successfully secure minority participation on a basis which was satisfactory to your agency and to satisfactorily negotiate certain unresolved issues relating to the Land Disposition Agreement.

At no time did BSI provide any notification, written or otherwise, of its withdrawal from the project. In fact, on November 30, 1973 following discussions with RLA's staff and Board, BSI submitted a formal proposal relating to its financing which also addressed the issue of minority participation through the participation of Mr. Theodore R. Hagans. This proposal and the remaining issues relating to the LDA were the subject during December and January of extensive negotiations with the staff and involved discussions with your Board, indications of our continued commitment and of your recognition thereof. To our surprise by

letter dated January 21, 1974, the proposal was rejected on the grounds that "BSI will no longer be responsible for project expenses after December 31, 1973 . . . BSI no longer intends to control the Fort Lincoln Development Corporation entity." Shortly thereafter, BSI submitted a letter dated January 25, 1974 indicating that the reasons expressed in the RLA letter of January 21, 1974 were erroneous and submitting an alternate proposal clarifying BSI's intention. Without further negotiations or discussions, the officers of RLA, by letter dated February 20, 1974, rejected this proposal.

It is our position that BSI is still entitled to all of the rights as the developer of Fort Lincoln, in connection with which we have committed three years of activity and over one million dollars. The Prospectus specifically states that once the development proposal prepared by BSI as the "Contractor" was accepted by RLA and public funds and public actions necessary to commence development were accomplished, the RLA would conduct a public hearing for the purposes of considering the sale and/or lease to the Contractor. After the selection of BSI as the Contractor and the acceptance by RLA and other agencies of the General Development Proposal and the Specific Development Proposal prepared by BSI, subsequent steps as outlined in Section C.2 of the Prospectus were undertaken and successfully completed as a result in large part of the efforts of BSI and significant expenditures made by BSI.

Accordingly, as of this date, Items 1, 2, and 4 of Section C.2 (adoption of the Urban Renewal Plan, HUD funding, and transfer to RLA of jurisdiction over Fort Lincoln) have been completed and Item 3 (public management mechanisms) has been significantly advanced. Only Item 5, a public hearing by RLA and execution of a Land Disposition Agreement, remain uncompleted. RLA is accordingly obligated, in the words of the Prospectus, as follows:

"If the RLA and other concerned public agencies are of the judgment that the development of the site as proposed would be in the public interest, and there are or will be sufficient public funds for the development of the site, and public actions necessary to commence such development are accomplished, the RLA shall conduct a public hearing for the purpose of considering the sale and/or lease to the Contractor of the portions of the site designated for private ownership for development of such areas in accordance with the accepted proposal (See Sec. II.E. for details). Any such sale or lease shall be made at the fair value or fair rental of such land for its proposed uses under the publicly approved development plan for the site. Commencing with the selection of a Contractor, the RLA will neither seek nor solicit any other organization and will deal exclusively with the Contractor for the performance of the work under this Prospectus." (Prospectus, pages 1 and 2).

Further, the Prospectus provides that once BSI was selected as the "Contractor", RLA could neither seek nor solicit any other organization, but must deal exclusively with the Contractor. Accordingly, BSI considers any past or future efforts by RLA to seek or solicit other organizations to be a breach of contract. In view of your agency's refusal to negotiate with us and its actions in contacting other developers and announced intention to select another developer, all in violation of the contractual obligations as set forth in the Prospectus, we have no other alternative if RLA maintains its present position but to seek compensation for reimbursement of over one million dollars expended by BSI on this project and compensation for the loss of potential profits.

BSI is somewhat amazed by RLA's attitude toward a private developer which has expended over one million dollars in planning this extremely complex development and which stood by this complex project for some three years and brought it to a point where construction is ready to begin. We fail to understand how RLA can refuse to negotiate with this developer but chooses instead to terminate this long relationship without any specific indications of how BSI has failed in any way to live up to its obligations.

On October 19, 1970, the BSI-Westinghouse Consortium submitted a proposal to be selected as Contractor pursuant to the Prospectus. On December 4, 1970, your Executive Director, Mr. Melvin A. Mister, advised the Consortium that it had been selected as the Contractor. The BSI-Westinghouse Consortium spent over one and one-half years in planning the Fort Lincoln Development Proposal in accordance with the provisions of the Prospectus. In January 1972, Westinghouse elected to withdraw from the undertaking. Your agency approved an agreement dated May 1, 1972, assigning the interest of the Consortium to BSI. Since the beginning of 1972, BSI has assisted in the refinement of the Fort Lincoln Development Plan and has conducted negotiations with the Office of Management and Budget (formerly The Bureau of the Budget) to secure the

allocation of the necessary federal funds to RLA and the District of Columbia. In addition, we have continued negotiations with the Department of Housing and Urban Development and the District of Columbia Bureau of the Budget to secure necessary action to make this funding a reality. BSI also worked to secure the National Capital Planning Commission's and the City Council's approval of the Urban Renewal Plan which was based on the plans and programs prepared by our organization. These approvals were delayed as a result of insistence by the City Council upon equity participation by minority group members, an issue with respect to which RLA did not intercede and which was resolved only as a result of the efforts and undertakings of BSI.

Subsequent to the federal approval, we have prepared and submitted detailed economic and architectural plans for the development of the site and with specific attention to the initial phase of the development. Finally, we have worked with the General Services Administration to secure the designation of Fort Lincoln as a major employment center which hopefully will result in the location of the National Oceanic and Atmospheric Administration at Fort Lincoln in a one million square foot leased office building. Until receipt of your letter dated January 21, 1974, we were attempting to finalize negotiations on this item.

In addition to the foregoing, we have worked closely with the Mayor's Advisory Committee in the planning for the project and have had a most satisfactory working relationship with MAC. As part of this process of working with the community, our organization has prepared plans for involving the minority community in all phases of the development and ownership of the project. BSI's efforts make possible the investment in the project by member of minority groups were both time consuming and exhaustive, and our success in this effort has apparently occasioned the actions of RLA purporting to terminate our rights as developer, notwithstanding RLA's rigid insistence on this matter heretofore.

All of BSI's efforts and commitments have been embodied in a draft Land Disposition Agreement prepared by our attorneys. We have constantly but unsuccessfully pressed for prompt consideration of relatively few remaining issues and have been at all times available for the continuation of discussions.

At this time, RLA, for unexplained reasons, wishes to select another developer. We do not believe that it is either fair or equitable to use the product of our efforts without compensation. Most significantly, as indicated above, we think RLA's action is in violation of its contractual obligations.

BSI would like to understand the basis of your legal authority to take the action which you have asserted and we invite the RLA to explain the basis of its action. BSI will be glad to meet with RLA to discuss the development of Fort Lincoln and a settlement for this obvious breach of a contract for which we believe, as a matter of law, we are entitled to compensation. In the interest of the development of this very important community, we urge that this meeting take place as promptly as possible.

Yours truly,

LAWRENCE A. WILSON,
Board of Directors,
Building Systems International.

DISTRICT OF COLUMBIA
REDEVELOPMENT LAND AGENCY,
Washington, D.C., April 26, 1974.

Mr. LAWRENCE A. WILSON,
Building Systems International,
% Henry C. Beck Co.,
First National Bank Tower
Atlanta, Ga.

DEAR MR. WILSON: The contractual relationship between the District of Columbia Redevelopment Land Agency and Building Systems International, Inc. (BSI) has been terminated as a result, *inter alia* of BSI's withdrawal as developer of Fort Lincoln. The Agency, however, remains determined to make this critically important project a reality, and is prepared to consider pragmatic approaches to avoid still further delay. Accordingly, without prejudice to the Agency's position as described above, and without implying that our contractual relationship has been resumed or is hereby resumed, the Agency is enclosing herewith a proposed Land Disposition Agreement (LDA) for your consideration.

If prior to the expiration of 30 days from your receipt of these materials you

should make an offer to us in writing whereby BSI will enter into a contract with the same terms and conditions as are contained in the enclosed document and only with whatever changes are agreed to by us within such period of time, and will comply with the other conditions of this letter, the Agency, without prejudice, is prepared to schedule a public hearing on the agreement. Please note that the Agency is willing to negotiate within the 30 days period reasonable changes in the document. All such changes must be found acceptable by the Agency prior to the end of the period.

In the event the Agency and BSI reach agreement on the foregoing basis and the LDA is approved by the U.S. Department of Housing and Urban Development (HUD), BSI will be required within 10 days thereafter, to submit a written commitment to execute such LDA within 10 days following its approval by the Agency after the public hearing.

Your written commitment must be accompanied by the following documents, which the Agency will need before scheduling a public hearing:

1. Certified copy of BSI's charter and by-laws;
2. Executed copy of Redeveloper's Statement for Public Disclosure & Redeveloper's Statement of Qualifications and Financial Responsibility;
3. List of BSI directors and staff who will be involved in the execution of the project and a brief description of their qualifications and their responsibilities and the percentage of time they will devote to the project; and
4. List of consultants who will be involved as part of the development team together with evidence of their commitment.

If (i) there should not be an offer from BSI which is acceptable to the Agency by the end of such 30 day period (ii) no letter of commitment from BSI to execute the LDA as approved by HUD has been submitted to the Agency by BSI within 10 days after such HUD approval or (iii) BSI does not execute the LDA and pay the good faith deposit required therein within 10 days after approval of the LDA by the Agency after a public hearing, then the Agency reserves the right to take such action, including but not limited to re-offering the development rights to the project to others, as may appear to the Agency to be appropriate at that time.

This letter and its enclosures in no way constitute a waiver or revocation of any elections made to date by the Agency and are submitted without waiving any position of the Agency to the effect *inter alia* that BSI has committed a breach of or anticipatorily repudiated, its contractual obligations to the Agency or that the contract has otherwise been terminated.

Sincerely,

JOHN J. GUNTHER, *Chairman.*

Enclosure.

DISTRICT OF COLUMBIA
LAND DEVELOPMENT AGENCY,
Washington, D.C., March 13, 1974.

MR. LAWRENCE A. WILSON,
Building Systems International, c/o Henry C. Beck Co., First National Bank
Tower, Atlanta, Ga.

DEAR MR. WILSON: We are in receipt of your March 7, 1974 letter wherein BSI requests an immediate meeting with the Agency "to discuss the development of Fort Lincoln and a settlement for this obvious breach of contract. . . ."

After consideration of this matter, we have concluded that such a meeting would not be mutually beneficial for the following reasons:

1. The Agency's contractual obligations to BSI are at end, and we have no intention of reinstating these obligations.

2. The Agency has not breached its contractual obligations but, on the contrary, is of the view that BSI's actions constituted a withdrawal from the contract, thus ending our mutual obligations. Even if the Agency were to recognize the existence of a legitimate claim (which we do not), the Agency does not have the legal authority to settle unliquidated claims arising out of an alleged breach of contractual obligations. There exists a procedure for filing such claims against a federal agency, and the Agency can only act in accordance with this procedure.

3. The Agency has already indicated to BSI the basis for its action, and we can see nothing to be gained by an exchange of views regarding the legal authority for this action.

At this time the Agency's sole objective is to move Fort Lincoln into development. The Agency has determined that a public offering of the development rights is the best way to accomplish this.

Since we have concluded that any further discussions with BSI would not be productive in this regard, we must decline your request for a meeting.

Sincerely,

JOHN J. GUNTHER, *Chairman.*

HENRY C. BECK Co.,
Atlanta, Ga., March 29, 1974.

MR. JOHN J. GUNTHER,
Chairman, D.C. Redevelopment Land Agency,
Washington, D.C.

DEAR MR. GUNTHER: We are in receipt of your letter of March 13, 1974. Again we are surprised by your Agency's conclusion "the Agency has not breached its contractual obligation but, on the contrary, . . . BSI's actions constituted a withdrawal from the contract, thus ending our mutual obligations." As we indicated in our letter of March 7, 1974, BSI did not and has not withdrawn. Because of the obvious importance of your contrary conclusion, we would appreciate your indicating the basis for this finding. Accordingly, we would appreciate your advising the factual basis for this conclusion and any legal opinions supporting your action terminating our rights under the contract.

We are also confused by the second paragraph in your letter and particularly the following language: "Even if the Agency were to recognize the existence of a legitimate *claim* (which we do not), the Agency does not have the legal authority to settle *unliquidated claims* arising out of an alleged breach of contractual obligations." There exists a procedure for filing such *claims* against a federal agency, and the Agency can only act in accordance with this procedure.

Your letter indicates we should file a "claim" while indicating you cannot settle claims. We fail to see what useful purposes would be served by submitting a claim if you have concluded that you have no legal authority to settle such claims. We assume you intended to indicate that if BSI wants to pursue any claim for damages by reason of your breach of our contract, we should file suit. We would appreciate your confirming that your Agency will not consider any claims in this matter. To avoid any confusion, we would appreciate your confirming that there are no further administrative remedies which we can or must pursue and that our only alternative to seek compensation is to bring suit.

Once again, we are surprised and disappointed by your Agency's refusal to meet with us to discuss this matter. At this point, I suppose we should not be surprised by the inconsistent, unexplained and unlawful behavior of your Agency. We are nonetheless disappointed by your refusal to extend a common courtesy of meeting to explain your position, particularly after we have spent over one million dollars in fulfilling our obligations and have brought the Fort Lincoln Project from a dream up to the point of reality.

We would appreciate your early response to this letter.

Yours truly,

LAWRENCE A. WILSON.

The CHAIRMAN. Thank you very much.

I assume that testimony constitutes the statement on behalf of your two colleagues and that they are here merely to respond to questions.

MR. WILSON. Yes, it does.

The CHAIRMAN. I will yield to Mr. Burgener.

MR. BURGNER. Thank you, Mr. Chairman. In view of the hour I will be very brief. Perhaps the others will.

Was BSI formed for this purpose or was it formed long before?

MR. WILSON. No, sir, it was not formed for the purpose of Fort Lincoln. It was formed some year and a half prior to there ever being or we ever hearing about Fort Lincoln. BSI is a corporation—

MR. BURGNER. Private corporation?

MR. WILSON. A Delaware corporation. Its principal stockholders are the Henry C. Beck Company, the Raymond D. Nasher Company, and a European entity, which I will call Balency. It is an industrial firm in Europe.

LAND DISPOSITION AGREEMENT

Mr. BURGNER. Do you have a contract with RLA or a verbal agreement or what do you have?

Mr. WILSON. Yes, sir, we have got a contract.

Mr. BURGNER. You have got a contract?

Mr. WILSON. Yes, sir.

Mr. BURGNER. Do you feel the current negotiations are moving or look like they have a chance of moving, the discussions now?

Mr. WILSON. Well, we were provided approximately ten days ago a revised, as I stated, a revised draft of the LDA, and the land disposition agreement—I do not know whether we have one here or not—is a tremendous document in that it is—there it is. This document has been developed over a period of two years in negotiations between BSI and RLA, we were given a revised draft of this document ten days ago and we, together with our counsel, are in the process of reviewing it to see if it is acceptable to BSI. If it is not acceptable, what is not acceptable, and it is our intention to get back with RLA and attempt to negotiate those things that are not acceptable.

Mr. BURGNER. You mentioned a private—did you want to make a comment?

Mr. MOSKOF. I would just like to add that this is not an easy task. Here are four previous drafts which were prepared by our office, and it was our custom to interlineate or indicate where changes were made. This document does not indicate in 187 pages where changes have been made so our first effort has been to find out what the major substance has been and then our staff in my office is now reviewing line by line to see what we have missed, so this is a difficult process.

PROPOSED PARTNERSHIP ARRANGEMENTS

Mr. BURGNER. When this is all completed there will be land in the public domain, there will be some private ownership, equity ownership and land for sale, I mean, living quarters for sale and some for rent.

You mentioned a private charitable foundation, did you not? What is their interest in the land? I do not care who they are but what is their interest? They were going to put money into it?

Mr. MOSKOF. As we had indicated earlier, we had indicated to RLA we were seeking a financial partnership arrangement where they would provide on a loan basis, secured solely by the profits from the project, to advance a commitment was tendered for some \$4 million. This was the money that was more than enough to complete the project, and we were ready to go forward on it when we ran into the minority participation obligation. They willingly agreed to give up half of their, the arrangement that they had negotiated to a responsible organization and minority participation did not matter to them; if a responsible organization would be there with money and resources they were willing to give up their interest. This is what we attempted to achieve and this is what we offered in the letter addressed to Mr. Mister at the time of the public hearing before the City Council.

Unfortunately, we have given detailed reports on our efforts in this regard, we have not been able to find a party matching that arrangement. At this point while their commitment is still outstanding we

have found a partner that seemingly represents both the financial capacity that we were looking for as well as the minority participation that was being required.

Mr. BURGNER. It sort of appears it might move off dead center in the next few weeks.

Mr. WILSON. Hopefully it will, yes, sir.

Mr. BURGNER. Thank you very much.

The CHAIRMAN. Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman.

FINANCIAL ARRANGEMENTS

What is this, a line of credit from the foundation, is that it, or are they going to be stockholders of the company?

Mr. MOSKOF. It was a loan with, they had warrants at a nominal price which they would exercise as they saw fit.

Mr. HOGAN. But it is not publicly held, it is closely held?

Mr. MOSKOF. No, it was a loan instrument.

Mr. HOGAN. But I mean, BSI is a closely held corporation.

Mr. WILSON. BSI, yes, sir.

Mr. HOGAN. They were formed what, a year and a half before this, is that right?

Mr. WILSON. In 19, in the summer of 1968.

Mr. HOGAN. 1968.

Mr. WILSON. That is right. BSI was formed by those three companies that I named for the purpose of participating in the Operation Breakthrough program, the industrialized housing program sponsored by HUD, and BSI was successful in being selected as one of the contractors in Operation Breakthrough.

Mr. HOGAN. Have they completed that?

Mr. WILSON. Yes, we have completed it.

Mr. HOGAN. Do you have any other contracts?

Mr. WILSON. We have no other contracts.

Mr. HOGAN. Did Beck, or what was this other man's name?

Mr. WILSON. Nasher.

Mr. HOGAN. Did they bid on the job also?

Mr. WILSON. Well, BSI submitted a proposal.

Mr. HOGAN. But they officially did not, individually?

Mr. WILSON. They did not bid on it. During the period that BSI was actively participating in the Operation Breakthrough program—well, for the first year and a half its major effort was in Operation Breakthrough.

WESTINGHOUSE—BSI EXPENDITURES

Mr. HOGAN. You said that Westinghouse put \$500,000 into this?

Mr. WILSON. They expended some \$500,000 by their own audit on Fort Lincoln.

Mr. HOGAN. Now they are out of it. You did not assume any of that expenditure, that is theirs?

Mr. WILSON. That is theirs.

Mr. HOGAN. And they are out, and you have got a million in here?

Mr. WILSON. We have got a little over a million dollars in Fort Lincoln.

Mr. HOGAN. So that if this did not go through, that is a million dollars you have expended?

Mr. WILSON. Yes, sir.

Mr. HOGAN. Without any return whatsoever. You have no grant money or anything that you have obtained from either HUD or anyone else to reimburse you for these expenses?

Mr. WILSON. No funds.

Mr. HOGAN. The agreement here that you have, the new land disposition agreement, I assume that what you have done before is you sat down with the Redevelopment Land Agency and worked out the portions which were new or changes, what have you, with the prior agreement is that it? Have they agreed to go over this and help you delineate those portions which are new so that hopefully, this thing could be resolved at an early date?

Mr. MOSKOF. Well, we had asked for a line copy but apparently one was not available because of their rush in putting it together. We are ready to sit down and negotiate, and we hope to contact them immediately after this meeting to set up a time to meet to go through the major points that we see in the agreement.

Mr. HOGAN. Mr. Gunther said they assumed that 30 days was more than a reasonable time period, they were thinking of a shorter period. Does that seem unreasonable to you at all?

Mr. WILSON. I think that in all probability it is very difficult to consummate everything that RLA anticipates being finalized within those 30 days, particularly in view of the fact that we have negotiated for two years already on the LDA.

Mr. HOGAN. But I assume you are going to make a good faith effort.

Mr. WILSON. But we are going to make our best efforts to do so, yes.

Mr. HOGAN. Thank you, Mr. Chairman.

The CHAIRMAN. I will yield to Chief Counsel.

DEVELOPER STATUS

Mr. WASHINGTON. Mr. Wilson, did Mr. Nasher, Chairman of the Board of BSI, meet with Mr. Mister and Mr. Gunther of RLA in October or November of 1973 to report on the results of the BSI Board meeting that was held in Paris?

Mr. WILSON. Yes, he did.

Mr. WASHINGTON. At that October meeting did Mr. Nasher, to the best of your knowledge, indicate that BSI had decided to withdraw from the project for several reasons, including the following, I would like to have your comments: first, plans finally agreed upon by BSI and approved by the Planning Commission and City Council limited the number of highrise buildings. As a result Balency Industrialized Housing System could not be used.

Second, after much time and effort final approval by the Congress of a GSA office building had not been obtained.

Third, extensive effort to obtain financing for the project which would permit achievement of minority equity ownership objective had failed.

And, finally, BSI had spent approximately \$1 million on Fort Lincoln and apparently saw no light at the end of the tunnel.

These were reasons allegedly offered by Mr. Nasher to the Board of RLA and its staff and, on the basis of this information and those

declarations, RLA said that BSI, and the additional statement, of course, that at the end of December 31, 1973, BSI would put no additional funds into the Fort Lincoln project.

I would like to have your views on it.

Mr. WILSON. Well, BSI at its Board meeting did not vote or decide to withdraw from Fort Lincoln. I was not present at the meeting with Mr. Nasher and Mr. Gunther and Mr. Mister. However, I assure you that BSI did not withdraw and has not withdrawn from Fort Lincoln.

We had known of item 2, I believe, was the concern from the high-rise, we had known for over three years—as a matter of fact, we developed the plan and the market study which limited the number of highrise buildings that were going to be on the Fort Lincoln site, so we had known for over three years that the site was basically not a high rise site, and that the Balency System as such was not feasible for the major portion of the housing that would be placed on the site.

So I do not—regardless, I do not think—that is a justification for BSI not proceeding with Fort Lincoln.

It is true that we had had many frustrations regarding GSA, and the finalization of a lease agreement with GSA.

It is true that we had had many frustrations regarding minority participation in the project, but it is also true that we felt like that we had come up with what we thought was an excellent solution, and that was the participation of certain minority individuals in the Fort Lincoln Development Corporation.

Mr. WASHINGTON. But at the time, if I understand your statement, at the time Mr. Nasher met with Mr. Mister, Mr. Hagans, et al, had not been found, is that correct?

Mr. WILSON. Well, it had not been finalized but it was being discussed.

Mr. WASHINGTON. That was subsequent—

BSI WITHDRAWAL

Mr. WILSON. And we—BSI had not in writing or verbally withdrawn from Fort Lincoln. I think it is obviously a misunderstanding, but I think it is interesting that we were told on two occasions by RLA that we had withdrawn, but we never told RLA that we had withdrawn.

Mr. WASHINGTON. Well, so in fact you were explicitly rejecting those arguments, those four propositions, as a basis for withdrawing, is that your statement?

Mr. WILSON. Yes.

Mr. WASHINGTON. Because it has been said that two important reasons for BSI undertaking this project was the Balency industrialized housing and that, in fact, that was in responding to some inquiries from RLA you had indicated you were going to employ approximately 2,000 workers in the Metropolitan Washington area in connection with Balency industrialized housing, and it was also very attractive because the initial GSA lease was a straight lease and the Committee on Public Works of the House, as I understand it, had disfavored, was disinclined to a straight lease and said it had to be a lease with an

option to purchase or a purchase contract for the new space. So it has been argued, I think it is important for you to project for the record that those two reasons had evaporated and it was not financially conducive for you to participate in this affair.

Mr. WILSON. Initially, BSI was formed to promote an industrialized housing system. BSI submitted a proposal on Fort Lincoln hoping to use that system. But our main interest in Fort Lincoln was that of a developer and not a contractor, a constructor. So I do not—you know, that part is certainly without reason.

The GSA, however it may be resolved, and I do not think anyone knows today how it might be resolved, we have always felt that the lease-purchase arrangement is less attractive than an outright lease, but I do not think that that alone is ground to retreat from Fort Lincoln.

WESTINGHOUSE WITHDRAWAL FROM FORT LINCOLN

Mr. WASHINGTON. I would like to have your view also on RLA's position that the withdrawal of Westinghouse procedurally and on a policy basis is totally different than the two proposals advanced by BSI because the Westinghouse withdrawal may reasonably and arguably be viewed as a continuation of the joint venture while the FLDC is not a continuation in fact, this new group, a new investor and new persons to whom RLA will have to look to for accountability.

Mr. WILSON. Well, RLA, I think, was aware, as is stated, as we explained to them in that letter of July of 1972, that we anticipated bringing in minority participation, and that we anticipated the possibility of selling equity participation in the Fort Lincoln development team so it should not be a surprise, you know, that we arrived January 1, 1974 proposing that.

Mr. MOSKOF. I would like to address that question, Mr. Washington. In fact, I find it a little more difficult to explain RLA's position. In the first place, the RLA had accepted—

Mr. WASHINGTON. As a former general counsel of RLA.

Mr. MOSKOF. And former associate and personal friend of many of the people who preceded us, and I hope we still remain friends. I find it difficult to understand RLA's position, and that has been part of our problem, in that initially a joint venture had been accepted between Westinghouse and BSI and now a major participant is withdrawing, Westinghouse, and RLA found that it could accept and did accept BSI. And here we have BSI remaining in the picture, and BSI having voting legal responsibility and control, and I fail to understand why RLA finds that any different when, in fact, the very party that they started with is still in the picture whereas in the first case they were not. They had totally walked off the project.

BSI ROLE IN JOINT VENTURE

Mr. WASHINGTON. You were here when Mr. Mister said that there were more factors than simply voting control. Their position, I assume, and Mr. Werner is here, is that BSI under the two proposals would not produce or adduce any additional money subsequent to December 31st, not until the proposed prospective partner produced

the \$1.5 million, and that has been explained as really a change in ownership of BSI and not simply getting a new financial partner.

Mr. MOSKOF. Well, in a corporation people make contributions to capital, and where you have a redeveloper that is a corporation you have no further recourse other than the assets of that corporation, and that is a case with any corporation.

When they accepted BSI they accepted the assets and financial commitments that BSI had, dollars in the bank, legal commitments that can be called by BSI. It is no different than the situation now, and that has been a very serious problem and that is one of the problems with the discussion of minority participation through a public offering.

Mr. WASHINGTON. You are saying in effect that BSI had intended to put some additional money, the present principals of BSI had anticipated putting additional money into the development, because that was a very sticky question, as I understand it.

Mr. MOSKOF. We had communicated to RLA that at such time as the financing that was committed was not sufficient that a decision would be made at that time and if it was found economically feasible resources would be found to secure that additional financing.

Mr. WASHINGTON. But I think that was one of the problems that RLA had.

Mr. HOGAN. Would counsel yield? Is there correspondence to that effect?

Mr. MOSKOF. Yes, there is.

Mr. HOGAN. I wonder if we could have that.

Mr. WASHINGTON. I think it might be part of RLA's record.

Mr. HOGAN. You are going back to 19 what?

Mr. WILSON. 1973.

Mr. MOSKOF. This was submitted as part of the first proposal.

Mr. HOGAN. This was when Westinghouse pulled out?

Mr. MOSKOF. There were discussions when Westinghouse withdrew and discussions at the time of the first submission in November 19, 1973.

Mr. HOGAN. It would be helpful to have that.

Mr. WASHINGTON. I would like you to supply that for the record.

[The information referred to was not received in time to be included in the record.]

Mr. WASHINGTON. One last point that escapes me for the moment and that is that BSI was taking a position that it would produce additional capital if at a subsequent point it was economically feasible or judicious, and I think on that basis, I do not want to take RLA's side, I am not arguing for RLA but simply want to test its position. It says it had some problems with that view because at a subsequent point BSI after not producing any additional capital could decide to walk away from the project.

Mr. MOSKOF. Well, I think we ought to put this discussion in the context of the land disposition agreement and all land disposition agreements.

CONTRACT TERMINATION REMEDIES

RLA enters into a contract with the developer wherein the contractor agrees to perform certain obligations. The developer submits a

deposit as a security. In the event of breach the developer's sole remedy or the agency's sole remedy is to terminate the agreement, get back the land and keep the deposit under the terms and conditions specified therein.

Now, if at any point, and it happens every day in America in redevelopment land agencies throughout the country, developers make decisions not to go forward with the project, they find it is economically infeasible, they find they cannot produce within the time constraints of the agreement, in which case the agency gets back the land and keeps the deposit.

That was the concept that was preserved here. So the very fact that there are ten, 20, \$40 million, whatever the number would be, committed to this project, there is no assurance, there is no remedy in the Agency to require the developer to spend that money as well it should. If there is a disagreement as to the economic feasibility we are not interested in fighting a lawsuit, the Agency feels it can produce and get the job done, let them take back the land and get the job done.

We are interested in rebuilding the cities and that is why the whole concept was preserved on that basis.

Mr. WASHINGTON. The Agency has another leverage too in that any ten percent change in ownership it has to approve.

Mr. MOSKOF. Absolutely. The developer, there is a provision in the, in Title I of the Housing Act of 1949 which prevents speculation in land, and that was the purpose of restricting transfers of developers, and there is no intent to do that here. We are being required to transfer an ownership and we are attempting to get over that hurdle. It has been a very major hurdle in this project.

Mr. HOGAN. Will counsel just yield?

You do not refer to that point, you do not have this kind of agreement until this land disposition agreement is entered into between you and RLA.

Mr. MOSKOF. That is right.

Mr. HOGAN. Up to this point it is all very nebulous, as I understand it.

Mr. MOSKOF. What we have is a prospectus that sets forth the terms and conditions and obligations of the developer, and perhaps I might quote just from that prospectus.

Mr. HOGAN. It is fine. I just wanted to know the situation. Thank you.

The CHAIRMAN. I yield to associate counsel for intervention.

STATUS OF PROPOSED JOINT VENTURE

Mrs. MARTIN. We have heard a lot of testimony about why the second proposed joint venture was not accepted by RLA and, for the record, I would like BSI's assessment and maybe Mr. Hagans would like to comment as to why the proposed second joint venture was not acceptable. Did it have to do with some questions that RLA had about the financial stability of the Fort Lincoln Development Corporation or just what is your assessment of why they turned down the second, the one that met, from your point of view met the specifics?

Mr. WILSON. We were never told why it was turned down.

Mrs. MARTIN. You have no idea why your second joint venture proposal was turned down by RLA?

Mr. MOSKOF. I think it is important to understand that we would submit a proposal, there is a lot of discussion, and there was a lot of discussion with the staff, and then we get a letter and there was never a forthright discussion between the developer and the RLA to the degree that they would say, "We don't like this provision. If you do such and such we would find it acceptable." It was always a kind of a we did not know what the problems were and we still to this day do not.

POTENTIAL DIFFICULTIES IN FORT LINCOLN DEVELOPMENT

Mrs. MARTIN. If you had to identify one major stumbling block for getting Fort Lincoln off the ground, would it be the requirement to secure equity minority participation or would it be something else?

Mr. MOSKOF. We feel that we have satisfied that obligation. We have a partner who is prepared, has the means, capability and qualifications to work with us on this project, and it so happens that he is a member and he and his associates are members of a minority group. We are delighted that we are able to satisfy both obligations or both needs. So if this is acceptable to RLA, and it is not clear whether it is, we do not have a stumbling block. If we have further requirements we very well may have a problem.

Mr. WASHINGTON. Your statement is that you satisfied both. The earlier statement about the minority equity financing? I see.

Mrs. MARTIN. I have one other question and that is whether BSI is making every effort to meet, from its point of view to meet the 30-day deadline?

Mr. WILSON. Yes, I assure you that we are.

Mr. HAGANS. If I may, Mr. Chairman, my name came up and I have been sitting here silent because I did not want to take a position as it relates to BSI without being BSI, but minority participation and the equity participation was one which we thought we solved in November when it seemed like BSI was frustrated with two things. One, the minority participation, and the equity or financial participation, and it bothered me that an opportunity for minorities may go down the drain. And they came to me and asked me to, they had talked with me sometime before that and I just said I was not interested but when it looked like this thing was in serious trouble with regard to minority participation and equity participation, I was asked to meet with the Chairman of BSI and discuss a business negotiation for participating, and this is how I happened to get involved in it.

We went to Texas and met with Mr. Nasher, and I think the thing that caused this thing to get misunderstood was as a result of the negotiations with Mr. Nasher I went to talk with Mr. Nasher about 25 percent of the Fort Lincoln Development Corporation. After 6 hours of negotiating with Mr. Nasher an agreement that I would raise a million dollars to match BSI's million and that we would have an entity that the city and hopefully, the country will be proud of because blacks and whites were working together for what we thought was a new town, Mr. Nasher on his own volition said, "Well, look, if you say you can do all these things, you say you can get the city to really support Fort Lincoln, you can stop all of the failure that we

have had in our negotiations, you can get the community behind this thing, I want you to put your money where your mouth is. I am tired of the rhetoric. If you can raise a million dollars like we have", at that time BSI only had \$940,000, "I will continue to put up to a million dollars in it, and you think you will have the LDA by December 31st or at least for public hearing, you put up a million dollars and you have got seven days to do it, and we will go together and as a bonus for this carry back 70 percent of the Fort Lincoln Development Corporation."

I came back with 70 percent of the Fort Lincoln Development Corporation and it was misunderstood. It seemed like BSI had given up control. Well, maybe technically they had given up control, but actually Mr. Nasher assured me that the same entity would work with this operation for a successful conclusion, that he would not, was not about to put his name and Mr. Beck's name in the Fort Lincoln Development Corporation on the line for me to make a mistake and for it to fail. He wanted it to succeed and he had hoped that this would be a prototype of interracial working for the development for the country. But no one understood it, and I think it had much to do with the problems we now are seeing.

Mrs. MARTIN. Now, the second submission, did it deal with the 70 percent problem?

Mr. HAGANS. When we came back we met with the RLA Board, Miss Pinkett, Mr. Rice, the BSI staff, and the President of BSI and we met with the Board in Mr. Gunther's office, and told them about the percentages, and I asked them then is there any problem with the 70-30 arrangement and they said no, there is no problem with that.

However, when we got the turndown in January I said maybe that is the problem so we reversed it so that BSI had the controlling interest, although the stock profit interests were still, I think, 50-40.

The other thing that we did in this arrangement which was unique, I was able to secure in addition to the million dollars I committed to Mr. Nasher in the seven days that he required, the commitment from Opportunity Funding Corporation to put in a half million dollars, \$300,000 investment and \$200,000 line, which made it a million and a half dollars. Their requirement to me was I meet their commitment by putting up ten percent of the stock and with OFC and my position we would put up 20 percent of the stock to have a foundation for the development, for the furtherance of minority participation in real estate, and that was how they justified their investment.

There was supposed to be a foundation formed with OFC in control of it to further minority participation in real estate development.

Now all these things were the things we negotiated and we did all this, I would say, in a month.

In the meantime I came back, I met with GSA, I met with the Mayor's Advisory Committee, I met with everybody to make sure everything was straight. I just knew this thing was going to roll. We had planned to be in the ground by April of this year.

CLOSING REMARKS

The CHAIRMAN. Well, thanks very much. This Fort Lincoln New Town project, I believe, as I indicated at the beginning, is of utmost

importance not only to this community but to the concept of a prototype as Mr. Hagans has indicated, not only to the residents of the community but in terms of the Federal interest and the kind of examples that can go forth to my town, to Mr. Burgener's town, and to other towns across the country.

There seem to be two main points here in all of the various statements and claims and counterclaims. First of all, that the development has stopped and with no semblance of growth befitting what one would call a new town, with relatively little construction complete on the site and, secondly, that after seven years Fort Lincoln still has no development.

We received testimony in this hearing today that the District Government may, because of delays in the Fort Lincoln project, lose some \$6 million at the barest minimum, \$6 million which were to provide the necessary capital improvements for the new town. Testimony was given also that the Department of Housing and Urban Development will honor its commitments to the project, only if certain time schedules are met.

The most encouraging things that I heard today are:

(1) That RLA will, by the end of May, either have a developer or in the alternative, make a public offering to get one; and,

(2) HUD will continue to honor commitments to support the project if there is evidence by July 1, that at least 20 percent of the project will be in place and functioning by 1976.

I understand that a land disposition agreement has been offered, by RLA, to a developer as of April 26, 1974. The agreement is to be settled within 30 days time, or near the end of this month.

Accordingly, the committee is considering this matter in an open fashion until the week of the 10th of June and, at that point, if we are still in the same dilemma as we are today we expect to hold the second hearing and at that time determine the status of this project and we expect to invite many of the same people who were here today back and we will want to know at that time whether or not the land disposition agreement has been signed or not signed, and whether or not the Federal commitments, in fact, still stand, and whether progress can be made on Fort Lincoln or whether it cannot be made.

We think that this project is of that kind of importance to the District of Columbia. We think that the Federal interest is involved not only as it relates to the Bicentennial but because of the Federal interest in the Nation's Capital anyway, and in 30 days' time we expect to know whether or not we have a project or we do not have a project, and after seven long years whether or not this is a viable project and, at that point, we expect to take whatever action is necessary in order to make some kind of final determination as to the disposition of this matter.

We thank all of you for your patience, and look forward with anticipation to the commitments that have been made here this afternoon and also look forward to perhaps a new dialogue having been generated as a result of giving, getting all of you under one roof so that come the 10th of June or thereabouts this project will not meet the fate of the Eisenhower Civic Center project.

The meeting stands adjourned.

[Whereupon, at 6:05 p.m., the committee was adjourned, subject to the call of the Chair.]

APPENDIX

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
ROOM 1310, LONGWORTH HOUSE OFFICE BUILDING,
Washington, D.C., May 21, 1974.

MR. DAVID O. MEEKER,

Assistant Secretary for Planning and Community Development, U.S. Department of Housing and Urban Development, Washington, D.C.

DEAR MR. MEEKER: On May 7, 1974, the Committee on the District of Columbia held a hearing to determine the status of the Fort Lincoln New Town project, in Washington, D.C. During the hearing, you stated that you would supply certain items for the record, and that in the interests of your schedule, you would respond to any additional questions in writing.

To complete our hearing records, I am requesting your responses to the attached list of questions, and am also requesting copies of the following information for the record:

1. The letter, dated April 17, 1974, from the Department of Housing and Urban Development to the District Redevelopment Land Agency.
2. Your Department's legal notes or a memorandum of opinion concerning the advisability of issuing a new prospectus for the Fort Lincoln project.
3. A total of your Department's commitments to the Fort Lincoln project, and to the District of Columbia, as compared with your commitments to other large cities.
4. A written explanation, citing from the Department of Housing and Urban Development's Handbook for urban renewal programs, the specific authority of the Department to require its concurrence in, and monitoring of all major actions taken with respect to the Fort Lincoln project.

I would appreciate receipt of the requested information by Friday, May 31, 1974, in order to facilitate final printing of the hearing transcripts.

Your cooperation in this matter will be greatly appreciated. Should you or your staff have any questions, please contact Ms. Jacqueline E. Wells, of my office, at 225-4457.

Sincerely yours,

CHARLES C. DIGGS, Jr.,
Chairman,

Committee on the District of Columbia.

QUESTIONS FOR DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

1. What are the legal bases for HUD's position that it has responsibility for concurring in any termination by RLA of a prospective developer and for becoming substantially involved in the Developer selection process?
 - a. Was RLA ever presented with documentation on this position? Can the documents be provided?
 - b. Can HUD cite specific incidents where this is true for its relationship with other local redevelopment agencies?
2. What constitutes "substantial documentation of termination" of a contract with the developer?
 - a. What types of documentation were provided by RLA? Can these be supplied?
 - b. Why were they insufficient?
 - c. Has HUD ever discussed with RLA or provided RLA with the basis of what would constitute an acceptable documentation of termination?

3. On page 7 you state that the General Services Administration has transferred to the Department the "Surplus Federal land which will be the site of" the Fort Lincoln project.

a. When did the title transfer take place and what were the circumstances? Did you solicit the title transfer or was it initiated by GSA?

b. When does HUD expect to transfer title to the property to RLA and under what circumstances? Specifically, can and will you withhold transferring title if you do not approve of the contractor, the prospectus, the LDA, or anything else?

4. What is the statutory authority governing transfers of land for private development between HUD and RLA at Fort Lincoln?

5. Describe the mechanism for such land transfers, including the terms and conditions under which HUD will transfer land to RLA, and the legal authority (i.e., statutes, regulations, Urban Renewal Plan, etc.) for the imposition of such terms and conditions.

6. Under what legal authority does HUD claim the right to review RLA's selection of a developer? Describe the extent of any such rights. Is it customary for HUD to review and approve developers in urban renewal projects? Is the urban renewal contract between HUD and RLA conditioned on BSI being the developer of the project?

7. Under what legal authority does HUD claim the right to review BSI's performance under the present agreement between RLA and BSI and the Land Disposition Agreement? After RLA executes a Land Disposition Agreement with a Fort Lincoln developer, under what conditions can HUD withhold transfer of land to RLA? Describe the extent of any such rights.

8. Under what legal authority does HUD claim the right to approve RLA's execution of the Land Disposition Agreement and to monitor performance of the parties thereunder? Describe the extent of any such right.

9. As a Federal Agency is it not possible for RLA to receive land directly from GSA in accordance with Federal law?

10. What specific review and monitoring of RLA activities is HUD undertaking in regard to the Fort Lincoln Project which it does not normally carry out for urban renewal projects in other cities?

11. In your testimony, in response Number 1, you discuss as urban renewal grant for Fort Lincoln. (p. 3). Could Fort Lincoln become eligible for Title VII funds at a later date, as are Cedar-Riverside (Minnesota) and Welfare Island (New York)?

a. Would HUD make a commitment to use Title VII funds if necessary to expedite the Fort Lincoln project?

12. In your testimony, page 4, you state that HUD gave oral concurrences in RLA's selection of the BSI-Westinghouse Consortium (On November 18, 1970).

a. Is such oral concurrence your normal procedure?

b. What scrutiny did HUD give the developer before issuing such concurrence?

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
OFFICE OF THE ASSISTANT SECRETARY,
FOR COMMUNITY PLANNING AND DEVELOPMENT,
Washington, D.C., June 6, 1974.

HON. CHARLES C. DIGGS, JR.,
House of Representatives,
Washington, D.C.

DEAR MR. DIGGS: Enclosed are my responses to the questions posed in your letter of May 21, 1974 concerning the Fort Lincoln New Town project.

On page one of your letter, you request a copy of the letter of April 17, 1974, from the Department to RLA. In discussing the matter with Ms. Wells of your staff to further identify the subject matter, she pointed out that the letter requested was one in which HUD set out a time table for certain actions to be taken by RLA in order to assure successful initiation of this important undertaking. I believe the letter is the one of February 12, 1974 from me to John Gunther, Chairman of the Board of Directors of RLA. A copy was also sent to Mayor Washington the same day. Copies of these letters are attached (enclosures 1 and 2). The answer to question three of the basic letter is presented in the form of a table comparing seven cities with the District of Columbia.

I want to again emphasize, as I did in the testimony before the Committee, that the Department's position has not changed. Our support has not diminished.

We want to do everything possible to get the development back on schedule and we will take all legal steps appropriate to facilitate the necessary decisions by the parties involved to resolve the issue.

Sincerely,

DAVID. O. MEEKER, Jr. FAIA,
Assistant Secretary.

Enclosures.

Question 2. (Basic Letter) Your Department's legal notes or a memorandum of opinion concerning the advisability of issuing a new prospectus for the Fort Lincoln project.

Answer. The Department has not prepared a memorandum of opinion concerning the advisability of issuing a new prospectus for the Fort Lincoln project. The attached status note of March 4, 1974, from the Associate General Counsel for Community Development to Mr. Kopff, Special Assistant to Secretary Lynn, reflects the advice given RLA with respect to such a prospectus by the Department's Washington Area Office on February 22, 1974. This note, enclosure 4, is the only written item from the Office of General Counsel on the matter, all other legal advice regarding the proposed issuance of a new prospectus having been rendered in the course of informal discussions.

Question 4. (Basic Letter) A written explanation, citing from the Department of Housing and Urban Development's Handbook for urban renewal programs, the specific authority of the Department to require its concurrence in, and monitoring of all major actions taken with respect to the Fort Lincoln project.

Answer. In addition to the Fort Lincoln Prospectus, which was devised and issued by mutual effort and agreement on the part of RLA and HUD, and which we consider the foundation of HUD's position, Departmental concurrence in and monitoring of certain major actions with respect to the Fort Lincoln project are authorized by the Urban Renewal Handbook, a copy of which has been provided to the committee. Applicable Handbook requirements regarding planning, sale and use of urban renewal land are found primarily in RHA 7214.1, entitled Land Marketing and Redevelopment, as follows:

Chapter 1, Section 2, paragraph 1.a., requires HUD concurrence in contracts for land utilization and marketability studies and consulting services.

HUD's approval with respect to the initial Fort Lincoln Prospectus (hereafter referred to as "the Prospectus"), is consistent with this requirement.

Chapter 2, Section 3, Disposal Preparation, pages 1 and 2, requires HUD concurrence of land disposition agreements and other relative instruments, as well as the submission of and marketing, redevelopment and sales promotion materials.

Chapter 2, Section 3, pages 7 and 8, requires HUD consent to transfers of redevelopers' interests in project land. HUD's position regarding the RLA proposal to solicit new prospective redevelopers for the Fort Lincoln project is consistent with this requirement in view of the exclusive redevelopment priority rights provided BSI under the Prospectus. *Chapter 4, Section 1,* authorizes certain standard methods and procedures to be used in the redeveloper selection process for conventional projects. In recognition of the unique nature of the Fort Lincoln proposal, the Prospectus substantially altered the usual framework of this process. Such material deviations require HUD concurrence, pursuant to paragraph 1 of the second page of this section of the Handbook. In addition, page 4 of this section requires prior HUD concurrence for offering of large parcels for staged redevelopment over several years. Due to the fact that the private redevelopment rights of an entire "new town" on Federal surplus land in the Capital was to be granted to a single redeveloper, the complexity, scope, duration and broad objectives of the undertaking demanded a more coordinated, controlled approach. HUD concurrence in the selection of the redeveloper is therefore deemed an essential element of the Department's responsibilities for this project. The Prospectus, which is still operative, continues to give HUD that right.

Chapter 4, Section 3, page 13, requires HUD concurrence of understandings or agreement for disposal of project land entered into with a redeveloper early in the undertaking. The contract with BSI under the Prospectus, providing BSI with exclusive redevelopment priority rights, was entered into by RLA more than three years prior to execution of the urban renewal Capital Grant Contract.

Chapter 4, Section 4, page 1, provides for HUD consent, when required, of the redeveloper selected. Such consent was specifically required by the Prospectus. In addition, page 2 requires that Form HUD-6004, Redeveloper's Statement for Public Disclosure, must be received and cleared by HUD before a disposal of land to the redeveloper may be authorized.

Question 1. (Of enclosure) What are the legal bases for HUD's position that it has responsibility for concurring in any termination by RLA of a prospective developer and for becoming substantially involved in the Developer selection process?

a. Was RLA ever presented with documentation on this position? Can the documents be provided?

b. Can HUD cite specific incidents where this is true for its relationship with other local redevelopment agencies?

Answer. The legal basis for HUD's position regarding RLA's termination of BSI's redevelopment rights and the selection of a redeveloper for the Fort Lincoln project stems from Federal statutory requirements, the provisions of the urban renewal Capital Grant Contract and the terms of the Fort Lincoln Prospectus, as well as the Department's Handbook procedures described in response to question four of Committee Chairman Diggs' letter to Assistant Secretary Meeker of May 21, 1974.

Title I of the Housing Act of 1949, as amended, provides the basic statutory authority for the Department's position. Applications for urban renewal financial assistance under Title I are subject to a Secretarial determination of feasibility pursuant to Section 103. Both the capability of the redeveloper and the consequences of a termination of BSI's interests under the present circumstances are material to this criterion with respect to the Fort Lincoln project. The *raison d'être* of the grant being to provide financial assistance for the preparation of project land for redevelopment under the approved urban renewal plan, HUD's concern regarding the outlook for timely and successful private redevelopment is entirely appropriate and understandable. The Department's interest to this end is evidenced by numerous provisions in its standard Capital Grant Contract and Land Disposition Agreement forms as well as the Handbook. Sections 105(b) and 106(c)(7) of Title I provide the Secretary with discretionary powers to impose such provisions and conditions as he deems necessary to achieve the purposes of Title I.

The Capital Grant Contract authorizes the Department to request the submission of substantial data and documents covering actions proposed to be undertaken by a local public agency, particularly in relation to project land. Further action with respect to such submissions undertaken by the local public agency without approval of the Department provides cause to withhold grant payments if, in the opinion of the Secretary, such action might result in unnecessary and ineligible costs or unnecessary delays with respect to the project. The Capital Grant Contract also specifically makes the sale or offer for sale of project land upon terms or conditions not concurred in by HUD (as well as failure to make appropriate disposition of adverse litigation) cause for refusal to make payment on account of the project grant. In connection with the foregoing Contract provisions, pages 21 through 24 of the Capital Grant Form HUD-3156b are attached (enclosure 5). The checked provisions furnish adequate contract authority for HUD's position with respect to the Fort Lincoln matter.

The Fort Lincoln Prospectus, which was prepared and issued by mutual agreement between RLA and HUD and which is still operative, binds RLA to seek HUD concurrence in the selection of the redeveloper. In addition, page 2 of the Prospectus provides BSI with exclusive priority rights to the private redevelopment portions of the site and commits RLA to deal solely with BSI and not to seek or solicit any other organization. Termination of BSI's redevelopment interest will in effect constitute a transfer to a new redeveloper, a procedure with respect to which HUD's consent is clearly required under the Handbook and, at the election of HUD, may be disallowed as a proposed action covered by the terms of the attached Section 108 of the Capital Grant Contract.

a. HUD's position was presented to the Executive Director of RLA by correspondence of February 22, 1974, from Acting Area Office Director Harry Staller. Various proposals concerning a possible change in the redeveloper have been the subject of a number of informal discussions between the two agencies since January of this year. The basic controlling document is the initial Prospectus. A copy of that letter and the Prospectus have been provided to the Committee.

b. HUD procedures regarding the redeveloper selection process and the termination or transfer of redevelopment rights, as set forth in the Handbook, as

well as the Department's rights under the Capital Grant Contract, are applicable to all local redevelopment agencies. While the unique aspects and objectives of the Fort Lincoln project require a degree of coordination and oversight on the part of HUD which is admittedly beyond the realm of more conventional urban renewal undertakings, the Department's involvement is clearly within the scope of authorized procedures, applicable contract provisions and law.

Question 2. (Of enclosure) What constitutes "substantial documentation of termination" of a contract with the developer?

a. What types of documentation were provided by RLA? Can these be supplied?

b. Why were they insufficient?

c. Has HUD ever discussed with RLA or provided RLA with the basis of what would constitute an acceptable documentation of termination?

Answer. Substantial documentation of termination of BSI's redevelopment interests consists of a written consent from BSI to withdraw from the project, or legally supportable evidence of an overt action on the part of BSI constituting a breach of its obligations whereby such interests are forfeited under the terms of the Prospectus.

a. No such documentation has been presented to HUD by RLA.

b. RLA's position that BSI's interests were forfeited by an irrevocable anticipatory breach is based on oral conversations alleged to have indicated the redeveloper's intention to terminate its participation in this project. These contentions have consistently been disputed by BSI in writing.

c. The nature of adequate documentation of termination, particularly in the context of possible litigation, has been the subject of discussion between HUD and RLA.

Question 3. (Of enclosure) On page 7 you state that the General Services Administration has transferred to the Department the "Surplus Federal land which will be the site of" the Fort Lincoln project.

a. When did the title transfer take place and what were the circumstances? Did you solicit the title transfer or was it initiated by GSA?

b. When does HUD expect to transfer title to the property to RLA and under what circumstances? Specifically, can and will you withhold transferring title if you do not approve of the contractor, the prospectus, the LDA, or anything else?

Answer. It was recognized in the early planning stages of Fort Lincoln that a suitable mechanism would have to be identified through which to transfer ownership of surplus Federal land comprising the Fort Lincoln site from the Federal Government to private ownership in the case of land for private development (e.g., residential, neighborhood malls, town center) and to local public ownership in the case of land to be used for public facilities (e.g., schools, parks, streets, etc.). A number of mechanisms existed under the Federal property and Administrative Management Act of 1949 and the Housing Act of 1949. The primary objective was to assure disposition of the land for the purposes described in the Fort Lincoln plan. After thorough analysis and several meetings of GSA, RLA and HUD, it was decided that the most feasible disposition mechanism was section 108 of the Housing Act of 1949. This decision was based on the prior experience of HUD in disposing of such land in other urban renewal projects. The ability to protect the public interest by securing fair value for the private land without the necessity of going through public competitive bidding as would be required by GSA procedures, and GSA's authority to assign property to HUD for disposition.

Subsequent to the establishment of the Inter-agency coordinating group by the HUD Under Secretary, GSA, RLA and HUD agreed on a procedure by which HUD would request the land from GSA under the Housing Act of 1949, would assume responsibility for protection and maintenance and would hold the land during a phased take down by RLA as the various land uses are identified through the Development Area Planning process. When land for private development is defined, HUD will transfer the land to RLA for sale to the developer. When land for public uses is identified, HUD will transfer the land back to GSA for disposal under various GSA authorities to local or Federal agencies at no cost.

By letter dated April 25, 1973, HUD requested assignment of the land from GSA. On June 4, 1973, GSA transferred the land to HUD. Copies of these letters are attached (enclosures 6 and 7 respectively). There have been no further transfers since that time.

HUD will transfer the property for private development to RLA upon its delineation in each Development Area Plan and a subsequent request by RLA to HUD would, of course, have to be assured that the land so transferred would be used in accordance with the plan for the area and that a proper price is being received for the property from the developer consistent with our responsibility to assure that this land is properly utilized. Under the terms of the attached section 6 of the Capital Grant Contract (enclosure 8), RLA acquisition of the Fort Lincoln site as an authorized project activity is subject to the approval of HUD. Conveyance of the Federal site to RLA by HUD for sale to a redeveloper is contingent on the continued feasibility of the project. Departmental approvals of the redeveloper, any new proposed prospectus soliciting new redevelopers and the proposed Land Disposition Agreement to be used, are among the pre-requisites to such conveyance.

Question 4. (Of enclosure) What is the statutory authority governing transfers of land for private development between HUD and RLA at Fort Lincoln?

Answer. Section 108 of Title I of the Housing Act of 1949, as amended, provides the applicable statutory authority for transfer of the Fort Lincoln site to RLA for private redevelopment.

Question 5. Describe the mechanism for such land transfers, including the terms and conditions under which HUD will transfer land to RLA, and the legal authority (i.e., statutes, regulations, Urban Renewal Plan, etc.) for the imposition of such terms and conditions.

Answer. The attached correspondence of April 25, May 23 and June 4, 1973, between this Department and the General Services Administration describes the authority and arrangements for transfer of the Federal land. The conveyance to RLA will principally be subject to the condition that disposition for private redevelopment will be effected under a Land Disposition Agreement previously approved by HUD. The Department's authority for prior approval of the Land Disposition Agreement is discussed in answer to several of the other questions, as is HUD's right of approval in the terms and conditions of both the acquisition and disposition of project land by a local public agency. At the present time, the provisions of the Prospectus remain a controlling factor in this regard.

Question 6. Under what legal authority does HUD claim the right to review RLA's selection of a developer? Describe the extent of any such rights. Is it customary for HUD to review and approve developers in urban renewal projects? Is the urban renewal contract between HUD and RLA conditioned on BSI being the developer of the project?

Answer. Answers to the first two parts of this question are provided in response to question number one. With respect to the third part, although the Capital Grant Contract is not specifically conditioned on BSI being the redeveloper, its capabilities constituted a major element in HUD's determination that the application presented a feasible project.

Question 7. (Of enclosure) Under what legal authority does HUD claim the right to review BSI's performance under the present agreement between RLA and BSI and the Land Disposition Agreement? After RLA executes a Land Disposition Agreement with a Fort Lincoln developer, under what conditions can HUD withhold transfer of land to RLA? Describe the extent of any such rights.

Answer. The Prospectus required HUD's concurrence, which was granted, in the final Development Proposal prepared by BSI. Except in this context, BSI's performance under the present agreement with RLA has not been subject to specific HUD review requirements. Execution of a Land Disposition Agreement with RLA will subject the redeveloper to such terms and conditions as are imposed by the Agreement. Other than with respect to certain anti-discrimination covenants, HUD acquires no rights of enforcement or review against the redeveloper by virtue of the Agreement, although final detailed redevelopment proposals for specific parcels, to be presented by BSI at a later date in the form of "Development Area Plans", will be submitted to HUD by RLA for monitoring and advisory purposes under present agreements. Upon execution of a HUD approved Land Disposition Agreement, RLA will be legally obligated to the conveyance of the subject land so long as the redeveloper remains in compliance with its obligations. Under such circumstances, HUD would have no grounds to withhold transfer of the land in accordance with the applicable phased takedown schedule.

Question 8. (Of enclosure) Under what legal authority does HUD claim the right to approve RLA's execution of the Land Disposition Agreement and to

monitor performance of the parties thereunder? Describe the extent of any such right.

Answer. This question is answered with respect to approval of the Land Disposition Agreement in response to question four of the Committee Chairman's letter of May 21, 1974. HUD does not monitor performance under the Agreement.

Question 9. (Of Enclosure) As a Federal Agency is it not possible for RLA to receive land directly from GSA in accordance with Federal law?

Answer. BIA is not a Federal agency under terms of Section 108 of the Housing Act of 1949.

Question 10. (Of Enclosure) What specific review and monitoring of RLA activities is HUD undertaking in regard to the Fort Lincoln Project which it does not normally carry out for urban renewal projects in other cities?

Answer. Issuance of the Prospectus, selection of an acceptable redeveloper, approval of the redeveloper's Development Proposal and negotiation of a satisfactory Land Disposition Agreement have been the principal activities in which HUD has been more closely involved than the Department's normal participation in more conventional projects.

Question 11. (Of Enclosure) In your testimony, in response Number 1, you discuss an urban renewal grant for Fort Lincoln (p. 3). Could Fort Lincoln become eligible for Title VII funds at a later date, as are Cedar-Riverside (Minnesota) and Welfare Island (New York)?

a. Would HUD make a commitment to use Title VII funds if necessary to expedite the Fort Lincoln project?

Answer. Almost immediately after the beginning of preparation of the development proposal, the then Office of New Community Development, indicated its understanding that the planning process being undertaken at Fort Lincoln could result in an application for guarantee assistance and the office expressed a willingness to consider the application when it was received. To date we have officially received no such application. It is our understanding that the developers will not submit the required application since the Public Grants cover the cost of most of the infrastructure and there is no opportunity for the Developer to directly benefit from land appreciation.

Further, it is our understanding that there is at this time no interest on the part of RLA or the District Government to submit an application to the New Communities Administration to be designated as the public developer of the project in view of the fact that land acquisition and land development costs, which are the primary purposes of the New Community Program, were already taken care of through other mechanisms noted above.

Question 12. (Of Enclosure) In your testimony, page 4, you state that HUD gave oral concurrences in RLA's selection of the BSI-Westinghouse Consortium (On November 18, 1970).

a. Is such an oral concurrence your normal procedure?

b. What scrutiny did HUD give the developer before issuing such concurrence?

Answer. a. HUD staff participated fully in the Mayor's Policy Committee which was the vehicle for the ultimate selection of the Developer. Even through the HUD representative was on the Policy Committee ex officio, we did, along with the other members, review and screen all the applicants, check financial statements, work experience and conduct oral interviews. Once the decision was made formally by the Committee and RLA, the HUD staff was able to fully and completely inform the Under Secretary. It was felt that because of this much closer than usual involvement in the whole selection process that approval of the development proposal constituted approval of the developer.

b. During the evaluation of proposals by the Fort Lincoln Selection Committee and after the Westinghouse-BSI consortium was selected, HUD satisfied itself that the consortium had the financial capacity and development expertise to successfully carry out the project.

Mr. JOHN GUNTHER,
Chairman, Board of Directors, Redevelopment Land Agency, 1325 G Street NW.,
Washington, D.C.

FEBRUARY 12, 1974.

DEAR MR. GUNTHER: My staff has recently completed a review of developments over the past months in the Ft. Lincoln Urban Renewal Project. The purpose

of this letter is to convey to you some of the concerns of the Department of Housing and Urban Development regarding these developments. Also, I have outlined certain actions which we feel must be taken by the Government of the District of Columbia and the Redevelopment Land Agency over the coming months to ensure satisfactory progress in the execution of this project.

The Department reserved funds for 490 units of Section 235 housing for this project in June, 1973. This exception to the nationwide suspension of new approvals for Section 235 was made pursuant to certain conditions. One of these was that applications for firm commitments would be received in the HUD Area Office by March 21, 1974. Recent developments have indicated that there is some doubt as to whether or not this deadline can be met. In addition, the RLA has not yet requested HUD concurrence in a Land Disposition Agreement, which would include the parcels to be redeveloped for the Section 235 units.

We have been advised that the RLA may be considering rejection of proposals made by Building Systems International regarding the nature of the developer entity which is to implement the present urban renewal plan for Ft. Lincoln approved by HUD and the District of Columbia City Council. Furthermore there have been no official representations to HUD as to whether or not the Department's concurrence in revisions to the redeveloper's equity, finance, or organization proposals would be requested. This, despite the fact that HUD's feasibility determinations in approving the Loan and Grant Contract for this project were based, in part, upon the capability of the developer selected pursuant to the 1970 prospectus issued by RLA.

These few facts indicate that the Ft. Lincoln Project may not proceed as expeditiously as anticipated when it was approved for execution in 1972. We believe it is time for a re-examination of the timing and nature of critical actions to be taken over the new few months.

To assure successful initiation of this important undertaking in connection with the President's commitment for the observance of the Bicentennial Celebration in the District of Columbia, HUD expects that:

By March 1, 1974: A progress report should be submitted to the HUD Area Office detailing the present status of the developer entity, the options considered by RLA with respect to that entity and what changes, if any, are contemplated in the RLA's relationship with the redeveloper.

By March 15, 1974: A statement as to when, and by whom, the applications for Section 235 housing will be submitted. An extension of the March 31, 1974 deadline to June 30, 1974 for their submittal will only be considered with a detailed explanation of the circumstances which make it impossible for the RLA and its selected redeveloper to comply with that deadline and the circumstances that would permit compliance with the June 30, 1974 deadline.

By March 31, 1974: A locally approved Land Disposition Agreement is to be submitted for HUD concurrence.

By June 1, 1974: Satisfactory evidence shall be submitted to the HUD Area Office that the redevelopment schedules originally contemplated can be achieved together with the assumptions (concerning other Federally supported activities such as the GSA office building, transportation facilities, etc.) upon which these schedules are based.

As you know, any significant change in the identity of the developer and its acceptance by RLA will require concurrence by the HUD Area Office. Any extension of the deadline for utilizing the Section 235 set-asides requires concurrence from the Assistant Secretary for Housing Production and Mortgage Credit. We will give high priority to a prompt review of a Land Disposition Agreement to avoid any further delays in project execution.

I would appreciate your response to these schedules and our concerns at your earliest convenience.

In this regard, I must advise you that should RLA be unable to furnish reasonable assurances that the development schedule can generally be met, this Department will have no choice but to reconsider the extent of its commitments to the project.

Sincerely,

DAVID O. MEEKER, Jr., FAIA,
Assistant Secretary.

Hon. WALTER E. WASHINGTON,
Mayor of the District of Columbia,
Washington, D.C.

DEAR MAYOR WASHINGTON: On behalf of the Department of Housing and Urban Development I am writing you to express my concern regarding recent developments which may adversely affect progress on the Fort Lincoln Project.

The enclosed letter was delivered today to Mr. John Gunther. It outlines some of our concerns and requests local actions which will maintain the project development schedules originally contemplated when HUD approved this project.

Over the past decade, you have repeatedly asserted your support for the concepts embodied in the present General Development Plan for Fort Lincoln. You are well aware of the commitment the Federal Government at various levels has made to ensure its successful execution. This Federal commitment has not diminished. However, we do feel it is necessary that the District of Columbia demonstrate an equal commitment to expeditious management of this project.

Your cooperation in assisting the RLA to meet these suggested deadlines, by whatever means you may deem most appropriate, would be appreciated.

Sincerely,

DAVID O. MEEKER, Jr., FAIA,
Assistant Secretary.

Enclosure.

CPD FUNDS APPROVED BY PROGRAM FOR SELECTED CITIES OVER THE PERIOD FISCAL YEARS 1968 THROUGH 1972, AND FOR FISCAL YEAR 1973

[In thousands of dollars]

City	Population	Urban renewal	Neighborhood development	Model cities	Open space land	Water and sewer	Neighborhood facilities	Public facility loans	Rehabilitation loans	Total
Baltimore	905,759									
Fiscal years 1968-72		80,664	17,481	31,662	1,215	3,612	3,107	0	2,650	140,391
Fiscal year 1973		369	8,986	9,800	402	0	731	0	471	20,759
Boston	641,071									
Fiscal years 1968-72		83,507	3,111	31,152	3,560	2,330	3,663	0	9,715	137,038
Fiscal year 1973		49,548	0	3,658	1,058	0	0	0	2,801	57,065
Cleveland	750,879									
Fiscal years 1968-72		21,228	0	9,314	3,010	0	2,005	0	1,765	37,322
Fiscal year 1973		17,108	5,500	3,425	0	0	0	0	227	26,260
Detroit	1,513,601									
Fiscal years 1968-72		37,984	14,279	61,635	7,125	3,500	1,275	0	1,210	127,008
Fiscal year 1973		(-7,190)	11,403	8,081	552	0	0	0	65	12,911
Washington, D.C.	756,510									
Fiscal years 1968-72		151,433	90,816	19,250	2,390	0	1,745	0	1,210	166,844
Fiscal year 1973		20,578	29,025	7,500	0	0	600	0	307	58,010
San Francisco	715,674									
Fiscal years 1968-72		59,547	22,562	7,351	2,673	0	929	0	12,333	105,395
Fiscal year 1973		3,061	7,900	1,142	144	0	0	0	2,532	14,779
St. Louis	622,236									
Fiscal years 1968-72		19,385	10,575	25,970	1,413	110	1,000	0	1,820	60,273
Fiscal year 1973		0	3,203	2,611	602	0	0	0	860	7,281

¹ \$12,900 for Fort Lincoln.² \$15,000 for Fort Lincoln.

Note to: Mr. Kopff.
Subject: Fort Lincoln.

This responds to your request for an update on the Fort Lincoln legal situation. My note of February 5 (copy attached), outlined the various possibilities of further developments in regard to changes in the RLA-BSI relationship, and HUD's role with respect to those changes. RLA appears to have decided to proceed as outlined in Paragraph 4 of the February 5 note. In other words, RLA has chosen to unilaterally terminate the right of BSI to continue as developer for Fort Lincoln (RLA claims that BSI must be deemed to have withdrawn but RLA's argument on this point is weak, BSI doesn't accept it, nor do we). RLA did not seek a prior HUD concurrence in that action. Moreover, as our February 5 note indicates, it did not have to do so as a matter of law. However, also as indicated in the note, RLA is proceeding on a risk basis. It is risking a law suit by BSI; in this connection, we understand that BSI has requested its attorneys to prepare a complaint against RLA, and possibly HUD, but that no action has as yet been filed. RLA also risks a termination by HUD of Federal assistance under the grant contract and a HUD refusal to convey to RLA the Federal surplus land needed for the project; in this connection, Assistant Secretary Meeker has warned RLA of the possibility of a HUD reexamination of its continued participation in Fort Lincoln.

Recently, RLA submitted to the HUD DC Area Office copies of a draft prospectus and land disposition agreement which it intends to use as a basis for selecting another Fort Lincoln redeveloper. These documents were accompanied by a schedule of HUD actions which RLA expected and needed in order to keep the project "on track". Thus far, the Area Office has refused to process these documents and has advised that it will not review them unless RLA submits documentation from BSI confirming its agreement to withdraw as the officially designated redeveloper of Fort Lincoln (copy of Area Office's letter of February 22 indicating this position is attached). The Area Office's position is intended (i) to avoid HUD legal liability to BSI resulting from concurrence in RLA's rejection of BSI (as you know, we believe RLA's legal basis for rejection is quite weak) and (ii) to further a policy position that HUD's primary interest in Fort Lincoln is as a bicentennial project, which interest would be much endangered unless the possibility of litigation and political wrangling in connection with the project can be promptly eliminated.

S. LEIGH CURRY, JR.
Associate General Counsel,
Community Development.

SEC. 108. PROVISIONS RELATING TO PROPOSED ACTIONS

(A) *Types of Project Data to Be Furnished.*—The Local Public Agency will promptly furnish the Secretary with such copies as he may reasonably require, for his use under this Contract, of the following items covering actions then proposed to be taken by the Local Public Agency in its carrying out of, and which pertain to, the Project:

(1) Documentary data covering salary rate determinations made under State or local law with respect to architects, technical engineers, draftsmen, and technicians to be employed in the development of the Project;

(2) Contract documents covering contract of each type it proposes to enter into or upon which it proposes to seek bids or proposals;

(3) Tabulations of bids or proposals it receives on contract for which it seeks bids or proposals;

(4) Documentary data covering its proposed awards of contracts;

(5) Contract change orders and contract novations which it proposes to issue, and proposed contract assignments which it proposes to approve;

(6) Documentary data covering its proposed determinations respecting liquidated damages and extensions of time under its awarded contracts;

(7) Documentary data covering any Project work it proposes to undertake by so-called "force account";

(8) Reports of appraisals which are made at its instance with respect to land in the Urban Renewal Area to be acquired by it as a part of the Project, and similar reports with respect to Project Land to be disposed of by it.

(9) Documentary data covering its proposed acquisitions of options to acquire land in the Urban Renewal Area as a part of the Project except where the option is for a nominal consideration and the land purchase price stated in the proposed option does not exceed the purchase price of such land, as therefore concurred in by the Secretary;

(10) Documentary data covering its proposed granting of options to others to acquire Project Land;

(11) Proposed contract documents by which it proposes to contract to acquire land in the Urban Renewal Area as a part of the Project or proposes to contract to dispose of Project Land;

(12) Documentary data covering its proposed acquisitions of land in the Urban Renewal Area as a part of the Project and covering its proposed dispositions and retentions of Project Land;

(13) Documentary data covering its proposed determinations of fair value of Project Land to be disposed of by it;

(14) Documentary data supporting the capital value it proposes to impute to Project Land to be leased by it to others or to be retained by it for use in accordance with Urban Renewal Plan;

(15) Documentary data covering its proposed arrangements respecting its temporary operation, utilization, or disposition of Project Land pending its preparation and ultimate sale, lease or retention of Project Land for uses in accordance with the Urban Renewal Plan;

(16) Documentary data covering its proposed clearance of buildings and structures from the Urban Renewal Area and covering its proposed utilization or disposition of such buildings and structures;

(17) Documentary data covering any proposed changes in the Project, the Urban Renewal Area, the Urban Renewal Plan, or the Relocation Plans; and

(18) Other documentary data, not hereinbefore mentioned in this subsection, covering any proposed actions of the Local Public Agency pertaining to the Project.

(B) *Advice by Secretary to Local Public Agency Concerning Certain Proposed Actions by Latter.*—Notwithstanding any other provisions of this Contract, the Government may elect not to make a requested payment on account of the Project Capital Grant if, after the Local Public Agency shall have furnished any item covered by and in accordance with subsection (A) of this Section, the Local Public Agency shall have proceeded further with respect thereto without having been advised in writing by the Secretary to the effect that the Government has no objection to the Local Public Agency so proceeding (it being the purpose of this subsection (A) of this Section, to insure that the Local Public Agency shall not take any steps which might, in the opinion of the Secretary, violate applicable Federal laws or regulations or provisions of this Contract, and to minimize thereby the possibility of violations which might render it impossible for the Government to pay the Project Capital Grant or which might result in unnecessary and ineligible costs or unnecessary delays with respect to the Project).

ARTICLE II—GENERAL CONDITIONS PREREQUISITE TO PROJECT CAPITAL GRANT PAYMENTS

SEC. 201. CONDITIONS PREREQUISITE TO PAYMENT ON ACCOUNT OF PROJECT CAPITAL GRANT

Notwithstanding any other provisions of this Contract, the Government may elect not to make a requested payment on account of the Project Capital Grant or the increase which is provided for with respect to the Project Capital Grant in Section 3 or Section 4 of Part I hereof:

(1) If the Local Public Agency shall have made to the Government any misrepresentation of a material nature in the aforesaid application, or any supplement thereto or amendment thereof, or in this Contract, or in or with respect to any document furnished therewith or pursuant hereto;

(2) If the Local Public Agency shall not have taken all proper steps necessary to the appropriate disposition of any litigation theretofore pending adversely affecting the Project;

(3) If any changes shall have been made in any of the basic elements of the Urban Renewal Plan without the Secretary's prior written concurrence;

(4) If any material changes shall have been made in the Relocation Plans without the Secretary's prior written concurrence;

(5) If the Local Public Agency shall have acquired any land in the Urban Renewal Area as a part of the Project before a public hearing (herein called the "Project Public Hearing") with respect to the Project shall have been duly held following publication of notice of the date, time, place, and purpose of the Project Public Hearing, which notice and the publication thereof are satisfactory to the Secretary: *Provided*, That the Project Public Hearing may be held either by the

Local Public Agency, the governing body of the locality in which the Project is situated, or by any other local public body which is authorized or directed by applicable law to hold the same;

(6) If the Local Public Agency shall have acquired (other than by eminent domain proceedings), or contracted to acquire, any land in the Urban Renewal Area as a part of the Project at prices, or upon or subject to covenants, restrictions, terms, or conditions, which shall not have been concurred in by the Secretary;

(7) If the Local Public Agency, in acquiring any land in the Urban Renewal Area as a part of the Project by eminent domain proceedings, shall not have received the Secretary's concurrence in such action prior to the institution of such proceedings or shall have consented or acquiesced, by stipulation, forbearance, or otherwise, to any price, terms, or conditions which shall not have been concurred in by the Secretary, except as shall have been adjudicated by trial or hearing on the merits of the issues according to law;

(8) If the Local Public Agency shall have sold or leased, or contracted to sell or lease, or offered for sale or lease, or shall have retained for use in accordance with the Urban Renewal Plan, any Project Land at prices, or upon or subject to covenants, restrictions, terms, or conditions which shall not have been concurred in by the Secretary;

(9) If, in case any Project Land is leased by the Local Public Agency or is retained by it for use in accordance with the Urban Renewal Plan, the capital values imputed by it to such Project Land shall not have been concurred in by the Secretary;

(10) If the Local Public Agency shall have abandoned or, before the completion thereof, terminated the Project;

(11) If the Local Public Agency shall then be in default with respect to any of the provisions of this Contract therefore to be complied with by it; or

(12) If the Local Public Agency shall not have presented satisfactory assurance to the Secretary that decent, safe, and sanitary dwellings as required by Section 105 of Title I are available for the relocation of individuals and families who are displaced from the Urban Renewal Area.

SEC. 202. RIGHTS AND REMEDIES NOT WAIVED

In no event shall the making by the Government of any payment on account of the Project Capital Grant constitute or be construed as a waiver by the Government of any breach of covenant or any default which may then exist on the part of the Local Public Agency, and the making of any such payment by the Government while any such breach or default shall exist shall in no wise impair or prejudice any right or remedy available to the Government in respect of such breach or default.

HON. ARTHUR SAMPSON,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. SAMPSON: As you know, this Department has approved a \$23 million Urban Renewal Grant for the Ft. Lincoln New Team Project and has affirmed its intention to provide the subsidized housing units required by the Urban Renewal Plan if appropriations are available and if acceptable applications are submitted. These actions have been taken in accordance with our Departmental commitment to the project and represent a significant forward step in accomplishing the goal completing a significant portion of the development by the time of the Bicentennial Celebration.

I believe it is now timely to provide for disposal of the property in accordance with the approved development plan.

During the past month, representatives of the D.C. Redevelopment Land Agency (RLA) and this Department have met with representatives of the General Services Administration, Region 3, Property Management and Disposal Service, to discuss disposal procedures for the Fort Lincoln New Town site. We have reached tentative agreement that Section 108 of Title I, Housing Act of 1949 (42 U.S.C. 1450) is the appropriate statutory authority under which disposal should proceed. The property lies entirely within the area of an urban renewal project being planned and carried out by the RLA and approved by this Department. A certification to this effect is being prepared by the RLA and will be available upon request.

I, therefore, request that you initiate the appropriate actions by your agency to transfer the Fort Lincoln property to this Department under the statute

cited above and the President's Delegation of Authority to the Administrator contained in Executive Order 11609.

Because of the unique and complex nature of the planning process for Fort Lincoln New Town, the Department has approved an urban renewal plan which is conceptual in nature and which does not specifically delineate parcels by particular uses. The overall Development plan calls for six development phases with a separate Development Area Plan to be prepared for each phase. Each Development Area Plan will delineate parcels for public or private?

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., May 23, 1973.

HON. JAMES T. LYNN,
Secretary of Housing and Urban Development,
Washington, D.C.

DEAR MR. SECRETARY: By letter of April 25 from The Under Secretary of Housing and Urban Development, Mr. Floyd H. Hyde, the General Services Administration (GSA) was requested to transfer jurisdiction over the Fort Lincoln New Town site to your Department for disposal pursuant to Section 108 of Title I, Housing Act of 1949 (42 U.S.C. 1458).

In accordance with the authority delegated to me by the President in Executive Order 11609, I have requested Mr. George I. Perryman, Regional Administrator of our office located at 7th and D Streets, SW., Washington, D.C. 20407, to take immediate action to transfer this property to your Department for disposal, as requested.

We are pleased to be of assistance in this matter and you may be assured of our continued cooperation in all aspects of this project as it involves GSA.

Sincerely,

ARTHUR F. SAMPSON,
Acting Administrator.

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., June 4, 1973.

HON. JAMES T. LYNN,
Secretary of Housing and Urban Development,
Washington, D.C.

DEAR MR. SECRETARY: This will implement Mr. Sampson's response of May 23, 1973, to the letter dated April 25, 1973, from the Under Secretary of the Department of Housing and Urban Development, Mr. Floyd H. Hyde, requesting the transfer of the Fort Lincoln New Town site to your Department for disposal.

Accordingly, pursuant to Section 108 of Title I of the Housing Act of 1949 (42 U.S.C. 1458) and in accordance with the authority delegated to the Administrator of General Services by the President in Executive Order 11609 and subsequently redelegated to me, I hereby transfer the above-mentioned property to the Department of Housing and Urban Development without reimbursement. It is understood that utilization of the aforementioned property will be in accordance with the terms and conditions described in Under Secretary Hyde's letter of April 25, 1973.

The property hereby assigned comprises approximately 309 acres of land together with the improvements thereon. The land is shown on the enclosed Plat of Computation dated October 23, 1967, as parcels 173/80, 173/81 and 173/100 excepting therefrom those areas transferred by plats recorded December 6, 1968, April 2, 1969, and September 23, 1972, copies of which are enclosed.

By permit dated March 21, 1973, a copy of which is enclosed, the District of Columbia Redevelopment Land Agency assumed protection and maintenance of the Fort Lincoln property. It is requested that your Department communicate with DCRLA concerning continuation of the Permit and assumption of custody and accountability of the Fort Lincoln property by your Department.

It is requested that you acknowledge receipt of this communication in the space provided on the attached copy and return it to this office, and that such steps as necessary be taken by your agency to consummate this transaction.

Sincerely,

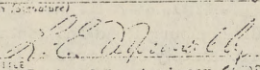
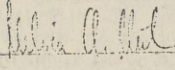
GEORGE I. PERRYMAN,
Regional Administrator.

Enclosures.

GENERAL SERVICES ADMINISTRATION		1. PERMIT NUMBER
PERMIT FOR USE OF REAL PROPERTY BY FEDERAL AGENCY		
intention, revocable at the will of the General Services Administration, is hereby granted the Permittee hereinafter named to use the property described below for the purpose designated, subject to the conditions, special and general, herein prescribed.		
2. PROJECT DESIGNATION AND ADDRESS	3. PERMITTEE (NAME AND ADDRESS)	
District of Columbia Redevelopment Land Agency 1325 G Street, NW. Washington, DC 20005	Mr. Melvin A. Master Executive Director DC Redevelopment Land Agency 1325 G Street, NW. Washington, DC 20005	
4. PROJECT DESIGNATION AND ADDRESS	5. MAXIMUM PERIOD COVERED	
National Training School for Boys Bladensburg Road & South Dakota Avenue, Washington, DC (As shown on Exhibit _____, attached hereto and made a part hereof.)	FROM 3-1-73 TO 3-1-74	
The entire Former National Training School for Boys, Bladensburg Road and South Dakota Avenue, Washington, DC., which comprises approximately 334 acres of land and improvements thereon.		
7. PURPOSE OF PERMIT		
Planning and preparation of the site for the proposed Fort Lincoln project.		
8. By the acceptance of this permit, the Permittee agrees to abide and be bound by the following conditions:		
I. SPECIAL CONDITIONS		
a. The Permittee is solely responsible for the use, occupancy, protection and maintenance as may be required of the entire NTS.		
b. The Permittee shall in any sub-permit, contract, or use agreement indemnify and save harmless the USA, its agents and employees against any and all loss, damage, claim, or liability whatsoever, due to the personal injury or death, or damage to property of others directly or indirectly due to the exercise of the Sub-Permittee or Contractee of the privilege granted by this permit or any other act or omission of Sub-Permittee or Contractee, including failure to comply with the obligations of said sub-permit or contract.		
c. Any cost, expense, or liability connected with or in any manner incident to the granting, exercise, enjoyment, or relinquishment of this permit shall be assumed and discharged by Permittee.		
d. The Permittee is authorized to sub-permit, contract, or make available this property under such terms and conditions as deemed appropriate, provided such use will include and incorporate all the terms and conditions of this Permit.		
e. The Permittee has permission to demolish any and all improvements located on the property subject to the terms and conditions of this Permit.		
f. This Permit is revocable at will by the General Services Administration upon written notice to the Redevelopment Land Agency.		

II. GENERAL CONDITIONS

- a. The use and occupancy of the property shall be without cost or expense to General Services Administration, and under the general supervision of the Regional Administrator, General Services Administration, or his authorized representative, and subject to such rules and regulations as he may prescribe from time to time.
- b. The permittee shall at its own expense and without cost or expense to the General Services Administration, maintain and keep the property in good repair and condition.
- c. The use to be made of the property shall be limited to that specified in this permit.
- d. The permittee shall pay the cost, as determined by the Regional Administrator, General Services Administration, or his authorized representative, of producing and/or supplying any utilities and other services furnished by the General Services Administration for use of the permittee.
- e. No additions to or alterations of the property shall be made without the prior consent of the Regional Administrator, General Services Administration, or his authorized representative.
- f. On or before the date of expiration or termination of this permit, the permittee shall vacate the premises, remove its property therefrom and restore the premises to a condition satisfactory to the General Services Administration. If, however, this permit is revoked, the permittee shall vacate the premises, remove its property therefrom and restore the premises as directed within such time as the General Services Administration may designate.

GENERAL SERVICES ADMINISTRATION PERMITTOR		PERMITTEE	
DATE	THIS 23rd DAY OF February 19 73	ACCEPTED	THIS 21st DAY OF March 1973
BY (Signature)		BY (Signature)	
TITLE	Regional Commissioner, GSA	TITLE	EXECUTIVE DIRECTOR

(b) Notwithstanding any other provision of this Contract, no part of the amount of such rehabilitation grant payments shall be included in computing the Project Capital Grant otherwise payable to the Local Public Agency pursuant to the provisions of Section 2 hereof or shall be required to be contributed as, or as a part of, any Local Grant-in-Aid.

(c) The estimate of the aggregate cost of such rehabilitation grant payments which, although not included in Gross Project Cost, has been set forth in the budget for Item 1 of Gross Project Cost shall be deemed a part of the "Project Expenditures Budget" referred to in Section 105(C) (1) of Part II hereof, and the Local Public Agency shall be subject to all the provisions and requirements of Section 105(C) of Part II hereof with respect to such estimate as though it were included in the budget for Item 1 of Gross Project Cost.

SEC. 5. Amount To Be Compensated Government for Its Inspections and Representatives.—The amount which shall be compensated the Government by the Local Public Agency pursuant to Section 103(C) of Part II hereof shall be _____ Dollars (\$ _____) : *Provided*, That if the Project is not undertaken, and if the Local Public Agency shall have paid the Government the afore-said amount ("fixed fee"), the Local Public Agency shall be entitled to a refund of the fixed fee.

SEC. 6. The Project.—The Project (designated Project No. _____) includes all undertakings and activities of the Local Public Agency in the Urban Renewal Area, in accordance with the Urban Renewal Plan, for the elimination and for the prevention of the development or spread of slums and blight, and involves slum clearance, redevelopment, rehabilitation or conservation in the Urban Renewal Area and in accordance with and as contemplated by the Urban Renewal Plan. Such undertakings and activities shall include, in accordance with and to the extent contemplated by the Urban Renewal Plan :

(a) Acquisition by the Local Public Agency in the urban renewal area of such land as may be approved by the Secretary.

(b) Demolition and removal by the Local Public Agency of buildings and improvements on Project Land;

(c) Installation, construction, or reconstruction by the Local Public Agency, in the Urban Renewal Area, of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the Urban Renewal Area the urban renewal objectives of Title I in accordance with the Urban Renewal Plan;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
OFFICE OF THE ASSISTANT SECRETARY,
FOR COMMUNITY PLANNING AND DEVELOPMENT,
Washington, D.C., February 12, 1974.

Mr. JOHN GUNTHER,
Chairman, Board of Directors, Redevelopment Land Agency, 1325 G Street NW.,
Washington, D.C.

DEAR MR. GUNTHER: My staff has recently completed a review of developments over the past months in the Ft. Lincoln Urban Renewal Project. The purpose of this letter is to convey to you some of the concerns of the Department of Housing and Urban Development regarding these developments. Also, I have outlined certain actions which we feel must be taken by the Government of the District of Columbia and the Redevelopment Land Agency over the coming months to ensure satisfactory progress in the execution of this project.

The Department reserved funds for 490 units of Section 235 housing for this project in June, 1973. This exception to the nationwide suspension of new approvals for Section 235 was made pursuant to certain conditions. One of these was that applications for firm commitments would be received in the HUD Area Office by March 31, 1974. Recent developments have indicated that there is some doubt as to whether or not this deadline can be met. In addition, the RLA has not yet requested HUD concurrence in a Land Disposition Agreement, which would include the parcels to be redeveloped for the Section 235 units.

We have been advised that the RLA may be considering rejection of proposals made by Building Systems International regarding the nature of the developer entity which is to implement the present urban renewal plan for Ft. Lincoln approved by HUD and the District of Columbia City Council. Furthermore there have been no official representations to HUD as to whether or not the Department's concurrence in revisions to the redeveloper's equity, finance, or organization proposals would be requested. This, despite the fact that HUD's feasibility determinations in approving the Loan and Grant Contract for this project were based, in part, upon the capability of the developer selected pursuant to the 1970 prospectus issued by RLA.

These few facts indicate that the Ft. Lincoln Project may not proceed as expeditiously as anticipated when it was approved for execution in 1972. We believe it is time for a re-examination of the timing and nature of critical actions to be taken over the next few months.

To assure successful initiation of this important undertaking in connection with the President's commitment for the observance of the Bicentennial Celebration in the District of Columbia, HUD expects that:

By March 1, 1974: A progress report should be submitted to the HUD Area Office detailing the present status of the developed entity, the options considered by RLA with respect to that entity and what changes, if any, are contemplated in the RLA's relationship with the redeveloper.

By March 15, 1974: A statement as to when, and by whom, the applications for Section 235 housing will be submitted. An extension of the March 31, 1974 deadline to June 30, 1974 for their submittal will only be considered with a detailed explanation of the circumstances which make it impossible for the RLA and its selected redeveloper to comply with that deadline and the circumstances that would permit compliance with the June 30, 1974 deadline.

By March 31, 1974: A locally approved Land Disposition Agreement is to be submitted for HUD concurrence.

By June 1, 1974: Satisfactory evidence shall be submitted to the HUD Area Office that the redevelopment schedules originally contemplated can be achieved together with the assumptions (concerning other Federally supported activities such as the GSA office building, transportation facilities, etc.) upon which these schedules are based.

As you know, any significant change in the identity of the developer and its acceptance by RLA will require concurrence by the HUD Area Office. Any extension of the deadline for utilizing the Section 235 set-asides requires concurrence from the Assistant Secretary for Housing Production and Mortgage Credit. We

will give high priority to a prompt review of a Land Disposition Agreement to avoid any further delays in project execution.

I would appreciate your response to these schedules and our concerns at your earliest convenience.

In this regard, I must advise you that should RLA be unable to furnish reasonable assurances that the development schedule can generally be met, this Department will have no choice but to reconsider the extent of its commitments to the project.

Sincerely,

DAVID O. MEEKER, Jr., FAIA.
Assistant Secretary.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
WASHINGTON, D.C., AREA OFFICE,
Washington, D.C., February 22, 1974.

Mr. MELVIN A. MISTER,
Executive Director, D.C. Redevelopment Land Agency, 1325 G Street NW., Washington, D.C.

DEAR MR. MISTER: This is in response to the submission by your Agency on February 21, 1974, of the draft prospectus and the Land Disposition Agreement for Fort Lincoln.

We are unable to accept either the prospectus or Land Disposition Agreement for review at this time and are returning same to you.

As stipulated in our letter of February 19, 1974, your proposed submission was to have been accompanied by the information requested in Assistant Secretary Meeker's correspondence to Mr. John Gunther of February 12, 1974, viz: "By March 1, 1974; a progress report should be submitted to the HUD Area Office detailing the present status of the developer entity, the options considered by RLA with respect to that entity and what changes, if any, are contemplated in the RLA's relationship with the redeveloper."

While it is recognized that Assistant Secretary Meeker's letter indicated a March 1, 1974, response date for this report it was of course unknown by us at that time that you contemplated the issuance of a new development prospectus.

In view of the fact that RLA staff and representatives of HUD have been involved in recent months in informal discussions regarding proposals submitted by BSI to continue its involvement in Fort Lincoln, further action by this office will be contingent on one of the following:

1. Documentation confirming the agreement of BSI to their withdrawal as the officially designated redeveloper of Fort Lincoln; or
2. Reinstatement by the RLA Board of BSI as the officially designated redeveloper of Fort Lincoln.

The above information is required by HUD by March 1, 1974, as stated in the Assistant Secretary's letter; however, RLA may wish to submit this information as soon as possible in order to keep to its schedule. In such a case HUD stands ready to review the material as soon as it can be submitted.

Sincerely,

HARRY W. STALLER,
Acting Area Director.

HENRY C. BECK Co.,
GENERAL CONTRACTORS,
March 7, 1974.

Mr. JOHN GUNTHER,
*Chairman, D.C. Redevelopment Land Agency,
1325 G. Street NW.,
Washington, D.C.*

DEAR MR. GUNTHER: We are in receipt of Mr. Stephen S. Davis' letter of February 20, 1974, addressed to Mr. Raymond D. Nasher, Chairman, BSI-Westinghouse Joint Venture. Since all development rights to Fort Lincoln New Town were assigned (with your agency's approval) by Westinghouse to BSI in 1972, we assume that the letter was intended to be addressed to Mr. Nasher in his capacity as an officer of Building Systems International ("BSI").

Mr. Davis' letter indicates that the District of Columbia Redevelopment Land Agency ("RLA") has terminated our opportunity to develop Fort Lincoln New Town because "[i]n October, 1973, you indicated that BSI had decided to withdraw from its role of developer of Fort Lincoln as of December 31, 1973." Fur-

thermore, the letter asserts RLA's intention to select another developer through a public offering process. Notwithstanding Mr. Davis' assertion, BSI did not and has not withdrawn from its role as developer of Fort Lincoln. At no time did BSI send "written notice of termination to the RLA" as required in Section E.2.b. of the "Prospectus for the Feasibility Study and Development Proposal for the Fort Lincoln New Town" (the "Prospectus"). In November 1973, BSI had indicated orally that it was *considering* withdrawing if by December 31, 1973, we were unable to successfully secure minority participation on a basis which was satisfactory to your agency and to satisfactorily negotiate certain unresolved issues relating to the Land Disposition Agreement.

At no time did BSI provide any notification, written or otherwise, of its withdrawal from the project. In fact, on November 30, 1973 following discussions with RLA's staff and Board, BSI submitted a formal proposal relating to its financing which also addressed the issue of minority participation through the participation of Mr. Theodore R. Hagans. This proposal and the remaining issues relating to the LDA were the subject during December and January of extensive negotiations with the staff and involved discussions with your Board, indications of our continued commitment and of your recognition thereof. To our surprise by letter dated January 21, 1974, the proposal was rejected on the grounds that "BSI will no longer be responsible for project expenses after December 31, 1973 . . . BSI no longer intends to control the Fort Lincoln Development Corporation entity." Shortly thereafter, BSI submitted a letter dated January 25, 1974 indicating that the reasons expressed in the RLA letter of January 21, 1974 were erroneous and submitting an alternate proposal clarifying BSI's intention. Without further negotiations or discussions, the officers of RLA, by letter dated February 20, 1974, rejected this proposal.

It is our position that BSI is still entitled to all of the rights as the developer of Fort Lincoln, in connection with which we have committed three years of activity and over one million dollars. The Prospectus specifically states that once the development proposal prepared by BSI as the "Contractor" was accepted by RLA and public funds and public actions necessary to commence development were accomplished, the RLA would conduct a public hearing for the purposes of considering the sale and/or lease to the Contractor. After the selection of BSI as the Contractor and the acceptance by RLA and other agencies of the General Development Proposal and the Specific Development Proposal prepared by BSI, subsequent steps as outlined in Section C.2 of the Prospectus were undertaken and successfully completed as a result in large part of the efforts of BSI and significant expenditures made by BSI.

Accordingly, as of this date, Items 1, 2, and 4 of Section C.2 (adoption of the Urban Renewal Plan, HUD funding, and transfer to RLA of jurisdiction over Fort Lincoln) have been completed and Item 3 (public management mechanisms) has been significantly advanced. Only Item 5, a public hearing by RLA and execution of a Land Disposition Agreement, remain uncompleted. RLA is accordingly obligated, in the words of the Prospectus, as follows:

"If the RLA and other concerned public agencies are of the judgment that the development of the site as proposed would be in the public interest, and there are or will be sufficient public funds for the development of the site, and public actions necessary to commence such development are accomplished, the RLA shall conduct a public hearing for the purpose of considering the sale and/or lease to the Contractor of the portions of the site designated for private ownership for development of such areas in accordance with the accepted proposal (See Sec. II.E. for details). Any such sale or lease shall be made at the fair value or fair rental of such land for its proposed uses under the publicly approved development plan for the site. Commencing with the selection of a Contractor, the RLA will neither seek nor solicit any other organization and will deal exclusively with the Contractor for the performance of the work under this Prospectus." (Prospectus, pages 1 and 2).

Further, the Prospectus provides that once BSI was selected as the "Contractor", RLA could neither seek nor solicit any other organization, but must deal exclusively with the Contractor. Accordingly, BSI considers any past or future efforts by RLA to seek or solicit other organizations to be a breach of contract. In view of your agency's refusal to negotiate with us and its actions in contacting other developers and announced intentions to select another developer, all in violation of the contractual obligations as set forth in the Prospectus, we have no other alternative if RLA maintains its present position but to seek

compensation for reimbursement of over one million dollars expended by BSI on this project and compensation for the loss of potential profits.

BSI is somewhat amazed by RLA's attitude toward a private developer which has expended over one million dollars in planning this extremely complex development and which stood by this complex project for some three years and brought it to a point where construction is ready to begin. We fail to understand how RLA can refuse to negotiate with this developer but chooses instead to terminate this long relationship without any specific indications of how BSI has failed in any way to live up to its obligations.

On October 19, 1970, the BSI-Westinghouse Consortium submitted a proposal to be selected as Contractor pursuant to the Prospectus. On December 4, 1970, your Executive Director, Mr. Melvin A. Mister, advised the Consortium that it had been selected as the Contractor. The BSI-Westinghouse Consortium spent over one and one-half years in planning the Fort Lincoln Development Proposal in accordance with the provisions of the Prospectus. In January 1972, Westinghouse elected to withdraw from the undertaking. Your agency approved an agreement dated May 1, 1972, assigning the interest of the Consortium to BSI. Since the beginning of 1972, BSI has assisted in the refinement of the Fort Lincoln Development Plan and has conducted negotiations with the Office of Management and Budget (formerly The Bureau of the Budget) to secure the allocation of the necessary federal funds to RLA and the District of Columbia. In addition, we have continued negotiations with the Department of Housing and Urban Development and the District of Columbia Bureau of the Budget to secure necessary action to make this funding a reality. BSI also worked to secure the National Capital Planning Commission's and the City Council's approval of the Urban Renewal Plan which was based on the plans and programs prepared by our organization. These approvals were delayed as a result of insistence by the City Council upon equity participation by minority group members, an issue with respect to which RLA did not intercede and which was resolved only as a result of the efforts and undertakings of BSI.

Subsequent to the federal approval, we have prepared and submitted detailed economic and architectural plans for the development of the site and with specific attention to the initial phase of the development. Finally, we have worked with the General Services Administration to secure the designation of Fort Lincoln as a major employment center which hopefully will result in the location of the National Oceanic and Atmospheric Administration at Fort Lincoln in a one million square foot leased office building. Until receipt of your letter dated January 21, 1974, we were attempting to finalize negotiations on this item.

In addition to the foregoing, we have worked closely with the Mayor's Advisory Committee in the planning for the project and have had a most satisfactory working relationship with MAC. As part of this process of working with the community, our organization has prepared plans for involving the minority community in all phases of the development and ownership of the project. BSI's efforts make possible the investment in the project by members of minority groups were both time consuming and exhaustive, and our success in this effort has apparently occasioned the actions of RLA purporting to terminate our rights as developer, notwithstanding RLA's rigid insistence on this matter heretofore.

All of BSI's efforts and commitments have been embodied in a draft Land Disposition Agreement prepared by our attorneys. We have constantly but unsuccessfully pressed for prompt consideration of relatively few remaining issues and have been at all times available for the continuation of discussions.

At this time, RLA, for unexplained reasons, wishes to select another developer. We do not believe that it is either fair or equitable to use the product of our efforts without compensation. Most significantly, as indicated above, we think RLA's action is in violation of its contractual obligations.

BSI would like to understand the basis of your legal authority to take the action which you have asserted and we invite the RLA to explain the basis of its action. BSI will be glad to meet with RLA to discuss the development of Fort Lincoln and a settlement for this obvious breach of a contract for which we believe, as a matter of law, we are entitled to compensation. In the interest of the development of this very important community, we urge that this meeting take place as promptly as possible.

Yours truly,

LAWRENCE A. WILSON,
Board of Directors,
Building Systems International.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
ROOM 1310, LONGWORTH HOUSE OFFICE BUILDING,
Washington, D.C., May 21, 1974.

Mr. JOHN J. GUNTHER,
Chairman of the Board,
The District of Columbia Redevelopment Land Agency,
1325 G Street NW.,
Washington, D.C.

DEAR MR. GUNTHER: On May 7, 1974, the Committee on the District of Columbia held a hearing to determine the status of the Fort Lincoln New Town project, in Washington, D.C. During the hearing, you stated that you would supply certain items for the record, and that in the interests of your schedule, you would respond to any additional questions in writing.

To complete our hearing records, I am requesting your responses to the attached list of questions, and am also requesting copies of the following information for the record:

1. Copies of the letters by B.S.I. to RLA discussing a proposed change in the company's ownership and outlining the nature of B.S.I.'s continuing commitments to the Fort Lincoln project.

2. A listing and brief explanation of those features of B.S.I.'s proposed Land Disposition Agreement which were inadequate in the judgment of RLA.

3. The dates of any RLA Board meetings authorizing letters, dated January 21, 1974 and February 20, 1974 from RLA to B.S.I. rejecting their proposed changes in ownership.

I would appreciate receipt of the requested information by Friday, May 31, 1974, in order to facilitate final printing of the hearing transcripts.

Your cooperation in this matter will be greatly appreciated. Should you or your staff have any questions, please contact Ms. Jacqueline E. Wells, of my office, at 225-4457.

Sincerely yours,

CHARLES C. DIGGS, Jr.,
Chairman,
Committee on the District of Columbia.

QUESTIONS FOR DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

1. When BSI submitted a proposal in November 30, 1973, did RLA advise BSI that BSI had breached the agreement and had no further development rights?

2. What was the RLA staff's recommendations with respect to BSI's two proposals?

3. In which respects is BSI's development proposal inadequate?

4. Has RLA had any discussions with other redevelopers which would indicate that others were prepared to accept the Land Disposition Agreement submitted to RLA? If so, what developers and when did RLA meet with them?

5. What will RLA do if BSI and RLA cannot agree? How long will this delay the development process? What funding commitments will this jeopardize?

6. What contractual mechanism was used, by RLA, to offer the Fort Lincoln development rights to the developer?

7. Does such a contractual mechanism include procedures for termination by either party?

- a. What procedures are there?

- b. Did RLA consider the use of such termination procedures before adopting their decision that BSI was terminated?

8. On page 10 of the set of responses, you state that all parties were complying with the initial selection agreement.

- a. On what specific basis?

- b. What monitoring procedures did RLA use to determine compliance?

- c. Were all parties in compliance as viewed by HUD?
9. In the last three pages of responses to committee questions, you describe the agencies responsible for obtaining funds for the Fort Lincoln project.
- a. What agency was responsible for the application process, to HUD, for the projected 490 units of section 235 housing?
- b. What actions did RLA take to meet the March 31 deadline for such application?
10. In your role as the local urban renewal agency, do you function as a coordinative body for all development of Fort Lincoln?
- a. What steps did RLA take to counteract delays in construction of capital improvements on the Fort Lincoln site?
- b. To counteract loss of federal grants to the District government?
- c. To counteract withdrawal of District budget items for Fort Lincoln? (i.e., the secondary school and the fire station)?

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY,
Washington, D.C., June 7, 1974.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. WASHINGTON: In response to your May 21, 1974, letter requesting certain information with regard to the Fort Lincoln New Town Project, I trust you now have received our letter of May 16 and, therefore, are in receipt of a part of the information you requested.

The Agency's response to the information you seek is as follows:

1. Copies of the letters by B.S.I. to RLA discussing a proposed change in the company's ownership and outlining the nature of B.S.I.'s continuing commitments to the Fort Lincoln Project.

Copies of letters dated November 30, 1973; December 4, 1973; and January 25, 1973 were included in our testimony before the District Committee on May 7, 1974, as Exhibits #69, #70, and #72 respectively. A copy of a letter dated December 18, 1973, from Raymond D. Nasher to Melvin A. Mister is enclosed. (Attachment A)

2. A listing and brief explanation of those features of B.S.I.'s proposed Land Disposition Agreement which were inadequate in the judgement of RLA.

A copy of our response is attached. (Attachment B)

3. The dates of any RLA Board meetings authorizing letters, dated January 21, 1974 and February 20, 1974 from RLA to B.S.I. rejecting their proposed changes in ownership.

Copies of RLA Board Resolutions dated February 12, 1974; February 20, 1974; and May 1, 1974 authorizing letters to BSI were included in our May 16 letter to you.

The responses to your list of questions is attached. (Attachment C) We would be pleased to provide any additional information the Committee believes is necessary.

Sincerely,

MELVIN A. MISTER, *Executive Director.*

RLA ATTACHMENT A

RAYMOND D. NASHER Co.,
December 18, 1973.

MR. MELVIN A. MISTER,
*Executive Director, D.C. Redevelopment Land Agency, 1325 G Street NW,
Washington, D.C.*

DEAR MR. MISTER: As indicated in my letter of November 30, 1973, BSI has concluded successful negotiations with an outstanding, local Black investment group headed by Mr. Theodore R. Haggans, Jr. In addition to fulfilling our commitment to provide minority equity participation, Mr. Haggans' group has agreed to be the financial partner which, as you know, we have been discussing for the past year.

By providing new and needed development funds to Fort Lincoln New Town, Mr. Haggans' group will receive a 70% interest in the project. I am sure you

can appreciate that a financial partner will require approval of the staff, budget, development timetable, contracts, and financial commitments. The corporate arrangements described in my previous letter expressed the realities of this traditional financial partnership.

I want to assure you that the BSI commitment will remain the same as it always has been. Apart from our interest in BSI's significant investment to date, we view the project as a major milestone in the nation's efforts to solve urban problems. Further, according to an agreement between Mr. Haggans and me, speaking for BSI:

1. Mr. Henry C. Beck of the Beck Company, and I, as President of the Nasher Company, will continue to serve on the Board of Directors of the Fort Lincoln Development Corporation. If the Board deems it in its best interest, I, in turn, will serve as the Chairman of the Board. As Mr. Beck and myself are proud of our record of accomplishments, we believe our service on the board of FLDC is evidence of our commitment to the Project.

2. Mr. Ralph Taylor, presently President of BSI, will continue to serve as Project Manager of FLDC.

3. Both Henry Beck and I will make available to the FLDC on an equitable basis the needed expertise available in our respective companies, and will continue to actively assist the Corporation in any way we can.

4. The financial commitments made by Mr. Haggans and his associates will provide the additional capital necessary to complete FLNT. While it is important to anticipate the future needs for capital, as you know, this depends on several factors not entirely within the control of FLDC. I can assure you, however, that as a member of the Board, I will be most interested in continuously appraising the Project's need for new resources and will, as I assume other members of the Board will, help to find and implement necessary alternatives as that need arises.

I hope the above is testimony of my continued interest in this project and my continuous commitment to its success. Fort Lincoln New Town is a project whose time has come. It can and will be a profitable and quality endeavor. More important, it can and will provide the nation with worthy experiment in city rebuilding.

Sincerely,

RAYMOND D. NASHER.

RLA ATTACHMENT B

LISTING AND BRIEF EXPLANATION OF FEATURES OF BSI'S PROPOSED LAND DISPOSITION AGREEMENT WHICH WERE INADEQUATE

Regarding "BSI's proposed Land Disposition Agreement" there were frequent exchanges of drafts between the Agency and BSI and numerous meetings to discuss outstanding issues.

As of December 31, 1973, the following major elements of the Land Disposition Agreement were unresolved:

1. Amount of good faith deposit and procedure for return of deposit.
2. Timing of reviews of developer's Development Area Plans and remedies of parties in event of rejection of such plans.
3. Timing and coordination of provision of public improvements and remedies of parties in event of failure to perform in a timely manner.
4. Investment opportunities for minorities in Fort Lincoln development entity, including:
 - (a) Amount of equity interest to be made available;
 - (b) Terms of its availability;
 - (c) Extent to which such equity interest would be offered (i.e., private placement or public offering).
5. Timing and funding of community corporation.
6. Organization and structure of Sales and Management Company.

Item #4 above also involved the question of "control" of Fort Lincoln development entity, since the November 30, 1973, BSI proposal sought a satisfaction of minority equity interest by vesting majority control in developer in a minority group organization (i.e., Hagans Investment Company).

RLA ATTACHMENT C

RESPONSES TO QUESTIONS FROM DISTRICT COMMITTEE FOR D.C. REDEVELOPMENT LAND AGENCY (ATTACHED TO MAY 21, 1974, LETTER)

1. *When BSI submitted a proposal in November 30, 1973, did RLA advise BSI that BSI had breached the agreement and had no further development rights?*

The Agency did not advise BSI until January 21, 1974, when it responded to BSI's proposal. This letter is included as Exhibit #71 in the Agency May 7, 1974, testimony before the District Committee.

2. *What was the RLA staff's recommendations with respect to BSI's two proposals?*

The Chairman's testimony of May 7 and the Agency's letters to BSI of January 21, 1974, February 20, 1974, and March 13, 1974 reflect the Agency's views with respect to BSI's two proposals. The Agency believes that further discussion with respect to BSI's two proposals is not warranted in light of potential litigation.

3. *In which respects is BSI's development proposal inadequate?*

The Agency's letters to BSI of January 21, February 20, and March 13, 1974, reflect the Agency's position with regard to BSI's proposals. These letters are included as Exhibits 71, 73, and 75 of the Agency's May 7, 1974 testimony. Further explanation of the Agency's position is set forth in the Agency's letters to HUD dated February 22 and February 27, 1974. (Exhibits #79 and 80 of the Agency's testimony.)

4. *Has RLA had any discussions with other redevelopers which would indicate that others were prepared to accept the Land Disposition Agreement submitted to RLA? If so, what developers and when did RLA meet with them?*

During the early months of 1974, the Agency's staff has had general discussions with a few developers concerning their interest in becoming the Fort Lincoln developer in the event the project was publicly reoffered. These discussions were initiated to determine the general conditions under which private developers might be interested in bidding on the Fort Lincoln development. No discussions were held regarding the land disposition agreement presently being negotiated with BSI.

5. *What will RLA do if BSI and RLA cannot agree? How long will this delay the development process? What funding commitments will this jeopardize?*

If BSI and the Agency cannot agree, the Agency plans to seek a new developer through a public offering process. As indicated in Mr. Gunther's testimony of May 7, a public offering would mean delay in the start of construction for a minimum of six months beyond April, 1975. However, in all probability, it would take a new developer until early 1976 before he would be able to start construction. The Agency is hopeful that such a reoffering would not jeopardize any funding commitments. However, this is a matter which is not under the Agency's control.

6. *What contractual mechanism was used, by RLA, to offer the Fort Lincoln development rights to the developer?*

The Fort Lincoln Prospectus of September, 1970 (Exhibit #30 of the Agency's May 7, 1974 testimony) was the contractual mechanism used by RLA to offer the Fort Lincoln development rights.

7. *Does such a contractual mechanism include procedures for termination by either party?*

a. *What procedures are there?*

Yes, this mechanism does include procedures for termination by either party. These procedures are set forth on pp. 10-11 of the Fort Lincoln Prospectus. (Exhibit #30) and on HUD Form 621B included as part of the Prospectus (See Sec. II.A.3, p. 4. A copy of this Form is enclosed.)

b. *Did RLA consider the use of such termination procedures before adopting their decision that BSI was terminated?*

The Agency considered use of the termination procedures set forth in Par. 1 of HUD Form 621B. Since the Agency was of the opinion that BSI had withdrawn from its agreement, for reasons previously stated, such provision was not utilized.

8. *On page 10 of the set of responses, you state that all parties were complying with the initial selection agreement.*

a. *On what specific basis?*

The Contractor had prepared and submitted to the Agency in timely fashion a General and Specific Development Proposal. Such proposal had been approved by the public agencies. Various public actions set forth in Sec. II.C.2 of the Prospectus had either been secured or were in the process of being secured. Until the fall

of 1973, the Agency and the Contractor were proceeding in good faith to negotiate the terms of the Land Disposition Agreement and to secure other commitments necessary for the development of Fort Lincoln.

b. What monitoring procedures did RLA use to determine compliance?

From Contractor selection through submission of the BSI/Westinghouse Report, the Fort Lincoln Policy Committee met regularly with the BSI/Westinghouse Joint Venture officials and monitored their progress. Copies of the Policy Committee Status Reports, which provide a record of this period, are included as Exhibit #38 in the Agency's May 7, 1974, testimony. After submission of the BSI/Westinghouse Report, the Agency monitored progress through almost daily contact with BSI officials.

c. Were all parties in compliance as viewed by HUD?

HUD was represented on the Fort Lincoln Policy Committee and thus participated in monitoring progress through submission of the BSI/Westinghouse Report. To our knowledge, HUD viewed all parties in compliance during this period and afterward when BSI was proceeding alone.

9. In the last three pages of responses to committee questions, you describe the agencies responsible for obtaining funds for the Fort Lincoln Project.

a. What agency was responsible for the application process, to HUD, for the projected 490 units of section 235 housing?

It is the position of HUD that the private developer of Fort Lincoln assume responsibility for making application to HUD for the projected 490 units of Section 235 housing.

b. What actions did RLA take to meet the March 31 deadline for such application?

The Agency was first informed of the March 31 deadline in a letter dated February 12, 1974, from Assistant Secretary Meeker (Exhibit #76 in our May 7 testimony). On February 22, 1974, the Agency responded (Exhibit #79) by suggesting that HUD agree to begin processing and reserve funds on the basis of an "Agency submission of application for subsidized housing, with a developer to be selected on the schedule attached . . . The selected developer's confirmation of this application would be submitted to HUD prior to June 30, 1974." To date, HUD has not agreed with this suggestion.

10. In your role as the local urban renewal agency, do you function as a coordinative body for all development of Fort Lincoln?

Generally, the Agency is responsible for coordinating all physical aspects of the Fort Lincoln development, with the exception of transit. The District Government is specifically responsible for coordination with the Mayor's Advisory Committee on Fort Lincoln, for the development of social programs and the programming of District-funded capital improvements (based upon recommendations of the Agency). The District Government is also responsible for making application to DOT for funding for the transit shuttle.

a. What steps did RLA take to counteract delays in construction of capital improvements on the Fort Lincoln site?

The Agency has contracted with the District Government for the design and/or construction of major site improvements that were to be funded from the HUD grant. Most of these improvements have been designed and are ready for construction. Private development will not be adversely affected by these items. For capital improvements to be funded from District appropriations, these have been programmed in the District's Capital Improvement Program, and are proceeding in a manner that should not adversely affect private development. A schedule for the funding, design, and construction of all capital improvements is included as Exhibits H and I in the proposed Land Disposition Agreement.

b. To counteract loss of federal grants to the District Government?

The Agency neither participated in nor played any role in the application to HUD for the \$100,000 social service grant referred to in Mr. Banks' testimony. Similarly, the District's pending application to DOT for transit funds has been held up pending designation of a Fort Lincoln developer. To our knowledge, no other federal grants have been lost or deferred.

c. To counteract withdrawal of District budget items for Fort Lincoln? (i.e., the secondary school and the fire station?)

The Agency has requested that certain items required for initial private development be retained in the budget. This has been done. Items such as the secondary school and fire station have been withdrawn, with the concurrence of the Agency, since they are not needed until a developer has been selected, and a firm schedule for private development agreed upon.

DISTRICT OF COLUMBIA
REDEVELOPMENT LAND AGENCY,
Washington, D.C., May 16, 1974.

Mr. ROBERT WASHINGTON,
Chief Counsel, Committee on the District of Columbia, U.S. House of Representatives, 1310 Longworth House Office Building, Washington, D.C.

DEAR Mr. WASHINGTON: Enclosed please find copies of the following documents requested from the Agency during the May 7 hearings:

1. Letter of February 19, 1974, from Agency to General Services Administration.
2. Letter of March 11, 1974, from GSA to Agency.
3. Board of Directors Resolutions dated February 12, 1974, February 20, 1974, and May 1, 1974 authorizing letters to BSI.
4. Drafts of Equal Opportunity provisions (Art. VII) of LDA proposed by BSI, dated January 30, 1973 and March 16, 1973.

We would be pleased to supply any additional documents the Committee believes are necessary. Please contact Mr. Mays of my staff (Code 128-7537) for any additional documentation.

Sincerely,

MELVIN A. MISTER,
Executive Director.

DISTRICT OF COLUMBIA
REDEVELOPMENT LAND AGENCY,
Washington, D.C., February 19, 1974.

Hon. ARTHUR F. SAMPSON,
Administrator, General Services Administration, Washington, D.C.

DEAR Mr. SAMPSON: We respectfully request that the GSA formally withdraw from consideration by the House and Senate Public Works Committee Prospectus No. PDC-7305, Project No. 08-0835, describing a lease under the Public Buildings Act of 1959, as amended, for a proposed facility for the National Oceanic and Atmospheric Administration.

As you are aware, this facility is in the Fort Lincoln Urban Renewal Area and is part of its planned town center development. GSA's presence at Fort Lincoln is an integral part of the overall development of the new community. Not only would the GSA facility supply a sound economic base for the community, but would provide a market for the residential and retail uses proposed for the area. Without a GSA facility, our ability to develop Fort Lincoln as "an attractive and racially, socially, economically and functionally inclusive community" as required by the Urban Renewal Plan would be severely compromised.

To replace the present "lease" prospectus, we propose working with your staff, OMB and the staffs of the Public Works Committees to develop a new prospectus based upon a lease with option to buy. We believe this type of prospectus offers the greatest likelihood of meeting the varied public and private concerns surrounding this facility.

We are most desirous of an immediate response to this request, since by March 1 we hope to announce the terms and conditions under which the private development rights to Fort Lincoln will be publicly offered. In order to meet this schedule, we must address the question of the status of the GSA commitment.

Please have your staff make the appropriate arrangements with Arnold Mays (382 7537), the Agency's Fort Lincoln Project Director.

Sincerely,

MELVIN A. MISTER,
Executive Director.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., March 11, 1974.

Mr. MELVIN A. MISTER,
Executive Director, Redevelopment Land Agency, 1325 G Street NW, Washington, D.C.

DEAR Mr. MISTER: This is in response to your letter of February 19 in which you request that General Services Administration (GSA) withdraw the pending lease prospectus before the Public Works Committees of the Congress and substitute a prospectus based upon a lease with an option to buy for the proposed facility for the National Oceanic and Atmospheric Administration (NOAA).

On February 22, a meeting was held by my staff with Mr. Arnold Mays, your Fort Lincoln Project Director, and the entire matter was discussed in detail. After further study, we propose the following course of action:

GSA submit an amendment or supplement to the present prospectus to incorporate the changes required for obtaining approval based upon a lease with an option to buy. We consider it inappropriate to go to the Committees at this time to withdraw the existing prospectus.

The NOAA facility be separated from the remainder of the Fort Lincoln project by adjusting the design to have the NOAA facility on its own separate site; yet, so arranged that it is an integral part of the total Fort Lincoln plan.

The RLA developer will be permitted to make an offer along with all other proponents.

We do not believe it is practical at this point to furnish a schedule covering the Office of Management and Budget and congressional committee approvals and subsequent project initiation. We will be available to work with your staff at all times in the development of such a schedule once we can forecast the necessary approvals.

Sincerely,

ARTHUR F. SAMPSON,
Administrator.

D.C. REDEVELOPMENT LAND AGENCY RESOLUTION

Whereas, by letter dated November 30, 1973, Building Systems International, Inc. (BSI) the prospective Fort Lincoln developer, submitted to the Agency, a proposal for restructuring the Fort Lincoln development entity; and

Whereas, under the Agency's agreement with BSI, dated December 4, 1970, the Agency must approve any transfer of interests in the prospective developer; and

Whereas, after careful consideration of the proposal, the Agency determined that it did not conform to our agreement and therefore was unacceptable; and

Whereas, it was in the best interests of the Agency that BSI be notified of this determination as quickly as possible; and

Whereas, by letter dated January 21, 1974, the Chairman of the Board of Directors did so notify BSI of the Agency's determination.

Now therefore, be it resolved by the Board of Directors, of the District of Columbia Redevelopment Land Agency that:

The transmission of the January 21 letter to Building Systems International, Inc., by the Chairman is hereby approved and ratified.

D.C. REDEVELOPMENT LAND AGENCY RESOLUTION

Whereas, by letter dated January 25, 1974, Building Systems International, Inc., (BSI) the prospective Fort Lincoln developer, submitted to the Agency, a proposal for restructuring the Fort Lincoln development entity; and

Whereas, after careful consideration of the proposal, the Agency determined that it did not conform to our agreement and therefore was unacceptable; and

Whereas, it was in the best interests of the Agency that BSI be notified of this determination as quickly as possible; and

Now Therefore, be it resolved by the Board of Directors, of the District of Columbia Redevelopment Land Agency that:

A letter be sent to Mr. Raymond D. Nasher, of Building Systems International, Inc., notifying him that the Agency rejects the proposal contained in his letter of January 25, 1974.

DISTRICT OF COLUMBIA,
REDEVELOPMENT LAND AGENCY,
Washington, D.C., February 20, 1974.

Mr. RAYMOND D. NASHER,
Chairman, BSI-Westinghouse Joint Venture, 35th Floor, Republic National Bank Tower, Dallas, Tex.

DEAR MR. NASHER: We have reviewed your January 25, 1974 letter and find no basis for altering our decision to select a Fort Lincoln developer through a public offering process.

In October 1973, you indicated that BSI had decided to withdraw from its role as developer of Fort Lincoln as of December 31, 1973. We understood this to mean that our obligations to BSI stemming from our selection of the

Westinghouse-BSI Joint Venture as Fort Lincoln contractor had ended. If BSI or the Fort Lincoln Development Corporation desires consideration as the developer of the Fort Lincoln Project, I suggest that you submit an offer in accordance with the terms of the prospectus which will be issued in the near future.

We apologize for the premature release of the Board's decision on your January 25, 1974 proposal. Mr. Gunther apparently thought that a letter had been sent to you before he talked to the Washington Post reporter. We are sorry for any embarrassment caused BSI or the Fort Lincoln Development Corporation.

Sincerely,

STEPHEN S. DAVIS,
Acting Chairman.

RESOLUTION RATIFYING OFFER OF LAND DISPOSITION AGREEMENTS FOR FORT LINCOLN TO BUILDING SYSTEMS INTERNATIONAL, INC.

Whereas, the Agency's previous contractual relationship with Building Systems International, Inc., was terminated as a result, *inter alia*, of BSI's withdrawal as developer of Fort Lincoln; and

Whereas, the Agency has determined that, as a result of said termination, it is necessary to consider pragmatic approaches to the selection of a redeveloper to avoid further delays to the Project; and

Whereas, the Agency has determined that it is desirable and in the public interest to offer BSI a Land Disposition Agreement for Fort Lincoln containing terms and conditions acceptable to the Agency.

Now, therefore, be it resolved by the Board of Directors of the District of Columbia Redevelopment Land Agency:

That the offer made to Building Systems International, Inc., of a Land Disposition Agreement for Fort Lincoln on the terms and conditions set forth in the Agency's letter of April 26, 1974, is hereby ratified.

ARTICLE VII.—PROGRAMS AND COMMITMENTS RELATING TO MINORITY GROUPS

SECTION 7.1. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

It is the policy of the Redeveloper to fully and effectively comply with the provisions of Federal and District of Columbia laws prohibiting discrimination in employment on the basis of race, color, religion, sex, or national origin, and to take affirmative and imaginative steps to make minority group persons aware of such employment opportunities. For purposes of this Article VII, the term "minority" shall have the meaning ascribed to it in Section 60-5.21(a)(1) of the "Washington Plan" referred to below. The procedures to be employed by the Redeveloper in effectuating this policy are as follows:

7.1(a) DIRECT EMPLOYMENT BY THE REDEVELOPER

(i) The Redeveloper will not discriminate against any employee or applicant for employment because of race, color, or national origin. The Redeveloper will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

(ii) The Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(iii) The Redeveloper will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Agency, advising the labor union or workers' representative of the Redeveloper's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of

the notice in conspicuous places available to employees and applicants for employment.

(iv) The Redeveloper will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(v) The Redeveloper will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(vi) In the event of the Redeveloper's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the Redeveloper may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(vii) The Redeveloper will include the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Redeveloper will take such action with respect to any subcontract or purchase order as the Agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Redeveloper becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Agency, the Redeveloper may request the United States to enter into such litigation to protect the interests of the United States.

(viii) The Redeveloper will recruit and maintain a staff which shall have a majority of minority employees, including those at the professional and executive level.

(ix) The Redeveloper will comply with the requirements of the "Washington Plan" (CFR Title 41, Part 60-5) as it now exists requiring specified percentages of minority employees in all phases of construction. For those trades not covered by the specific requirements of the "Washington Plan," minority employment goals will be at least equal to the average percentages of minority employees prevailing in those trades in the District of Columbia, increasing annually by 5% where such percentage is less than 70%. The Redeveloper will use its best efforts to seek funds from the Government of the District of Columbia, the Department of Labor and other appropriate agencies to establish and/or make use of training and apprenticeship programs necessary to the development of the skilled minority labor force these percentage goals contemplate.

(x) Management responsibility for the implementation of these policies and procedures shall be vested in one company official to ensure uniform and effective application to all areas of employment by the Redeveloper. This responsibility will initially be vested in the Senior Vice President of the Redeveloper.

7.1(b) EMPLOYMENT BY CONTRACTORS AND SUBCONTRACTORS OF THE REDEVELOPER

(i) The Redeveloper will comply with subsection 7.1(a) (vii) hereof with respect to all subcontracts.

(ii) With regard to construction contractors, each contractor will be required to adopt the "Washington Plan" as it now exists, requiring specified percentages of minority employees in all phases of construction. For those contractors in trades not covered by the specific requirements of the "Washington Plan," the minority employment goals of each contractor will be at least equal to the average percentages of minority employees prevailing in those trades in the District of Columbia, increasing annually by 5% where such percentage is less than 70%. To implement this, contractors will submit, prior to award of a contract, an estimate of the total number of employees to be required to meet the goals and a determination of which, if any, of the construction trades lack sufficient minority employees to permit compliance with the requirements of the "Washington Plan"; for those trades not covered by the "Washington Plan," the contractor will provide

data and the source of data as to the percentage of minority employees prevailing in such trades, the goals in the various trades and the steps by which those goals will be met.

(iii) With regard to professional and consulting firms and/or companies, the Redeveloper shall require that a minimum of 25 percent of all professional employed to work on and working on the Project by each consultant and professional firm which employs four or more professionals shall be minority group members.

(iv) Contractors shall be required to cause all subcontractors to be bound by the provisions of this subsection (b).

SECTION 7.2. INVESTMENT OPPORTUNITY PROGRAM

It is the policy of the Redeveloper that various investment opportunities will be offered during the development of Fort Lincoln to individual investors or investment groups from the minority community.

7.2(a) To be completed in later version.

7.2(b) The Redeveloper will seek to provide for minority community investment in and ownership of a factory to build housing components through the Balency Industrialized System of housing components, if the construction and operation of such a factory proves economically feasible.

7.2(c) The Redeveloper will create a joint venture, consisting of itself and local minority community participants (selected in the sole discretion of the Redeveloper, on a private placement basis), that would invest in, develop and own the retail mall, which will represent all of the freestanding retail and personal service establishments in the Town Center, presently estimated to be at least 50,000 square feet. This joint venture will in all aspects adhere to the overall plans and programs for Fort Lincoln.

7.2(d) In the event that the Redeveloper chooses to sell limited partnership interests in any rental housing projects, he will offer an opportunity to participate to local minority investors that have the economic capability to assume the risks involved. Nothing in this section shall require that there be an offering of such dimension as to be subject to the registration requirements of the Securities and Exchange Commission, or that the terms on which partnership interests are offered be subject to the review of the Agency.

SECTION 7.3. EQUAL HOUSING OPPORTUNITY PROGRAM

It is the policy of the Redeveloper that there shall be full and effective compliance with the provisions of federal and District of Columbia laws prohibiting discrimination in housing and recreational facility areas and related amenities on the basis of race, color, religion, sex, or national origin, and with Executive Order No. 11063 and Titles VI and VII of the Civil Rights Acts of 1964 and 1968 respectively and regulations of the Department of Housing and Urban Development pertaining thereto. The procedures to be employed by the Redeveloper in effectuating this policy are as follows:

7.3(a) *Planning and Construction by the Redeveloper.*—Housing of various rental and sales price ranges shall be located and distributed so as to discourage segregation and afford full access to facilities and participation in activities of the community and neighborhood by groups, families and individuals of different economic, social and racial backgrounds.

7.3(b) *Sale by the Redeveloper for Occupancy or Resale.*—Non-discrimination by those who purchase land for residential use directly from the Redeveloper shall be provided for by a standard covenant to be included in all deeds to land within the boundaries of the Project.

7.3(c) *Direct Lease to Occupants by the Redeveloper.*—The Redeveloper shall treat all applicants for leasehold interests in a uniform manner and award leases according to objective standards. A negative decision on any applicant for a leasehold interest shall not be made on the grounds of the applicant's race, color, religion, sex or national origin. Appropriate provision will be made in all lease agreements to prohibit discrimination in sub-leasing.

7.3(d) *Marketing Techniques and Advertisement of Residential Opportunities.*—All advertising in any communication medium or any printed matter made available to the public shall state that the Redeveloper provides equal opportunity housing. Advertising depicting persons undertaken by the developer or his agent/agents shall depict persons of both majority and minority identity. On each residential construction site and in any location where sales and rental

transactions are normally made or inquiries from the public are received, there shall be posted in a conspicuous place a fair housing notice or poster stating the nondiscriminatory policy of the Redeveloper.

SECTION 7.4 ENCOURAGEMENT OF MINORITY BUSINESS ENTERPRISE.

It is the policy of the Redeveloper to promote minority business interests in the areas of construction contracting, commercial and retail activities and professional services as they relate to and grow out of the development of the Project. The Redeveloper will seek to implement such policy in the following ways:

7.4(a) *Entrepreneurial Construction Subcontractor Opportunities.*—The Redeveloper will set aside for minority owned and operated firms a minimum of 10 percent of all construction subcontracts during the first phase of construction, increasing incrementally to a minimum of 40 percent of all construction subcontracts during the last phase of construction. Where necessary, the Redeveloper will, either through its own efforts or in cooperation with local community service organizations, use its best efforts to provide these firms with management and technical assistance. All percentages of set-asides will be in relation to the total construction costs during each construction phase as estimated by the Redeveloper. In support of this effort the Redeveloper will:

(i) Provide during the construction period, a seed-money loan guaranty revolving fund of \$100,000 to financially assist minority subcontractors working with the Redeveloper on the Project.

(ii) Where practicable, provide bonding support to minority subcontractors working with the Redeveloper on the Project.

(iii) In instances where desired by parties concerned, seek to facilitate joint ventures aimed at strengthening the capacity of minority subcontractors.

7.4(b) *Commercial Entrepreneurial Opportunities.*—To assist in the accomplishment of the objective to foster economic and business opportunities for minorities, the Redeveloper will contribute \$250,000 in cash and/or staff resources to establish Fort Lincoln Community Corporation, a non-profit corporation.

(i) The Redeveloper will create a sales and management company that will be responsible for real estate sales, rentals, maintenance and management of the commercial and residential property in the Project. This company will be operated by, and partially owned by, minority group members selected at the sole resources to establish Fort Lincoln Community Corporation, a non-profit company will be vested with the Redeveloper until completion of the Project, at which time full ownership and control will be transferred to the minority group members, without charge. No profits or income will accrue to the benefit of the Redeveloper, other than to repay advances to this entity made by the Redeveloper.

(ii) To assure that every opportunity is given to minorities to own and operate retail and service businesses in the Town Center and the Community Malls, the Redeveloper will work closely with organizations such as the National Council for Equal Business Opportunity, Opportunity Funding Corporation, Minority Contractors Assistance Project and other community and financial organizations. The Redeveloper will work with these groups to identify entrepreneurs and the types of business services required to assist minority entrepreneurs, and to provide technical assistance in locating minority business opportunities in the Project.

7.4(c) *Professional Entrepreneurial Business Services.*—The Redeveloper will set aside a minimum of 20% of all professional service contracts and agreements for minority owned or controlled firms; the percentages will be determined in the context of the total dollar volume of services rendered, and to the extent possible this will be applied to each phase of the development.

ARTICLE VII. EQUAL EMPLOYMENT OPPORTUNITY, SOCIAL AND ECONOMIC PROGRAMS

SECTION 7.1. GENERAL

(a) The Redeveloper, agrees that it will comply with the provisions of all Federal and District laws, Executive Orders and applicable regulations, including those provisions of the Plan pertaining to nondiscrimination and equal opportunity in the planning, construction, management, occupancy and use of the Private Improvements to be developed under this Agreement.

(b) In addition, the Redeveloper agrees, concurrently with the submission of each Development Area Plan, to provide the Agency with a statement of the steps it has taken and proposes to take to implement the social and economic goals and objectives set forth in this Article VII.

SECTION 7.2 EQUAL EMPLOYMENT OPPORTUNITY

The Redeveloper, for itself, its successors and assigns, agrees that during the construction of the Private Improvements provided for in this Agreement:

7.2(a)—The Redeveloper will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Redeveloper will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

7.2(b) The Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

7.2(c) The Redeveloper will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Agency, advising the labor union or workers' representative of the Redeveloper's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

7.2(d) The Redeveloper will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor, including the "Washington Plan" issued by the Secretary of Labor on June 1, 1970.

7.2(e) The Redeveloper will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor or the Secretary of Housing and Urban Development pursuant thereto, and will permit access to its books, records, and accounts by the Agency, the Secretary of Housing and Urban Development, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7.2(f) In the event of the Redeveloper's noncompliance with the nondiscrimination clauses of this Section, or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Redeveloper may be declared ineligible for further government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7.2(g) The Redeveloper will include the provisions of subparagraphs (a) through (g) of this Section in every contract of purchase order, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Redeveloper will take such action with respect to any subcontract or purchase order as the Agency or the Department of Housing and Urban Development may direct as a means of enforcing such provisions, including sanctions for non-compliance; *Provided, however*, That in the event the Redeveloper becomes involved in, or is threatened with, litigation with a subcontract or vendor as a result of such direction by the Agency or the Department of Housing and Urban Development, the Redeveloper may request the United States to enter into such litigation to protect the interests of the United States. For the purpose of including such provisions in any construction contract, subcontract, or purchase order, as required hereby, the first three lines of this Section shall be changed to read "During the performance of this Contract, the Contractor

agrees as follows:," and the term "Redeveloper" shall be changed to "Contractor."

SECTION 7.2 EQUAL EMPLOYMENT OPPORTUNITY

The Redeveloper agrees for itself, its successors and assigns, that it will provide to the greatest extent feasible opportunities for employment and, to the extent public funding assistance is available therefor, training of District residents, particularly minority group residents, in the planning, construction, management, sales or leasing, and maintenance of Private Improvements to be developed under this Agreement.

7.3(a) The Redeveloper will recruit and maintain a staff which shall, from the date of this Agreement, consist of a majority of minority group employees, including those at the professional and executive levels.

7.3(b) With regard to professional and consultant firms which employ four or more professionals on the Project, the Redeveloper shall require that a minimum of 25% of all such professionals (planners, architects, engineers, etc.) working on the Project shall be minority group members.

7.3(c) As provided in Section 7.2(d) above, the Redeveloper will comply with the requirements of the "Washington Plan" (41 CFR, Part 60-5) in achieving the minority manpower utilization goals for specified construction trades. For those trades not covered by the "Washington Plan," minority employment goals will be at least equal to the average percentage of minority employees prevailing in those trades in the District of Columbia (as reflected in the latest statistics of the Bureau of Labor Statistics or other appropriate public agency), and shall be increased by at least 5% annually for those trades in which the percentage of minority workers is less than 70%. To implement this subsection 7.3(c), the Redeveloper shall require each contractor and subcontractor to fulfill his obligation by providing training (if public funding assistance is available therefor) and employment opportunities to minority group residents, and to submit, prior to the award and with respect to each contract or subcontractor:

(i) an estimate, by trades, of the number of trainees and skilled, semiskilled, and unskilled workers required to meet the above employment goals, identifying those trades, if any, which lack sufficient minority employees to meet the required goals;

(ii) an estimate of the number of trainees and skilled, semiskilled, and unskilled positions not occupied by its regular, permanent employees which will be filled by "new hires" on the particular contract or subcontract; and

(iii) a statement of the steps and actions which the contractor or subcontractor will take to meet his employment goals by training and/or employing minority group residents of the District of Columbia.

7.3(d) The Redeveloper further agrees that, in cooperation with the Agency, the D.C. Manpower Administration, the U.S. Department of Labor, and local manpower training and development organizations, it will participate and require its contractors and subcontractors to participate in providing opportunities for training and employment to the extent that public funding assistance is available for such programs; in this regard, the Redeveloper shall provide to the maximum extent feasible opportunities for on-the-job training, utilizing either existing or newly established programs in the development of the skilled minority labor force needed especially to meet the above minority hiring goals. Such programs shall be registered and approved by the D.C. Manpower Administration and shall be operated in accordance with 29 CFR, Part 5a and other applicable regulations.

SECTION 7.4. UTILIZATION OF MINORITY CONTRACTORS

The Redeveloper, for itself, its successors and assigns agrees to establish and conduct a program which will provide opportunities for minority firms as contractors, subcontractors and suppliers in the construction and development of Private Improvements to be made under this Agreement.

7.4(a) The Redeveloper will set aside for minority-owned and operated firms, as defined in 41 CFR 1-1.1310-2(b), a minimum of 10% by dollar volume of all construction contracts and subcontracts during the first phase of construction, increasing this volume by 7.5% in each phase to a minimum of 40% by dollar volume of all such contracts and subcontracts during the last phase of construction. With respect to professional service contracts, the Redeveloper will set aside a minimum of 20% by dollar volume of such contracts in each phase of

development for minority-owned or controlled firms. In carrying out this set-aside program, the Redeveloper shall:

(i) provide adequate and timely consideration of the potentials of known minority contractors in all of its "make-or-buy" decisions;

(ii) assure that known minority contractors have an equitable opportunity to compete for contracts and subcontracts, particularly by arranging solicitations, giving notice to minority contractors and their associations and providing adequate time for the preparation of bids and delivery schedules so as to facilitate the maximum participation of minority contractors;

(iii) maintain records showing the steps taken to comply with this subsection including a source list of minority contractors, awards made to said contractors and specific efforts to identify and award contracts to minority contractors; and

(iv) submit periodic reports with respect to the records referred to above in such form and manner and at such times (not more often than quarterly) as the Agency may require.

7.4(b) In support of the set-aside programs and where necessary, the Redeveloper will, through its own efforts or in cooperation with local contractors' associations and assistance programs, assist these firms in obtaining management, bonding, financial and other technical assistance. In further support of these assistance programs, the Redeveloper will:

(i) provide a revolving loan-guarantee fund of one hundred thousand dollars (\$100,000) to assist minority contractors and subcontractors working with the Redeveloper in obtaining working capital loans needed for the performance of contractors on the Project, which fund, less any losses which may be incurred, will be available throughout all phases of construction and development;

(ii) *where practicable*, provide bonding support or otherwise assist these minority firms in obtaining bond guarantees, irrevocable letters of credit and other acceptable sureties where required for performance of work on the Project; and

(iii) *where desired by parties concerned* seek to facilitate the formation of joint ventures aimed at strengthening the capabilities of minority firms to assist in the achievement of the minority contracting goals set out in this Section.

7.4(c) The "set-aside" obligations of the Redeveloper as described above shall be deemed satisfied to the extent of contracts or subcontracts entered into by the Redeveloper, notwithstanding defaults, failures to perform or other events that might necessitate the replacement of minority firms in the course of the contracts or subcontracts.

SECTION 7.5. OPPORTUNITIES FOR MINORITY BUSINESS ENTERPRISES

The Redeveloper, for itself, its successors and assigns, agrees that it will promote, in cooperation with the Agency, the District Government, Federal and other public and private agencies and organizations, to the fullest extent consistent with sound economic development, opportunities for minority owned and operated businesses in the Town Center and Community Malls, and will offer, through joint ventures between the Redeveloper and minority entrepreneurs, opportunities for establishing new businesses connected with or growing out of the development of the Project.

7.5(a) In order to assure that minority businesses are provided equal opportunity in locating in the Town Center and the Community Malls, the Redeveloper will:

(i) work with the aforementioned agencies and organizations to determine early in the design and development stage the types of retail and service establishments which will be located in the Town Center and Community Mall, the amount of space to be allocated to each use, and the general terms and conditions upon which the space will be made available;

(ii) publicize through the aforementioned agencies and organizations and through such minority business associations as the D.C. Chamber of Commerce, the National Business League, the various minority business assistance programs and other media, the opportunities, the amount of space and the terms and conditions under which it will be offered; and

(iii) at the same time, solicit Letters of Interest through these agencies and organizations and from individual entrepreneurs, and cooperate with such public and privately funded business and technical assistance agencies

and organizations as the Small Business Administration, the Office of Minority Business Enterprise, the Economic Development Administration, the National Council for Equal Business Opportunity, Opportunity Funding Corporation and others to assist in identifying potentially viable minority businesses and entrepreneurs and to assist in seeking any needed packaging, financing, merchandising, management and other technical assistance necessary to assure their success in the Project.

7.5(b) The Redeveloper will create a real estate sales and management company which shall be operated by, and partially owned by, minority group members, and be responsible for the sales, rentals, management, and maintenance (except to the extent that such maintenance and management is handled by GSA) of the commercial and residential properties in the Project, subject to its satisfactory performance of these functions. Selection of the minority group participants in this firm shall be at the sole discretion of the Redeveloper and made on a private placement basis. Majority control of this company will be vested in the Redeveloper until completion of the Project, at which time full ownership and control will be transferred, without charge, to the minority group members. No profits or income of this Company shall accrue to the benefit of the Redeveloper, other than to repay the Redeveloper for advances of loans made to the Company, however, the Company may make capital contributions to the Community Corporation.

7.5(c) The Redeveloper will create a joint venture, consisting of itself and local minority group members (selected in the sole discretion of the Redeveloper on a private placement basis) which joint venture shall invest in, develop and own the free standing retail and personal service shopping space in the Town Center (consisting of approximately 50,000 square feet). This joint venture will in all respects adhere to the Redeveloper's commitments under this Agreement.

7.5(d) The Redeveloper will investigate the feasibility of establishing a factory in the Washington, D.C., area to build housing components through the Balency Industrialized Housing Systems, and if the construction and operation of such a factory proves economically feasible, the Redeveloper will use its best efforts to make available to minority group members opportunities for investment, ownership, and operation of the factory.

SECTION 7.6 EQUAL HOUSING OPPORTUNITY

The Redeveloper, for itself, its agents, successors and assigns, shall comply with all provisions of Federal and District of Columbia laws prohibiting discrimination in housing and public facilities on the basis of race, color, religion or national origin, and with Executive Order No. 11063, Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968, including regulations of HUD pertaining thereto. In carrying out the provisions of this Section 7.6, the Redeveloper shall (a) treat all applicants for the rental, lease, or purchase of housing (including cooperative and condominium units) for residential or other private use in a uniform, nondiscriminatory manner and shall conclude all rental, lease or sales transactions in accordance with nondiscriminatory and objective standards. Appropriate covenants shall be included in all deeds to land and land improvements and in all rental and lease arrangements to prohibit discrimination in the resale and or sub-leasing of any properties developed under this Agreement and such deeds shall recite that the United States is a beneficiary of the covenant and is entitled to enforce it, subject to the limitations set forth in Sections 3.1 and 3.2 hereof; and (b) develop and pursue an Affirmative Fair Housing Marketing Program, consistent with regulations issued by the Secretary of HUD (24 CFR, 200-M), to assure that a like range of choices in housing is provided to all individuals of similar income levels regardless of the individuals' race, color, religion or national origin.

The Redeveloper shall meet the following requirements, or, if marketing responsibilities are contracted to another party or parties, it shall: (i) carry out an affirmative program to solicit and attract buyers or tenants of all minority and majority groups to the housing for initial sale or rental, such a program to involve publicizing to minority persons the availability of housing opportunities through the types of media customarily utilized by the Redeveloper, including minority publications and other media available in the housing market area, all advertising to include either the Equal Housing Opportunity logo, slogan or statement approved by HUD, and all advertising depicting persons to depict persons of majority and minority groups; (ii) maintain a non-

discriminatory hiring policy in recruiting from both minority and majority groups for staff engaged in the sale or rental of properties; (iii) instruct all employees and agents in writing and orally in the policy of nondiscrimination and fair housing; (iv) prominently display in all offices in which sale or rental activity pertaining to the project takes place the HUD-approved Fair Housing Poster, and include in any printed material used in connection with sales or rentals the HUD-approved Equal Housing Opportunity logo or slogan or statement; (v) post in a conspicuous position on the Project site a sign or signs displaying prominently either the HUD-approved Equal Housing Opportunity logo or slogan or statement; and (vi) provide on a form to be supplied by the Agency information indicating their affirmative fair housing marketing plan to comply with the requirements set forth above, which form, once approved by HUD, will be available for public inspection at the sales or rental offices of the Redeveloper.

REDEVELOPMENT LAND AGENCY—LIST OF EXHIBITS AS FILED WITH
THE HOUSE DISTRICT COMMITTEE¹
Description

PHASE I

Exhibit No.

- 1 President Johnson's Statement—August 30, 1967.
- 2 Task Force Memorandum—August 28, 1967.
- 3 NCPC Resolution of September 15, 1967 on Fort Lincoln Boundaries.
- 4 Survey and Planning Application.
- 5 HUD Approval Letter, December 8, 1967.
- 6 RLA Resolution, January 3, 1968, Approving Edward J. Logue.
- 7 RLA Agreement with Edward J. Logue.
- 8 Project Number One Urban Renewal Plan.
- 9 Advisory Panel Recommendation, June, 1968.
- 10 Mayor Washington's Announcement on Citizen Participation, May 25, 1968.
- 11 Citizens' Planning Council Demands, July 1, 1968.
- 12 Citizens' Planning Council Budget, July 30, 1968.
- 13 RLA Response on Citizens' Council Budget.
- 14 RLA Resolution Authorizing Funds for Citizens' Council, August 7, 1967.
- 15 Proposal for Citizen Participation in the Planning of Fort Lincoln.
- 16 Citizens' Council Law Suit Complaint.
- 17 RLA Resolution Authorizing Funds for Citizens' Council, October 2, 1968.
- 18 Announcement of HUD Demonstration Grant, January 15, 1968.
- 19 RLA Resolution Paying Debts of Citizens' Council, September 4, 1969.
- 20 Department of Justice Memorandum on Law Suit, February 16, 1970.
- 21 Logue Final Planning Report.

PHASE II

- 22 Urban Renewal Plan for Fort Lincoln, September, 1969.
- 23 Technical Advisers to Citizens' Council Reports.
- 24 HUD Letter to NCPC, September 10, 1969.
- 25 Mayor Washington's Letter to HUD, October 3, 1969.
- 26 HUD Letter to Mayor Washington, November 3, 1969.
- 27 Mayor Washington's Letter to HUD, November 17, 1969.
- 28 Letters to Prospective Developers and List of Developers, December 12, 1969.
- 29 Background and Summary Report on Developers, March 19, 1970.
- 30 Fort Lincoln Prospectus, September, 1970.
- 31 List of Firms Responding to Prospectus.
- 32 Fort Lincoln Selection Committee Letter to RLA, November 16, 1970.
- 33 RLA Resolution Approving Contractor, November 18, 1970.
- 34 HUD Concurrence Letter on Contractor Selection, November 20, 1970.
- 35 RLA—BSI/Westinghouse Joint Venture Agreement, December 4, 1970.
- 36 Commissioner's Order 71-31, Establishing Fort Lincoln Policy Committee, February 10, 1971.
- 37 Commissioner's Order 71-32, Establishing Mayor's Advisory Committee, February 10, 1971.
- 38 Fort Lincoln Policy Committee Status Reports.
- 39 BSI/Westinghouse Report on Fort Lincoln New Town.
- 40 Comparison of Logue and BSI/Westinghouse Plans.
- 41 President Nixon's Bicentennial Message, February 3, 1972.

PHASE III

- 42 RLA Letter to BSI on Financial and Managerial Resources, February 8, 1972.
- 43 BSI Letter Responding to RLA Questions, March 2, 1972.
- 44 HUD Concurrence on Assignment-Assumption Agreement, August 10, 1972.

¹ For lack of space only exhibits pertinent to this inquiry are included herein.

REDEVELOPMENT LAND AGENCY—LIST OF EXHIBITS AS FILED WITH THE HOUSE
DISTRICT COMMITTEE—Continued

PHASE III—Continued

Exhibit No.

- 45 RLA Resolution Approving Assignment-Assumption Agreement, September 10, 1972.
- 46 Mayor's Advisory Committee Report 'Selection of A Developer', March 21, 1972.
- 47 Mayor's Advisory Committee Letter to Mayor Washington, April 21, 1972.
- 48 Mayor's Advisory Committee Letter to Mayor Washington, May 5, 1972.
- 49 District Government's Recommendations on Feasibility Study, April 27, 1972.
- 50 HUD Feasibility Questions, November 3, 1969.
- 51 Commissioner's Order 72-223, Establishing Fort Lincoln Coordinator.
- 52 HUD Letter to Mayor Washington, May 19, 1972.
- 53 Fort Lincoln Urban Renewal Plan, May 19, 1972.
- 54 Transcript of City Council Testimony, June 13, 1972.
- 55 BSI Letter to RLA, July 24, 1972.
- 56 Report of Housing and Urban Development Committee of City Council, July 26, 1972.
- 57 Loan and Grant Application, August, 1972.
- 58 Environmental Impact Statement.
- 59 HUD Final Environmental Impact Statement.
- 60 Management Consultant Agreement.
- 61 METRO R-O-W Study Agreement.
- 62 District Letter Agreements.
- 63 Landscape Architect Agreement.
- 64 District Office of Housing Programs Agreement.
- 65 Zoning Application.
- 66 HUD Letter on Land Price Concurrence, July 26, 1973.
- 67 RLA-BSI Correspondence.
- 68 Memorandum to Mayor on Fort Lincoln Problems, November 2, 1973.
- 69 BSI Letter to RLA on Development Entity, November 25, 1973.
- 70 BSI Letter to RLA on Development Entity, December 4, 1970.
- 71 RLA Letter to BSI, January 21, 1974.
- 72 BSI Letter to RLA on Revised Development Entity, January 25, 1974.
- 73 RLA Letter to BSI, February 20, 1974.
- 74 BSI Letter to RLA, March 7, 1974.
- 75 RLA Letter to BSI, March 13, 1974.
- 76 HUD Letter to RLA, February 12, 1974.
- 77 HUD Letter to RLA, February 19, 1974.
- 78 HUD Letter to RLA, February 22, 1974.
- 79 RLA Letter to HUD, February 22, 1974.
- 80 RLA Letter to HUD, February 27, 1974.
- 81 RLA Position Paper on Fort Lincoln, March 15, 1974.
- 82 RLA Letter to BSI and Proposed LDA, April 26, 1974.

RESPONSE TO COMMITTEE QUESTIONS

- 83 HUD Guide Form of Contract.

EXHIBIT 5

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subject: Approval of survey and planning application; project name: Fort Lincoln Urban Renewal Area; project number: D.C. R-14; project reservation: \$12,900,000; survey and planning advance: \$887,140.

Mr. THOMAS APPLEBY,
*Executive Director, District of Columbia Redevelopment Land Agency,
1420 New York Avenue, Washington, D.C.*

DEAR MR. APPLEBY, I am pleased to confirm announcement of the Department of Housing and Urban Development that a reservation of grant funds has been established for the project identified above. The Survey and Planning Advance noted

above has been approved for this project. We will soon send you a proposed Title I contract stating the terms and conditions under which the funds will be made available. The enclosed Survey and Planning Budget, however, constitutes our concurrence in your incurring costs in conformity with such budget from the effective date of the budget.

In order to comply with all applicable regulations, you may be required to fulfill certain conditions. If any, they are attached hereto.

The grant reservation represents the maximum amount of Federal grant assistance for which a contract may ultimately be executed, but is not a commitment that assistance will actually be provided. A deadline date, noted below, has been established for the submission of Part I of the Application. If the Final Project Report in acceptable form is not submitted by this date, we may consider terminating the outstanding reservation of grant funds for this project.

We are glad to be able to cooperate with you in carrying out the urban renewal program for your municipality.

Sincerely yours,

_____,
Acting Regional Administrator.
 WARREN P. PHELAN,
Regional Administrator.

Enclosure.

MATTERS OF ADVICE

I. With Part I of your Application for Loan and Grant, you should submit all of the findings and statements referred to in LPA Letter 415 as regards water pollution.

II. You are further advised:

A. The National Capital Planning Commission should have approved the 1985 Comprehensive Plan no later than with the submission of your Loan and Grant, Part I or by the next Workable Program recertification, whichever comes first.

B. In preparing Code R-212 of the Final Project Report, the eligibility for clearance should be adequately justified in terms of percentages of substandardness as required in Section 10-1, page 2 of the Urban Renewal Manual. Firm criteria for measuring buildings as substandard to a degree requiring clearance should also be included.

C. During the planning stage of this project, it is suggested that you consult with our Planning Branch on matters related to planning and urban design. This would be most helpful for our final evaluation at the Part I stage.

D. That the provisions of Section 703 of the Demonstration Cities and Metropolitan Development Act of 1966 apply to this project. Before submitting the Urban Renewal Plan to the governing body of your locality for approval, the requirement as outlined in LPA Letter 409 dated March 1, 1967, must be met.

E. That the \$35,000 for LUM Study is approved subject to HUD review and concurrence in a third party contract with an appropriate scope of services. We note that this amount is higher than customary.

F. That with the submission of your Part I Loan and Grant Application, the amount for Real Estate Purchases and Land Disposition Proceeds should be corrected and appropriately reflected in the Project Expenditures Budget, H-6220, and the Project Financing Plan, H-6200.

G. That the loan and grant contract will contain a condition precluding the payment of any capital grant based upon any excess of land acquisition costs over disposition proceeds.

LIST OF FORT LINCOLN PROPOSALS

Westinghouse will assemble an urban systems team within their organization consisting of the following: Marcou, O'Leary & Assoc., Inc., (Washington, D.C.);

Public Systems Management Services; The Transportation Division; Westinghouse Learning Corporation; Coral Ridge Properties; Health Systems Consulting; Medical Products Division; Specialty Electronics Division; Environmental Control Systems; Water Pollution Control Division.

II. *Proposer:* Building Systems, Inc. (Cleveland, Ohio); Don M. Hisaka, Associates; Herbert L. Mandel and Associates; Sasaki, Dawson and Demay Associates.

Consisting of: Building Systems, Inc. Cleveland, Ohio, a development company consisting of the following subsidiaries: Housing Development Company, developers; Zaremba Construction Company—multi-family and shopping center builders; Kinsdale Construction Company—builders; Palevsky Industries, Inc.—housing component supplier; Concrete Building Systems—licensed for Dutch Concrete System; John David Management Co.—housing management.

Other Joint Ventures are: Sasaki, Dawson, De May Associates, Watertown, Massachusetts, architects and site planners; Herbert L. Mandel, New York City, architect and planners; Don M. Hisaka and Associates, Cleveland, Ohio architects and planners.

III. *Proposer:* Bush Organization, (Norfolk, Virginia).

Consisting of: Bush Construction Company; Bush Development Corporation; Monroe Construction Corporation.

Additional Resources: B. T. Fitzpatrick, Attorney; architect, land planner, and market analyst to be selected.

IV. *Proposer:* Candeub Fleissig and Associates (Newark, New Jersey); Urban Associates of Chicago; Harry Weese.

Consisting of: Candeub, Fleissig and Associates, a planning consulting firm; Urban Associates of Chicago, urban design and development consultants and developer; Harry Weese, architectural firm.

V. *Proposer:* Fort Lincoln Community Partnership.

Consisting of: The Rouse Company, (Columbia, Md.); Rouse-Wates, Inc. National Corporation for Housing Partnerships.

Additional Resources: Howard Mosof, Legal Consultant; Potomac Institute, Human Resource Development; Bendix Corporation, Transportation Planning.

VI. *Proposer:* Fort Lincoln Development Corporation (Washington, D.C.).

Consisting of: Several local citizens headed by Flaxie Pinckett; The Vector Company, Inc. (a subsidiary of the Whittaker Corporation)—developers; Rozansky & Kay Construction Company—builder/developers.

Additional Resources: Doxiadis Associates, Inc.—planning and design; Foundation for Cooperative Housing—home ownership development; Hugh Newell Jacobsen—architect; GSW Architecture and Planning (Knoxville, Tennessee); Wilbur Smith and Associates—transportation planning; Robert Gladstone & Associates—economic consultant; To be selected is a Systems Consultant (building systems).

VII. *Proposer:* National Realty and Construction Company, Arlington, Virginia).

Consisting of: National Realty is a wholly owned subsidiary of Pomponio Brothers Realty and Construction Company, Inc., a self-contained real estate development company.

VIII. *Proposer:* Whitecliff Corporation (Lanham, Md.)

Consisting of: Whitecliff Corporation; John A. Cooper Company (of Arkansas) new community developer; Hill-Elliott, Inc. (of Dallas) developer.

Additional Resources: Hunneman and Company—real estate service; FCH—cooperative developer; American Baptist Service Corporation—non-profit sponsor; Zubkis, Zemaitis & Associates—architects and engineers; National Health Foundation—non-profit sponsor; Noble, Cooke Properties, Inc—equity financing.

IX. *Proposer:* Alodex Corporation (Memphis, Tennessee).

Additional Resources: TSG International Inc.—a joint venture between *Lowe and Rodin*, London, England, consulting engineers, Building Design Partnership, England, and Cambridge; Seven Associates Inc., Cambridge, Massachusetts.

X. *Proposer:* Boise Cascade Urban Development Corporation.

Consisting Of: needed other divisions of Boise Cascade Corporation.

Additional Resources: Robert A. Gladstone, economic consultant; Raymond, Parrish, Pine, planning.

EXHIBIT 32

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, D.C., November 16, 1970.

Mr. JOHN GUNTHER, *Chairman,*
Board of Directors,
D.C. Redevelopment Land Agency,
3251 G Street NW,
Washington, D.C.

DEAR MR. GUNTHER: Pursuant to the terms of the Prospectus for the Feasibility Study and Development Proposal for the Fort Lincoln New Town issued by your Agency on September 22, 1970, a selection committee composed of myself, Melvin A. Mister, Charles Conrad and Emanuel Lipscomb were to advise and recommend to the Board of Directors of the Redevelopment Land Agency a contractor to undertake the work set forth in the Prospectus.

The Committee having reviewed all of the proposals, and interviewed all of the proposers is now prepared to make its recommendation. It is the unanimous recommendation of the Committee that the Westinghouse Electric Corporation-Building Systems International, Inc. Consortium be considered by your Board for selection as the Contractor to undertake this work.

Allow me to explain the background and criteria used in reaching our decision. As you are aware, ten firms submitted proposals. Of these, one, Boise-Cascade, conditioned their proposal upon a modification to the terms of the Prospectus that was unacceptable. Another firm, Alodex Corporation, asked that their proposal be withdrawn after an interview had been scheduled.

The eight remaining firms were interviewed by the Committee between October 23 and November 2. These interviews lasted approximately two hours for each firm. The first hour was devoted to a presentation by the proposing organization, followed by a second hour of questions by the Committee.

The Committee then met on November 3 to discuss and evaluate the presentations. The criteria used for evaluating these proposals may be summarized as follows:

1. *Managerial Capacity*—i.e., the ability to manage the many facets of Fort Lincoln, in a manner destined to produce decisions based on a consideration of all relevant factors, and an ability to reach these decisions quickly.

2. *Financial Resources*—i.e., the ability to pay for the planning and evaluation efforts, and, if successful, to finance or attract sufficient capital to finance the private portions of the development as agreed upon.

3. *Technical Know-How*—i.e., the quality of the technical personnel involved so as to assure innovative solutions; also, the experience of the team—individually or collectively—in comparable types of development.

4. *Other factors*—i.e., non-exclusive Fort Lincoln factors—such as local participation and sensitivity, high national visibility, potential for "external" creative impact on the District, etc.

The Committee believed that all of the groups were qualified. Their presentations were well thought out, generally indicated an awareness of the unique problems and opportunities presented by Fort Lincoln, and appeared capable of developing Fort Lincoln. The Committee was highly gratified by the number and quality of the proposals, and is most appreciative of the considerable time and efforts that went in to preparing them.

Nevertheless, the Committee unanimously agreed that some of these groups brought greater strengths and resources to Fort Lincoln than the others. It was decided to ask these proposers to return for another interview, and to have them make their presentations personally before the Mayor's Advisory Committee.

Accordingly, the Committee met with these groups on Tuesday, November 10. Approximately one hour was allotted to each proposer. The hour was devoted to extensive questioning by the Committee regarding the proposals and previous presentations. The Mayor's Advisory Committee met with these groups that evening.

The Committee then met on Wednesday, November 11, to decide upon its recommendation. The choice was not an easy one. Each of the groups had many

strengths, and each was considered to be well qualified to produce at Fort Lincoln a community that would meet our high aspirations.

After considerable discussion and weighing very carefully the unanimous recommendation of the Mayor's Advisory Committee, the Committee agreed that the Westinghouse-BSI Consortium most closely fit the concept of the ideal developer we have sought for Fort Lincoln.

The Committee saw in the Westinghouse-BSI Consortium a major commitment by one of the nation's largest corporations to undertake as complex an urban development task as could be envisioned. This commitment was from the top management of the Westinghouse Corporation down to operating levels of the various subsidiaries that would be involved. It was a commitment to bring to bear all the necessary corporate resources: managerial, technical, and financial, to produce at Fort Lincoln a community of the highest quality, a community that would be a model for the Nation and that would offer the greatest likelihood of achieving the objectives of a socially, racially, and economically balanced community at this beautiful site.

The members of the Consortium expressed a keen awareness of both the problems and challenges presented by Fort Lincoln. They were ready to make the necessary resources available to meet the challenge, and were confident of their ability to effectively deal with the problems. As the Westinghouse Corporation's initial venture into an in-town development, they were committed to see it through to success.

The second member of the Consortium—BSI, Inc., brought to the team invaluable experience and proven capabilities in the area of construction and development. BSI is a corporation composed of 1) *The Raymond D. Nasher Company* of Dallas, Texas, a large development company that has planned, built and managed shopping centers, housing communities, office buildings, industrial parks and urban centers. The company is presently developing two large new towns in Texas, one of which is being considered for HUD assistance under the New Communities Act. 2) *The Henry C. Beck Company* of Dallas, Texas, a large and highly diversified contracting firm, which has developed, owned and managed both commercial and residential developments. 3) *Balency-MBM-US Corporation*, the American counterpart of the European corporation that owns and produces the Balency system of industrialized building. The Balency system has been responsible for the production of over 30,000 dwelling units in England, France, Italy, Israel, and South Africa. It is the housing system being utilized in the present development of the new community of Thamesmead at the edge of London, England, which is a planned community of about 60,000 people (15,000 dwelling units) on a site more than four times the size of Fort Lincoln. More than half of the community has been developed, and its architecture and planning have received international acclaim.

The Balency system has been selected as an Operation Breakthrough system and soon will be producing garden apartments, low-rise and high-rise units in Macon, Georgia.

The Consortium assured the Committee that if Fort Lincoln were to proceed into construction, they are prepared to build a factory in the Washington area to produce the components needed for the Fort Lincoln housing. This facility would provide jobs for about 2,000 people, and would be capable of producing components to serve housing needs elsewhere in the District and the metropolitan area.

In conclusion, the Committee determined that the Westinghouse-BSI Consortium had both the potential and the capacity to produce a truly unique and innovative community at Fort Lincoln to serve as a model to the Nation. The successful development of a new community, by a corporation such as Westinghouse, will have ramifications far beyond Fort Lincoln. It will set a precedent and pattern for the involvement of other corporate giants in the problems of the inner-city.

Our choice, we assure you, was reached only after long and thoughtful deliberation. The groups ultimately considered all rated extremely high when measured against the criteria that the Committee used. Nonetheless, it is the consensus of the Committee that the Westinghouse-BSI Consortium offers the greatest likelihood of developing at Fort Lincoln the type of community that we all desire.

I trust the above information will be helpful to you in your deliberations, and the members of the Committee will be available to answer any questions you have.

Very truly yours,

THE FORT LINCOLN SELECTION COMMITTEE,

GRAHAM W. WATT,
Deputy Mayor, Washington, D.C.

CHARLES CONRAD,
*Executive Director,
National Capital Planning Commission.*

MELVIN A. MISTER,
*Executive Director,
D.C. Redevelopment Land Agency.*

EMANUEL LIPSCOMB,
*Chairman, Mayor's
Advisory Committee on Fort Lincoln.*

EXHIBIT 36

ORDER OF THE COMMISSIONER NO. 71-31

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
Washington, D.C., February 10, 1971.

Subject: Fort Lincoln Policy Committee.

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is hereby ordered that:

1. *Establishment and Purpose.*—There is established in the Government of the District of Columbia the Fort Lincoln Policy Committee, which shall advise the Mayor on policies and actions he may adopt, and shall assist in their effectuation, toward the goal of developing the Fort Lincoln New Town without delay as a model of economic, social and racial integration; as an example of good design both esthetically and in terms of the needs of its residents; and as a community harmoniously related to the city of which it is a part.

2. *Composition.*—The Mayor shall serve as Chairman of the Committee. The Deputy Mayor shall function as Chairman of the Committee in absence of the Mayor and shall seek to assure coordination of its activities. Ex-officio members shall be the Assistant to the Mayor for Housing Programs and the Chairman of the Mayor's Advisory Committee on Fort Lincoln. In addition, the Mayor will request the Chairman of the National Capital Planning Commission and the Chairman of the Board of Directors of the Redevelopment Land Agency to designate a representative to sit on the Fort Lincoln Policy Committee. The Mayor will also request that the Secretary of the U.S. Department of Housing and Urban Development designate a liaison representative to attend meetings of the Policy Committee.

3. *Compensation.*—Members shall serve without compensation; however, appropriate expenses may be reimbursed upon authorization by the Chairman of the Committee from funds designated for that purpose.

4. *Administration.*—The Mayor will request the Redevelopment Land Agency to provide assistance to the Committee in matters of administration including necessary staff services.

WALTER E. WASHINGTON,
Commissioner of the District of Columbia.

EXHIBIT 37

ORDER OF THE COMMISSIONER NO. 71-32

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
Washington, D.C., February 10, 1971.

Subject: Mayor's Advisory Committee on Fort Lincoln.

By virtue of the authority vested in me by Reorganization Plan 3 of 1967, it is hereby ordered that:

1. *Establishment and Purpose.*—There is hereby established in the District of Columbia Government the Mayor's Advisory Committee on Fort Lincoln. With regard to the development of the Fort Lincoln New Town, the Committee shall assist in the communication of the goals of the Government and work to keep the Mayor apprised of community views and suggestions.

2. *Composition.*—The Committee shall be composed of representatives designated by the chief executive officer of the following organizations:

The Upper Northeast Community Organization.

The Federation of Civic Associations.

The Federation of Citizens Associations of the District of Columbia.

The D.C. Chamber of Commerce.

The D.C. Branch, National Association for the Advancement of Colored People.

The Washington Planning and Housing Association.

The League of Women Voters of the District of Columbia.

The Washington Urban League.

The Brookland Area Coordinating Council.

The Gateway Community Association.

The Upper Northeast Group Ministry.

The Ward Five Education Committee.

The Three-A Council of Northeast.

The Woodridge Civic Association.

The Greater Washington Central Labor Council.

In addition, the Mayor shall request the Chairman of the Board of Directors of the Redevelopment Land Agency and the Chairman of the National Capital Planning Commission each to designate a representative to be associated with the Advisory Committee on a liaison basis.

The Mayor shall designate the Chairman of the Committee.

3. *Compensation.*—The members shall serve without compensation; however, appropriate expenses may be reimbursed upon authorization by the staff director from funds designated for that purpose.

4. *Administration.*—The Assistant to the Mayor for Housing Programs shall assist the Committee in matters of administration and shall provide the necessary staff services.

WALTER E. WASHINGTON,
Commissioner of the District of Columbia.

EXHIBIT 42

Mr. H. RALPH TAYLOR,
Vice-President,
BSI/Westinghouse Joint Venture,
Washington, D.C.

DEAR MR. TAYLOR: The public agencies have reviewed the General Development Proposal and have certain questions that we would appreciate receiving written responses to as soon as possible. The present questions (see attached list) relate solely to the areas of financial and management capabilities and minority employment policies. We are completing the review of other aspects of the General Development Proposal and expect to transmit additional questions to you for written responses within the next few days.

If you require clarification of these questions, please contact Arnold Mays of my staff.

Sincerely,

MELVIN A. MISTER,
Executive Director.

I. ROLE OF WESTINGHOUSE

1. Will Westinghouse personnel who have worked on Fort Lincoln be available to answer questions raised by public agency review of the General Development Proposal, or if need be, prepare written revisions of the General Development Proposal?

2. What is Westinghouse's position on economic feasibility of various innovative systems proposed in General Development Proposal?

3. How important are these systems to the economic and/or social feasibility of Fort Lincoln?

4. What are the bases of the cost estimates for the various proposed innovative systems? May we have written copies of any documentation supporting the figures set forth in the General Development Proposal?

5. Will Westinghouse have any financial interest or commitment to the Fort Lincoln developer? If so, to what extent?

6. Will Westinghouse have any written contractual relationship to the Fort Lincoln developer? If so, has this contract been drafted, and may we have a copy of it. If one is to be prepared in the future, when will it be prepared and may we have a copy at that time?

7. If there is to be a consultant relationship, what will be the nature of any consultant relationship? Does this relationship assume that Westinghouse will be the contractor for any innovative hardware that is to be installed at Fort Lincoln; e.g., transit system, communications system, waste disposal system? Would Westinghouse be willing to prepare specifications for these systems if they were (1) only one of several competitive bidders, or (2) prevented from being a bidder?

8. Is Westinghouse willing to underwrite the research or implementation costs of any of these systems?

9. What circumstances would have to be present for Westinghouse to consider this?

10. If public funds were made available for a portion of the capital costs for one of these "innovative" systems, would Westinghouse be willing (able) to put up remainder of capital costs?

II. BSI FINANCIAL ABILITY

1. What experience do the organizations that comprise Building Systems International, Inc. have with developments comparable to Fort Lincoln?

2. What types of residential developments in the United States have been undertaken by each (or any) of the principals of BSI?

3. Have the principals of BSI been involved in any undertakings requiring the close working relations with public bodies? If so, in what manner will this expertise or experience be made available to Fort Lincoln.

4. What types of development, if any, have been undertaken jointly by the organizations that comprise BSI?

5. What is the legal entity that will be the actual developer of Fort Lincoln; i.e., who will execute the Land Disposition Agreement with RLA and in what capacity? Has the form and nature of this entity been established? If so, please submit certified copy of legal instrument establishing this entity. If not, when will such a document be prepared and will it be submitted to the Agency?

6. What financial resources (assets) will this entity have to carry front-end costs for an estimated two-year period?

7. Who will provide these resources? When will they be provided? How will they be provided?

8. Will these resources (assets) be able to be drawn on exclusively by the development entity?

9. Would there be any objection if Agency required that it approve all contracts (or in the alternative all consulting contracts) executed by development entity?

10. Does BSI contemplate that it will be the sole developer of (i) non-subsidized housing, (ii) subsidized housing, (iii) commercial development (i.e., community malls, town center retail and town center office)? If so, how do they propose to meet the equity and mortgage requirements of each? If BSI is not to be the sole developer of each of these elements, what arrangement is contemplated?

11. Have any mortgage bankers or other lending institutions been contacted concerning their willingness to provide construction and permanent financing for the proposed development? If so, who? Can indications of their willingness be obtained?

III. BSI MANAGERIAL CAPABILITY

1. How does BSI propose to meet the managerial requirements of a project of Fort Lincoln's size and complexity? What is their proposed management staff organization by specific functions and responsibilities? What type of individuals (i.e., background, experience, other qualifications) are being sought for each of these positions?

2. What type of consultants does BSI propose to retain to handle matters beyond the capabilities of the BSI/Fort Lincoln staff? Would BSI agree to have the Agency approve such contractual arrangements?

3. How will resources and expertise of Nasher, Beck, and Balency organizations be made available to Fort Lincoln developer? Will there be a written understanding of these commitments? If so, when will it be prepared and executed? Will it be made available to the Agency?

4. If resources and expertise is to be in form of staff assistance, will such staff be able to meet the requirements of percent of minority personnel set forth in the General Development Proposal?

IV MINORITY EMPLOYMENT POLICIES

1. What is present minority representation in organizations that comprise BSI?

2. What is the present minority representation of consultant organizations listed in BSI letter of January 27, 1972?

3. Do these organizations presently meet the commitment in General Development Proposal that minimum of 25% of executive and professional employees of consultants be minority? If not, how does BSI propose to correct this situation?

4. What steps, if any, does BSI propose to take to insure that programs similar to on-job-training for construction workers are implemented for professional-level personnel?

5. Why are there no black firms listed as present consultants to BSI?

6. What black consulting firms have been contacted about work at Fort Lincoln and for what jobs?

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
WASHINGTON, D.C. AREA OFFICE,
Washington, D.C.

Subject: Assignment and Assumption Agreement, Fort Lincoln Urban Renewal Area, Project No. D.C. R-14, Washington, D.C.

Mr. MELVIN A. MISTER,

Executive Director, District of Columbia, Redevelopment Land Agency, 1325 G Street NW., Washington, D.C.

DEAR MR. MISTER: Reference is made to your letter and enclosure of June 7, 1972, which was apparently intended as a request for our approval of the proposed Assignment and Assumption Agreement to be executed by Westinghouse Electric Corporation and Building Systems International, Inc.

We have reviewed your submissions and agree that the Urban Renewal Handbook 7214.1, Chapter 2, Section 3, is not applicable in this case. We concur in the execution of this agreement and hope that this will further your efforts toward redevelopment of Fort Lincoln in the near future.

Sincerely,

TERRY C. CHISHOLM,
Area Director.

EXHIBIT 46

MEMORANDUM—GOVERNMENT OF THE DISTRICT OF COLUMBIA

To: Arnold Mays, Redevelopment Land Agency, Department, Agency, Office: Housing Programs.

From: John S. Crocker, Date: March 27, 1972.

Subject: Transmission of MAC material.

Transmitted herewith a paper entitled *Selection of Developer March, 21, 1972.*

MAYOR'S ADVISORY COMMITTEE ON FORT LINCOLN

SELECTION OF DEVELOPER

Before selecting the BSI/Westinghouse Joint Venture to plan and develop the Fort Lincoln New Town, the Mayor's Advisory Committee undertook a detailed review of all applicants who responded with proposals for this development. The BSI/Westinghouse Joint Venture was not only selected because of the quality team it put together to undertake a very difficult assignment, but also because of the sensitivity, expressed by its proposals and representations, to the economic

and social needs of the Washington community, and more particularly the Black community. The proposals and representations reflected a commitment by the JV to provide a vehicle and opportunity for profits, as well as drudgery, to flow to Black entrepreneurs who, through the ages, have participated in only the meager handouts or leavings of major undertakings. They reflected an undertaking to leave more than bricks and mortar in this community, but also a commitment to set a national example of community, government and developer working together to produce a social and economically balanced community in town.

Several major factors considered by the MAC in its final selection are outlined as follows.

1. As an example of its commitment to involve the Blacks in policy roles, as well as in technical, staff and labor roles, the JV announced its intention to form a corporation with a Black Washington resident as its president. This corporation was not presented to the MAC as a study team, but as *the* team to carry out the entire Fort Lincoln development.

2. Central to the JV's recommendations was a factory to put together components using the Balency System. The JV explained how this venture offered investment opportunities to the Black community as well as jobs for the unskilled. The economic potentials of this proposal for the community weighed heavily in balancing the scales of decision in favor of the Joint Venture.

3. The JV offered a comprehensive, detailed and fully operational training program and experience in implementation of such programs. In particular, the JV committed itself to establish a training program, bringing to bear the full expertise of the Westinghouse Learning Corporation in its implementation. Fort Lincoln was not to be just a development of homes and businesses. It was also to be an example of the developer taking affirmative steps to involve a deprived community in an economic venture, a strategy which emphasized increasing jobs and educational opportunities, as well as providing superior quality housing in an attractive well-planned community.

4. At the final presentation before the MAC, the JV presented a full team of experts, Black and White, who were to participate in putting together a development proposal that was sensitive to the social and economic needs of this predominantly Black community of Washington and which, if accepted, would involve the Black policy makers, professionals, paraprofessionals and laborers in all stages of the development. This team was also to guide the fortunes of the development to make sure that the development proposals were fully implemented.

In reviewing the commitments of the general development proposal, the MAC does not find the commitments that influenced its decision to select the BSI/Westinghouse Joint Venture. Original commitments are either totally absent or couched in such general terms that they are meaningless. Because responses to citizens' inquiries and undertakings in the general development proposals indicate that BSI has not carried forward the original commitment, the Mayor's Advisory Committee herein expresses its very strong and firm opposition to the JV proposal that the development contract be awarded to BSI under the conditions as expressed by the GDP.

The Mayor's Advisory Committee is cognizant of the importance of Fort Lincoln to the economic viability of the city. The MAC also believes that an undertaking of this magnitude should inure to the benefit of a predominantly Black community made up of a broad cross section of depressed and untapped talents. The hours spent by the MAC to search out a "developer with a commitment," rather than just a developer grew out of a deep concern and desire that Fort Lincoln would not be just another development on unused land in our city, but a program through which the Blacks would have an opportunity to participate in the total development from overall policy to labor, and from overall profits to wages.

Under normal circumstances, the MAC would recommend certain conditions precedent to the selection of the developer. However, terminologies have changed to such an extent that recommendations are seldom, if ever, heeded when coming from a community. Therefore, giving the strongest possible effect, the MAC being representative of the Washington community, *demand*s that the following be considered as *conditions precedent* to the selection of BSI as the developer:

1. That BSI enters into a joint venture arrangement with a Washington, D.C.-based Black corporation (existing or to be organized) as approved by the MAC, giving such organization an equity and policy position in overall sponsorship, management, development and construction of Fort Lincoln, and in the profits therefrom.

2. That a Black be named as President of the Joint Venture with a voice in the policy decisions of the corporation.

3. That the JV establish an appropriate training program to involve the unskilled and the inexperienced in jobs, contractual services, business development and management, and other skills necessary to qualify such minorities for full participation at all levels in the construction, operation and management of Fort Lincoln and similar undertakings.

4. That detailed plans be submitted for the Balency System factory, with programs designed to give minorities an opportunity for an equity position in such venture.

While Fort Lincoln is important, the MAC does not believe that it should be built at any costs. Indeed, if such were the case, the citizens and city have been engaged in a fruitless and wasteful task.

FOR THE MAYOR'S ADVISORY COMMITTEE ON FORT LINCOLN,
EMANUEL A. LIPSCOMB,
Chairman.

EXHIBIT 56

DISTRICT OF COLUMBIA COUNCIL REPORT

To : Members of the Council.

From : Sterling Tucker, Chairman, Housing and Urban Development Committee.

Date : July 26, 1972.

Subject : Approval of Fort Lincoln Urban Renewal Plan.

In the attached resolution, the Committee recommends Council approval of the Urban Renewal Plan and the filing of an application for Federal financial assistance for the Fort Lincoln Urban Renewal Area, adopted by the National Capital Planning Commission on May 19, 1972. The resolution also approves modifications to the Comprehensive Plan for the National Capital relating to Fort Lincoln, adopted by the Planning Commission. A further resolution approves execution by the D.C. Redevelopment Land Agency of an amendatory contract for a planning advance from HUD for the Fort Lincoln project. Our recommendation is based on a thorough review of plans for the project and the record of the public hearing held on June 13, 1972.

Fort Lincoln is about to become a reality. It can and will be built; it is no longer just an expensive planning exercise. The development of Fort Lincoln will not solve our serious problems of overcrowding, inadequate housing for large, poor families or our inability to rebuild the riot corridors. It will, however, demonstrate to the skeptics that Washingtonians can create something unique and of lasting value if they commit their talents to the job.

Everyone who has worked on the project can take pride in producing plans for a feasible product—a place where real people will live. We give thanks to the quiet and thorough work of a few of the dedicated people who have had faith in Fort Lincoln: John Gunther, Mel Mister and Arnold Mays of RLA, Charles Conrad, Daniel Shear and others at NCPC, James G. Banks, who has patiently seen the project through to this point, Emanuel Lipscomb, Jesse Jackson, and all the members of the Mayor's Advisory Committee who have given untold hours of skillful volunteer time, and H. Ralph Taylor and his staff at Building Systems International, Inc., the proposed developer. We also express our thanks to Under Secretary Richard Van Dusen of HUD and the many other Federal officials who have agreed to make the financial commitments that will ensure the success of the project. President Nixon referring to Fort Lincoln in his District Bicentennial Message said, "We are determined to make it happen."

The Committee supports the Fort Lincoln development without reservation. The "new-town" will provide an exciting living environment for the 16,000 people, most of whom are in the moderate and middle income ranges. These are the families we want to encourage to remain in the city.

MINORITY EQUITY INVESTMENT IN FORT LINCOLN

An equally important benefit involves local economic development, particularly for the Black community. We are determined that Fort Lincoln assist local minority people to enter the fields of large-scale real estate development, banking, securities, etc. To miss this opportunity in this last major redevelopment project, would be a tragic mistake.

At the request of the Committee, the prospective developer, BSI, recently clarified its offer of minority equity participation in the development entity that will construct Fort Lincoln. Beginning with an immediate sale of a 10% ownership interest to local Black investors, BSI agrees to share a total of 25% of the ownership and control of the development corporation with local Blacks. This means local minority voting participation on the board of the development company and a local share in profits as well as risks. BSI's agreement on minority investment is fully binding and will be expressed in the land disposition agreement under which RLA will transfer the land to BSI.

Other economic development benefits of the project include: construction "set-asides" for minority contractors, percentages for Black construction workers, establishment of the Fort Lincoln Community Corporation and a local subsidiary to handle sales and leasing in Fort Lincoln, as well as joint venture and limited partnership investment opportunities in elements of the project such as the retail and commercial centers, and rental units.

These are important and innovative commitments. They have never been made before in the development of a new community. Our initial concerns about the lack of specificity in BSI's offer of minority equity participation have been met in a letter from BSI to RLA which contains a contractual agreement to offer 25% equity to local Black investors.

Beginning immediately, BSI will sell at a fixed price of \$125,000 a 10% full partnership interest in the Fort Lincoln Development Company to Black investors. These investors will be able to participate on the board of the development entity. Shortly after this sale, BSI will undertake additional investment arrangements to increase the local Black ownership of the development company to 25%.

BSI has reserved the right to select the minority investors. We agree that it should have this right. We trust that BSI will consult with RLA regarding a process of investor selection which will be as open as possible and permit full consideration of all persons who wish to become investors. We suggest that BSI and RLA establish criteria for selection of the individual investors or community entity or entities that will make the initial 10% and the further 15% investments. We suggest that the criteria include: (a) a showing of sufficient economic, financial and managerial capability to protect the interests of the development company as well as the community, and (b) a workable plan to make investment available to the community on as wide a base as possible, and on a fixed time schedule. We further recommend that RLA and BSI begin discussions immediately on the mechanics of the sale of the additional 15%, including price, time of sale, timing for conversion to equity, etc.

DESCRIPTION OF FORT LINCOLN NEW TOWN

Fort Lincoln has had a long history. In 1967, RLA retained the urbanologist Edward J. Logue to prepare a general plan to transform the old National Training School Site into a socially, racially and economically balanced new community of 4500 dwelling units. In September, 1970, to test the feasibility of the Logue plan, RLA issued a prospectus to private firms to prepare a development plan. By the terms of the prospectus, the firm chosen to prepare the plan would become the developer of the project if the plan won approval from the public agencies. The joint venture of Building Systems International, Inc./Westinghouse Electric Corporation was chosen to prepare a development plan.

In January, 1972, the joint venture submitted a General Development Proposal for Fort Lincoln with the recommendation that BSI alone carry out the plan. This Proposal was found feasible by both RLA and HUD. The development will involve the investment of approximately \$200 million in private funds and an initial public investment of \$28 million in Federal renewal funds, and \$50 million in District funds for schools and other facilities. In addition, RLA is expecting Federal financial assistance for the transit connection from the project to the Metro at either Deanwood or Rhode Island Avenue.

The objective of Fort Lincoln is the creation of "an attractive and racially, socially, and economically innovative community of approximately 16,000 persons". The plan provides for between 4,200 and 5,000 dwelling units. Approximately 20% of these units will be high-rise apartments and the balance will be garden apartments and townhouses. The plan further provides that 53% of the units will be at market rate and 47% of the units will be available for sale. The housing program will provide approximately 2,000 sales units for families earning between \$10,000 and \$18,000, and approximately 1,200 sales units for families

earning between \$7,000 and \$10,000. In addition, there will be approximately 400 units for larger families with incomes less than \$6,500. 400 units of rental housing will also be available for elderly families or individuals with public housing incomes.

The development plan includes the following features:

A town center with approximately 2 million square feet of office and retail space for which a GSA lease commitment has been requested for up to 1.2 million square feet of office space. The town center will include a health facility, art center and a library.

Three community malls for neighborhood convenience shopping and social service facilities including day care.

Three elementary schools and one secondary school for approximately 5,000 children. Funds have been appropriated for the first elementary school which will enter construction before the end of the year. The School Board has agreed to an innovative educational program which is being designed with the assistance of the General Learning Corporation.

The plan provides for a thirty acre campus for the Federal City College to house approximately 7,500 full-time students in about 2 million square feet of building space.

The recreation program includes approximately 32 acres of parkland and to be maintained by the National Park Service, 15 acres under the jurisdiction of the D.C. Department of Recreation and 30 acres under the jurisdiction of the School Board. In addition, there will be approximately 25 acres of private open space reserved for recreation purposes.

An essential element of the Fort Lincoln community will be a transportation link adjoining Fort Lincoln to the METRO system. Studies are now going forward with WMATA to determine the cost and engineering feasibility of connecting the project with either the New Carrollton line at Dean Avenue or the Glenmont line at Rhode Island Avenue. It is hoped that the METRO connection will be extended to link the various activity centers within the project.

ISSUES RAISED AT THE HEARING

Apart from the issue for minority participation in the development, several other issues were raised by witnesses at the public hearing. These include: additional housing for low income families, additional housing for the elderly, additional rental units, and the urgent need for a METRO connection at Fort Lincoln. The Committee agrees that a rapid transit link is essential to the success of Fort Lincoln and urges public agencies to resolve this issue as promptly as possible.

With respect to the issue of increasing the number of low income and elderly units and of increasing the number of rental units, the Committee at this time is convinced that the income and tenure mixture of the plan is both feasible and desirable. We would, of course, prefer that a larger number of units be made available for low income families to meet the need for this type of housing. We would, therefore, suggest that both the developer and RLA consider increases in these units if changes in the federal housing assistance programs will make such changes possible. We urge RLA and the developer to re-examine at periodic intervals the housing mix at Fort Lincoln with a view to increasing the number of units for low income families and the elderly. In addition, RLA and the developer should study the experience in the sale of rental units and make appropriate adjustments in the percentage of units for sale and units for rent.

THE NEED FOR COOPERATION OF PUBLIC AGENCIES

The success of Fort Lincoln will depend in large part on a high degree of cooperation and coordination among the local and federal agencies involved in the project's development.

The proposed order of the Mayor to designate Mr. James G. Banks as the District's coordinating officer is an important step toward this cooperation. We cannot express too strongly the importance of the observance of development timetables particularly by agencies of the District Government. In our opinion, there will be no excuse for delays caused by District Departments desiring to preserve their individual prerogatives. We understand that RLA is preparing a development schedule for the overall project and we will expect every District agency to adhere to this schedule.

SUMMARY OF RESOLUTIONS

The first resolution before you would authorize RLA to execute a "plan advance" contract for the Fort Lincoln project of \$194,000 to assist in establishing the value of the site, technical services for coordination of development activities and a study of methods to increase public safety in Fort Lincoln.

The second Resolution before you would: (1) determine that the Fort Lincoln area is eligible for urban renewal treatment; (2) approve the urban renewal plan and boundaries adopted by NCPD on May 19; (3) approve conforming amendments to the Comprehensive Plan adopted by NCPD; (4) determine the need for additional units of transient housing in the District; (5) authorize RLA to file with HUD an application for financial assistance and to execute a contract for such assistance; and (6) authorize and approve execution of a Cooperation Agreement between RLA and the District for the provision of public facilities. The second resolution also includes several other findings required by law.

I move Council adoption of the attached resolutions. Notice of intent was published in the *D.C. Register* on May 30, 1972.

EXHIBIT 66

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
WASHINGTON, D.C. AREA OFFICE,
Washington, D.C., July 26, 1973.

Subject: Project No. DC R-14, Fort Lincoln reuse values.

Mr. MELVIN A. MISTER,
*Executive Director, D.C. Redevelopment Land Agency,
1325 G Street NW., Washington, D.C.*

DEAR MR. MISTER: In response to your letter of June 8, 1973, requesting concurrence of Fort Lincoln reuse values, we do so, based on the facts and data found in the following appraisals which are identified under Contract DC-RLA-1778 by Hugh V. Gittinger, Jr., SRA-ASA, and under Contract RC-RLA-1777 by Thomas E. Barlow, MAI. For further site identity both appraisers "pinpoint" their appraisals on 132 acres for residential use and 33 acres for commercial use. This appraised area of 165 acres is part of the total 359.15 acres per Map No. 1, Project Area Boundaries.

By mutual agreement the reuse value is to be established by value per dwelling unit for residential purposes. Square foot value of gross floor area will be applicable for other uses, with the exception of motel use. This is calculated as room unit value.

Specifically we agree with the unit values as listed below:

Hotel/Motel: \$1,650 Per Room.

Retail: \$6.00 Per Sq. Ft. of Gross Floor Area.

Office, Educational, Cultural and Supporting: \$2.25 Per Sq. Ft. of Gross Floor Area.

Residential (Unsubsidized):

Town House: \$1,950 Per Dwelling Unit.

Walk-up and Elevator: \$1,600 Per Dwelling Unit.

It is my interpretation that in accordance with the Urban Renewal Plan not less than 146 acres will be used for residential purposes; not more than 3 acres will be used for Federal City College.

It is to be further understood in accordance with the Urban Renewal Plan that not less than 24% nor more than 26% will be elevator apartment buildings, not less than 65% nor more than 68% will be in walk-up apartment buildings, and not less than 6% nor more than 11% will be in townhouses.

Finally, it has been established that the total minimum number of bedrooms will be 9,450, with a maximum of 11,480, and that not less than 70% of all dwelling units in Fort Lincoln will be available for individual or cooperative ownership.

The minimal total reuse value of \$7,610,250 is broken down as follows:

\$3,708,300 for "Residential" land,

\$3,575,250 for "Town Center" land, and

\$326,700 for Community Malls.

This is accepted as a fair and reasonable estimate. The difference between the above "Reuse value and the established acquisition value provides a substantial 'cushion'".

It is realized that to create a "New City" of Fort Lincoln's magnitude will take several years to complete. Consequently, we accept a land value increase of 9% for land not disposed of within two years of date of our concurrence. This percentage factor will apply to retail, personal service and office use. A 6% annual factor will be used for appreciation of land for all other purposes.

To avoid any misunderstanding, we concur in the requested "Reuse" values based on the review of the reuse appraisals and a study of the Urban Renewal Plan for the Fort Lincoln Urban Renewal Area, adopted by the National Capital Planning Commission on May 19, 1972, and approved by the District of Columbia Council on July 26, 1972.

The Urban Renewal Plan must be considered as much a part of our concurrence as if written "word for word" in this agreement showing the "concurrence" subject to the execution of the above plan.

Sincerely,

HARRY W. STALLER,
Acting Area Director.

EXHIBIT 67

H. RALPH TAYLOR,
*Vice President,
Building Systems International, Inc.,
Colorado Building,
Suite 915,
1341 G Street NW.,
Washington, D.C.*

DEAR MR. TAYLOR: We have discussed in recent conversations, the need for a clear, detailed understanding of how BSI will carry out its commitment to afford minority investors the opportunity to purchase up to 25% interest in the overall Ft. Lincoln development entity. Unfortunately, as of this date, you have not provided us a detailed proposal which we might review and approve.

As you well know, BSI's programs and commitments relating to minority groups are among the more important aspects of the land disposition agreement still to be negotiated. We want to reach agreement on these provisions at an early date, particularly the provisions relating to minority investment programs. As we said in our letter of August 3, 1972, we believe every effort should be made to have the minority investment program completed and the investors on board prior to the public hearing on the land disposition agreement.

Therefore, we urge you to submit in the next few days, a detailed written proposal of how BSI would achieve the level of minority investment to which it is committed. Proposals should indicate, among other things, the following in detail:

(a) A description of the legal entity that will be the overall redeveloper of Ft. Lincoln.

(b) A list of the current shareholders or partners in that entity and a statement of their respective interests.

(c) A statement of the ownership pattern of the development entity after the minority investment commitment is carried out, specifically indicating to the extent practicable known shareholders or partners and their respective interests including the minority investors and the percentage of their interests (and others, if any).

(d) A statement of how the first ten percent will be sold to minority investors indicating (i) the method by which the offering will be made, (ii) what persons, organizations or firms will be solicited or permitted to invest, (iii) what clearances and approvals will be required under state and Federal law, and (iv) the proposed time schedule for completing such offering and sale. If more than one offering is contemplated, please indicate this information for each such offering.

(e) A statement of the exact nature of the interest being offered, minority investors, i.e. stock (common or preferred) debt equity, warrants, partnership interests, etc. A comparable statement covering all other ownership interests in the entity. Please describe the attributes of all such interests such as voting rights, pre-emptive rights and the obligations, etc. of the holder.

(f) How was the \$125,000 consideration for sale of first ten percent determined? What will be the price of the remaining interests being offered to the minority groups, individuals and to others? How will such price be paid?

(g) What relationship, if any, is there between making a portion of this interest available to minority investors and the presence of other financial partners in the development entity. Please clarify your letter of July 24, 1972.

(h) Please indicate any reservations you have concerning the legality or feasibility of your proposal.

We have retained a special consultant to assist us in reviewing your proposal and we shall be prepared to review it promptly upon receipt and meet with you to resolve any controversy on the specific terms.

In conclusion, I want to emphasize the need to reserve enough time to work out this important aspect of our agreement in consultation with each other so that we both may devote sufficient attention and care to this matter before submitting any part of the agreement to public scrutiny.

Sincerely,

MELVIN A. MISTER,
Executive Director.

Mr. ARTHUR ROSEFELD,
Stirling-Homer Corp.,
2011 Eye Street NW.,
Washington, D.C.

DEAR MR. ROSEFELD: I understand from Mr. Arnold H. Mays that your organization has expressed interest in the Fort Lincoln New Town Project. For your information, I am enclosing the following documents concerning the Fort Lincoln New Town Project:

1. FLNT Final Planning Report—submitted April, 1969, by Edward J. Logue, Principal Development Consultant.

2. Urban Renewal Plan for the Fort Lincoln Urban Renewal Area adopted by the National Capital Planning Commission on September 11, 1969.

The FLNT Final Planning Report represents the summation of all the planning studies undertaken by our consultants, as well as their recommendations for the development for Fort Lincoln. The Urban Renewal Plan presents a development plan for the FLNT based on the Final Planning Report. You will note that the Urban Renewal Plan is unusual in that it sets forth a series of development objectives and standards that represent public policy statements as to the development of Fort Lincoln. Detailed site development controls are to be worked out jointly by the public agencies and private developers involved in execution of the FLNT plan.

However, there are a number of detailed questions concerning the economic feasibility and costs (both public and private) of the project that remain to be resolved. These questions are itemized on the attached list.

The RLA and the District Government wish to begin involving private developers in the resolution of these questions. We would expect the development proposals to cover the outstanding questions concerning the project. Therefore, we would like to learn whether your organization would be interested in becoming the developer of Fort Lincoln and the conditions under which you would be willing to undertake the preparation of a development proposal. In particular, what we would like to know is:

1. The type of proposal your organization would be prepared to make in order to achieve the public policy objectives of Fort Lincoln, as set forth in the Urban Renewal Plan. This should include the resources you would utilize in the development of a proposal; e.g., personnel, other organizations, etc., the time necessary to prepare such a proposal, and a general outline of the proposal.

2. The types of commitment you would require from the public agencies now, before you would undertake to develop a proposal. These commitments should reflect the conditions you believe are necessary before your organization would be willing to commit its time and resources to the preparation of a detailed development proposal.

Several other large development organizations, such as yours, have expressed interest in Fort Lincoln and are being requested to submit to us similar expressions of interest.

On the basis of these responses, the RLA and the District Government will determine conditions appropriate to encourage private involvement in the development of Fort Lincoln.

Because we are anxious to proceed, I would appreciate hearing from you within three weeks' time, if possible. In the meantime, if you have any questions concerning the enclosed document or the matters set forth in this letter, please contact Mr. Arnold H. Mays of my staff at [REDACTED].

Sincerely,

MELVIN A. MISTER,
Executive Director.

BUILDING SYSTEMS INTERNATIONAL, INC.,

February 6, 1973.

MR. MELVIN MISTER,
Executive Director,
D.C. Redevelopment Land Agency,
1325 G Street NW., Washington, D.C.

DEAR MEL: This is in response to your letter of January 19 requesting information regarding the entity which will be the Redeveloper of Fort Lincoln New Town and our intentions regarding minority equity participation. We would appreciate your keeping this information confidential, as it reveals financial negotiations which are currently under way. I am sure you understand that any public statement at this time would be premature and might be damaging.

Building Systems International, Inc. intends to organize a corporation or a joint venture to be the Redeveloper of Fort Lincoln. The precise form of the vehicle will be based on a study of the tax implications of each of the forms and the desires of the institutional financial partners for the project described below. On creation the Redeveloper entity will be entirely owned by BSI. In my letter of July 24, 1972, BSI offered to make available a 10 percent equity interest to local minority investors for \$125,000, with such minority investors being obligated to invest additional capital prorated with BSI. Further, BSI indicated its intention to make available up to 30 percent of the total equity interests to institutional financial partners which, we anticipate, will make an unsecured loan of up to four million dollars (\$4,000,000) in exchange for a satisfactory rate of return on the loan and the right to purchase, at a nominal price, the aforesaid 30 percent equity interest. If such 30 percent interest is acquired, BSI would be left with a 63 percent interest in the Redeveloper, and the initial minority group would have a 7 percent interest. However, one-half of the institutional financial participation (or a 15 percent interest in the Redeveloper) will also be made available to the minority community, bringing the total potential minority investment to 22 percent.

We have been working diligently to finalize our negotiations with the institutional financial partner and determine the best method of fulfilling our obligations to provide to the minority community an opportunity to invest in the Redeveloper entity. In this regard, our goal has been to find a method of distribution which will provide an opportunity to the greatest number of individuals, but which does not expose the investors to undue risks. As you know, the accomplishment of this goal involves serious legal, financial and political issues. The following is an outline of some of the problems as we see them and our current thinking as to the best way to resolve these issues.

1. *Securities Law Requirements.*—Our attorneys advise that the sale of both the 10 percent equity interest and the four million dollar (\$4,000,000) debt-30 percent equity interest will constitute a sale of securities regulated by the Securities Act of 1933. While the Securities Act generally requires that sales of securities be registered, certain sales in "private placements" may be made without registration in certain limited circumstances, including restriction of offers to a very limited group of investors who have the financial capacity and sophistication to analyze, understand and bear the risks involved in the investment and who have access to considerable information about the issuer. Our attorneys have also advised us that recent court decisions may have severely restricted the availability of this exemption from registration.

A registered public offering involves the preparation and the filing with the Securities and Exchange Commission (SEC) of a detailed registration statement, including a prospectus. This is a substantially more expensive and time-consuming process than the private placement method. On the other hand, a registered offering would achieve a wider distribution. The registered offering would also eliminate the restrictions of the private placement offering pertaining to the number of offerees and their ability to analyze investment risks. The extremely preliminary status of the Fort Lincoln project makes it doubtful, however, that the SEC would allow a registration to become effective in the near future. Furthermore, disclosures of projected profitability for the Redeveloper could not be included in a registered prospectus.

2. *Risks to Investors.*—An investment in the Fort Lincoln New Town Redeveloper entity would be characterized as "a high risk investment" by the financial community. The principals of BSI do not wish to attract investments by people unable to take the risk. At this time the project has no track record and some of the risks may not be readily apparent. For these reasons it would be better to defer any broad-based offering until there is some operating information which would permit investors to better assess the risks. We are particularly concerned

about this issue, since initial community enthusiasm for the project may mislead unsophisticated investors.

3. *Timing of Investment.*—The issue here is the relationship of our immediate need to be assured of the availability of necessary capital to the advantages (described in paragraph two above) inherent in the delay of the investment. This problem is compounded by the fact that the substantial investment contemplated in the debt-equity arrangement (including the minority participation therein) must be negotiated at the outset, since the financial partner would be unwilling to make financial investments at the early stages and then share the equity benefits equally with an investor who comes in at a later date.

4. *Political Problems.*—We recognize the importance of fulfilling our obligations set forth in my letter of July 24, 1972. In this regard, it would be better to accomplish all or a portion of the equity distribution prior to or immediately after the execution of the Land Disposition Agreement. However, we do not think that this commitment should result in premature distribution of high risk securities to the minority community. We do recognize that a contractual obligation to accomplish certain events by a specified date, without the existence of an independent entity which can enforce this obligation, would meet with criticism.

5. *Cost.*—We have been advised by our attorneys that a registered offering could cost anywhere from 50 to 100 thousand dollars. This is many times more expensive than the cost of a private placement offering. It is clear that the registered offering of only the 10 percent equity for \$125,000 would not be economically practical in view of the expense of registration. On the other hand, a registered offering would be more feasible for the debt-equity offering, particularly in view of its size.

During the past several months we have attempt to develop a method of distribution which would accomplish the following: (i) demonstrate our good faith; (ii) secure the necessary financing; (iii) comply with the federal securities laws; and (iv) minimize investor risks.

Towards these ends, we have considered several basic approaches. One approach is to sell one-half of the debt-equity arrangement to institutions which would "warehouse" the investment for future minority investors by acquiring this investment on the condition that they sell their participation by registered offering to the minority community at some time in the future (preferably 2 to 3 years after execution of the Land Disposition Agreement). We are proceeding with this inquiry and hope to be able to advise you of the status of this in the near future. We are not optimistic about this possibility.

Although it may be possible to sell the 10 percent minority interest currently in a registered offering, the expense and difficulty involved in registering the Redeveloper's securities at this early stage of its activities make this alternative undesirable. As described above, there are difficulties involved in effecting a private placement in compliance with the securities laws. As an alternative, we feel that the interests of the potential investors, of the Redeveloper and of the Agency would be best served by placing the initial 10 percent with the same entity which would purchase one-half of the institutional financial participation, on the condition that the entity would resell such 10 percent to a wide-spread group of members of the minority community in a future registered offering which could be combined with the registered offering of the minority portion of the institutional financial participation. In this offering, investors from the minority community would be in a position to review the operating results of the Redeveloper for a significant period. By virtue of registration, the securities law problems attendant upon a private placement would be eliminated. The Agency and the Redeveloper would have insured the availability of participation in the Redeveloper to the minority community without imposing upon the minority community undue speculative risks and without requiring the Redeveloper to confront substantial difficulties in complying with the securities law.

If we are unable to arrange this "warehousing" method of distribution, another alternative is to offer the debt-equity arrangement to minority institutions which would retain said interest. The 10 percent equity interest could be made part of the package or placed separately. Because of the amount of money and the risk involved we are not hopeful about this approach.

We hope this letter clarifies our thinking to date. Any comments or suggestions you may have with respect to each of these alternatives would be greatly appreciated.

Sincerely,

RALPH TAYLOR,
President.

MEMORANDUM

March 7, 1973.

To: Board of Directors.

From: Melvin A. Myster,

Subject: Fort Lincoln—Minority investment opportunities.

Since our last discussion on this subject, I have had meetings with Ralph Taylor and our special legal consultants from Philadelphia.

Based on the limited information received to date from BSI regarding the developer entity and based on certain assumptions previously outlined in memoranda and correspondence, it would appear that the following alternatives are available for the minority community investment in the Ft. Lincoln New Town Development:

1. A present public offering of the 10% interest combined with a present public offering of the 15% debt/equity interest in the Fall of 1973. This alternative is more fully treated in the proposed letter submitted by the Bill Coleman law firm.

2. BSI's most recent proposal which consists of a private placement of the 10% interest prior to the public hearing combined with a present private placement of the 15% debt/equity interest to a private corporate entity, possibly followed by a subsequent public offering of the 15% interest.

3. A combination of alternatives 1 and 2 above consisting of a present private placement of the 10% interest followed by a public offering of the 15% interest in the Fall 1973.

In addition to the consideration raised in prior memoranda and correspondence including more particular information required, the following general considerations concerning the above alternatives were discussed at our most recent meeting:

1. BSI's most recent proposal again included the reference to additional assessments on the 10% equity interest. Such assessments might possibly make the stock unmarketable or unattractive for even a private placement.

2. According to BSI, the financial partner objects to a public offering in which its name might possibly be mentioned. This seriously affects the viability of alternative no. 1.

3. A basic choice which will determine the selection of an alternative lies between private placement of the 10% interest or a public offering of the 10% interest. The ramifications of such a choice, i.e., such as political considerations, have already been treated.

4. With regard to alternative 1, there is the question whether there can be made available backup commitments by local investors for the 10% or 15% interest or both in the event of a public offering. In this connection, a serious risk is having a public offering of the 10% interest without a firm backup commitment from black investors so that such interest might possibly be lost.

5. An essential difficulty in assessing the various alternatives arises from the fact that we as yet do not know the nature of the investment entity, i.e. corporation or limited partnership. Consequently, it can not be determined whether the 10% interest would be attractive to even a limited number of investors seeking tax shelters and other present benefits from their investments.

6. We have yet to obtain any indication that an underwriter would commit itself to a public offering under the alternative circumstances set forth above. Although some preliminary indication of interest may be presently available, a commitment from an underwriter would involve a much more detailed presentation than has been made available to date by BSI.

I believe we should advise BSI of our views on the subject, and recommend you approve my sending the attached letter.

Attachment:

BUILDING SYSTEMS INTERNATIONAL, INC.,
Colorado Building, Suite 915, 1341 G Street NW.,
Washington, D.C.

GENTLEMEN: Following our meeting on February 7 concerning the proposed participation of the minority community in the developer entity for Fort Lincoln New Town, we have given consideration to the various alternatives developed at that meeting and in subsequent discussions with you, with our special counsel and with our Board of Directors.

A number of the alternatives presented serious difficulties, which we believe may be overcome in the course of action presented below. In the first place, it appears that great practical difficulty will be encountered in finding individuals or institutions to undertake the two or three year "warehousing" that we discussed. Secondly, there are obvious political disadvantages in making the 10%

interest (offered at \$125,000) available only to a preselected group of minority leaders and institutions. Thirdly, a public offering of the 10% interest alone would be financially unwarranted since the cost would be disproportionate to the funds to be derived from the offering.

In the light of these and other considerations, including anticipated finalization in the early Fall of the GSA lease and the permanent financing commitments, it is our present view that the best way of making the total investment package available to the minority community is through a public offering, to be completed approximately six months from the signing of the Land Disposition Agreement.

The public offering would include both the 10% interest, which would be in the form of voting common stock in the developer corporation, and the 15% interest accompanying \$2,000,000 of debentures, with attached warrants exercisable at a nominal price. The variable would represent a 15% common stock interest when exercised. The securities representing the 10% interest and the 15% interest and debentures would not be "linked" together in a package, so that the investing public could purchase the 10% stock alone, or the 15% debentures and warrants alone, or a combination of the two. This would insure a wider distribution and afford a more flexible investment opportunity to the community.

Hopefully, the public offering would be so arranged that a number of community leaders and institutions would have committed to take up any of the 10% stock that is not disposed of initially in the public offering. It is further contemplated that the financial partner would be willing to keep in effect its commitment as to the \$2,000,000 loan long enough to permit the registration and effectuation of the public offering, so that any of the debentures and warrants not successfully marketed would be taken up by the financial partner.

This program seems preferable to other alternatives for a number of reasons. Most importantly, it would bring about minority community participation at the earliest feasible date, rather than have such participation remain as a mere expectancy for several years. The public relations advantages of this are obvious. Furthermore, it would discharge in a fair and equitable manner the obligation of the developer to use reasonable efforts to accomplish broad minority participation. A delay of several years in marketing the securities would not necessarily, in our opinion, make them more marketable than they would be in the Fall of 1973. Further, an offering two years down the line may not involve less risk than an offering at the present time. In this respect, as above mentioned, the assurance of the GSA lease and the permanent financing commitments are probably the key factors in reducing the speculative aspect of the project. Moreover, an SEC registration at the present time might be easier to effectuate than a registration two years from now after the developer will have sustained the usual start-up losses.

The price at which the securities would be offered would consist of an aggregate price of \$125,000 for the 10% stock interest, and \$2,000,000 for the debentures with warrants attached plus some reasonable increment for the costs and fees of the offering. The exact characteristics of the securities to be offered, including the interest rate on the debentures, should be determined in accordance with advice from the investment bankers handling the offering.

We suggest a meeting with your representatives as soon as convenient to discuss the approach outlined above and also to take up certain matters that remain unresolved. Among these is the question whether the minority interest is to be 25%, as originally proposed rather than the 22% as was indicated by you at our last meeting. It is also important to clarify the nature of the debentures to be issued, i.e. whether they will be guaranteed by BSI, which may critically affect the marketability of the bonds.

Before concluding, we must also note that we have been handicapped in our efforts to help you achieve the Ft. Lincoln minority investment objectives by a lack of necessary specific information. We have great difficulty considering your proposals without knowing such details as the precise form of the redeveloper entity, the specific attributes of the 10% stock and the \$2,000,000 debentures and warrants to be sold. For example, will the stock be intertset assessable, and if so, to what extent? Advice on these matters, which we requested in our January 19, 1973, letter is essential to both of us as well as to any potential underwriter or investor before judgments can be made on the preferred course of action.

We are prepared to discuss these matters with you and your representatives at your early convenience, but suggest that you provide us the above information before that meeting.

Sincerely

MELVIN A. MISTER,
Executive Director.

EXHIBIT 67

BUILDING SYSTEMS INTERNATIONAL, INC.,
Colorado Building, Suite 915, 1341 G Street NW., Washington, D.C.

GENTLEMEN: Following our meeting on February 7 concerning the proposed participation of the minority community in the developer entity for Fort Lincoln New Town, we have given consideration to the various alternatives developed at that meeting and in subsequent discussions with you, with our special counsel and with our Board of Directors.

A number of the alternatives presented serious difficulties, which we believe may be overcome in the course of action presented below. In the first place, it appears that great practical difficulty will be encountered in finding individuals or institutions to undertake the two or three year "warehousing" that we discussed. Secondly, we have reservations about the propriety of making the 10% interest (offered at \$125,000) available only to a preselected group of minority leaders and institutions. Thirdly, a public offering of the 10% interest alone would be financially unwarranted since the cost would be disproportionate to the funds to be derived from the offering.

In the light of these and other considerations, including anticipated finalization in the early Fall of the GSA lease and the permanent financing commitments, it is our present view that the best way of making the total investment package available to the minority community is through a public offering, to be completed approximately six months from the signing of the Land Disposition Agreement.

The public offering would include both the 10% interest, which would be in the form of voting common stock in the developer corporation, and the 15% interest accompanying \$2,000,000 of debentures, with attached warrants exercisable at a nominal price. The warrants would represent a 15% common stock interest when exercised. The securities representing the 10% interest and the 15% interest and debentures would not be "linked" together in a package, so that the investing public could purchase the 10% stock alone, or the 15% debentures and warrants alone, or a combination of the two. This would insure a wider distribution and afford a more flexible investment opportunity to the community.

Hopefully, the public offering would be so arranged that a number of community leaders and institutions would have committed to take up any of the 10% stock that is not disposed of initially in the public offering. It is further contemplated that the financial partner would be willing to keep in effect its commitment as to the \$2,000,000 loan long enough to permit the registration and effectuation of the public offering, so that any of the debentures and warrants not successfully marketed would be taken up by the financial partner.

This program seems preferable to other alternatives for a number of reasons. Most importantly, it would bring about minority community participation at the earliest feasible date, rather than have such participation remain as a mere expectancy for several years. The public relations advantages of this are obvious. Furthermore, it would discharge in a fair and equitable manner the obligation of the developer to use reasonable efforts to accomplish broad minority participation. A delay of several years in marketing the securities would not necessarily, in our opinion, make them more marketable than they would be in the Fall of 1973. Further, an offering two years down the line may not involve less risk than an offering at the present time. In this respect, as above mentioned, the assurance of the GSA lease and the permanent financing commitments are probably the key factors in reducing the speculative aspect of the project. Moreover, an SEC registration at the present time might be easier to effectuate than a registration two years from now after the developer will have sustained the usual start-up losses.

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Before concluding, we must also note that we have been handicapped in our efforts to help you achieve the Ft. Lincoln minority investment objectives by a lack of necessary specific information. We have great difficulty considering your proposals without knowing such details as the precise form of the redeveloper entity, the specific attributes of the 10% stock and the \$2,000,000 debentures and warrants to be sold. For example, will the stock be interest assessable, and if so, to what extent? Advice on these matters, which we requested in our January 19, 1973, letter is essential to both of us as well as to any potential underwriter or investor before judgments can be made on the preferred course of action.

We are prepared to discuss these matters with you and your representatives at your early convenience, but suggest that you provide us the above information before that meeting.

Sincerely,

MELVIN A. MISTER,
Executive Director.

BUILDING SYSTEMS INTERNATIONAL, INC.,
April 2, 1973.

Mr. MELVIN MISTER,
*Executive Director, D.C. Redeveloper Land Agency,
1325 G Street, Washington, D.C.*

DEAR MR. MISTER: We welcome the opportunity to discuss the history and future of the FLNT development. Our meeting on Wednesday at 3:00 should help clarify alternatives relative to shared objectives concerning minority participation. Hopefully, it will also permit us to explore necessary strategies to move the project at a faster pace. At the present time, delays in receiving promised public commitments have exposed BSI to severe unanticipated financial risks and exposure. Although we are committed to moving ahead, we must ask your help in removing roadblocks still in the way of successful initiation of Ft. Lincoln, as a significant development.

This letter briefly sets forth our year long efforts to respond to obligations relative to minority investment. It responds to your letter of March 14, 1973, setting forth your agency's preferences regarding the methods we may use to comply with our commitment to make available (i) the 10% equity interest in the Redeveloper of Fort Lincoln (the "10% equity interest") to local minority investors for \$125,000, with such investors being obligated to invest additional capital pro rata with Building Systems International, Inc.; and (ii) up to one-half of the arrangement we are negotiating with an institutional financial partner to make an unsecured loan to the Redeveloper of up to \$4,000,000, with the financial partner also acquiring the right to purchase, at a nominal price, a 30% equity interest in the Redeveloper (the "debt/equity investment"). In effect, this letter sets forth how we have tried and will continue to try to fulfill our obligations. It also provides background information concerning each alternative we have explored and/or considered; as well as legal and institutional constraints preventing the initiation of several RLA and developer preferred alternatives.

With respect to the placement of the 10% equity interest, our goal has been to establish some procedure which would allow a placement of said interest with minority investors prior to the public hearing on the Land Disposition Agreement, thereby demonstrating at an early stage our commitment to minority community participation in the Fort Lincoln Project. We have considered the feasibility of a broad public offering of the equity interest and have determined it is not feasible since, as you have recognized, the costs of registering the 10% equity interest with the SEC in compliance with its security laws would be prohibitive in that it would substantially increase the promised \$125,000 selling price.

As suggested in your letter of March 14, we have thoroughly explored the possibility of minimizing the registration cost applicable to the 10% equity interest by the simultaneous public offering of the 10% equity interest and the debt/equity investment. It is our considered judgment this proposal was and now is infeasible. It is realistic to anticipate that the financial partner's investment might be viewed by local minority investors as an endorsement upon which they would base their own investment judgments, therefore, it would be unfair to place our financial partner in such a posture, particularly in view of the speculative nature of any investment in the Redeveloper at this time.

We have also considered the feasibility of requiring the financial partner to divest itself of one-half of the debt/equity investment through a public offering some time in the future—in effect, asking the financial partner to “warehouse” the investment. This approach, unfortunately, is economically unrealistic, and raises some important tax problems.

We have spent considerable time and energy to find an institution willing to assume the role of a “warehousing” entity. We have had extensive negotiations with a number of local tax-exempt foundations in the hope that such a foundation, or a group of such foundations, would agree to purchase one-half of the debt/equity investment currently, with a commitment to reoffer such investment to the local minority community at some time in the future in a registered public offering. Unfortunately, we have been unable to find tax-exempt foundations that are interested in making such a commitment.

Finally, we have attempted to identify local minority controlled entities which might purchase for their own account, all of the equity investment. While this would not assure a broad distribution, it would result in the desired minority participation. We have had conversations with officers of a corporation which has expressed a preliminary interest in acquiring both the debt/equity investment and the 10% equity interest, however, no firm commitment has been received to date and it seems clear that we will be unlikely to find an institution willing to make the \$2,000,000 investment.

At the present time, given our financial exposure resulting from delays in the project to date and the practical constraints narrowing alternatives, our only realistic option is to offer the 10% equity interest on a private placement basis structured to qualify for an exemption from registration under the Securities Act of 1933. We are now preparing documentation to be used in connection with such a private placement which to qualify for the exemption must be offered to a very limited group (we intend to offer to no more than 20 persons). This offering will be made to members of the local minority community who are sophisticated investors with sufficient resources to bear the risks inherent in an investment in the securities of the Redeveloper at this time.

Enclosed for your review is a draft of the language we propose for insertion in the Land Disposition Agreement, setting forth this commitment. We believe this proposal is consistent with the commitment we made in our letter of July 24, 1972.

This proposal represents many long months of serious effort to develop a realistic method of providing the minority community with an investment opportunity. As indicated above, legal and financing requirements have narrowed the range of alternatives which are viable. Assuming there are investors in the minority community willing to assume the economic risks, we believe the procedures outlined will result in the minority-ownership contemplated and is consistent with our obligations.

We look to your assistance in moving this project forward at a rapid pace. We have been and continue to be committed to the social objectives inherent in developing Fort Lincoln. Our efforts have been premised on our desire to achieve these objectives.

Sincerely yours,

H. RALPH TAYLOR.

Enclosures.

SUBJECT: EFFORTS TO ACHIEVE MINORITY EQUITY PARTICIPATION IN FLNT

BSI's commitment to offer investors in the local minority community the opportunity to participate in the overall development entity for FLNT is totally unprecedented in the history of large-scale development ventures in this country. The commitment was made despite the awareness of BSI that there was no plan by which the objective could be sure of achievement. The commitment was to “offer,” not to assure what is not in BSI's control, i.e., acceptance.

In making the commitment, BSI following three principles:

- (1) The opportunity to invest has to be on a business basis or it would not be replicable as a precedent;
- (2) In any business venture, the owners have the unquestioned right to select their associates;
- (3) The opportunity to invest has to fit into the overall financing program for the total development.

The two phases of the commitment set out in the July 24, 1972 letter reflects these principles:

First, BSI agreed to offer 10 percent of the equity in the overall development entity to local minority investors who would have a prorated share of all benefits and obligations. The price of this 10 percent equity interest is set at \$125,000 which clearly reflects a price consistent with the social objectives of this project.

Second, with respect to the remainder of the equity investment opportunity, BSI's commitment was based upon its expectation of successful negotiations with an institutional investor which would loan approximately \$4,000,000 to the development entity and in consideration would receive 9 percent interest on a current basis on funds loaned to the venture, a priority in cash flow until the debt is repaid, plus the right to acquire 30 percent equity interest in the venture for a nominal sum. As a part of the arrangement with the institutional investor, BSI has required that the minority community be offered the opportunity to participate in up to one-half of the financing package, under the same terms and conditions. In other words, the minority community would be offered the opportunity to invest in the Fort Lincoln Development Company in an amount up to 2 million dollars, receiving a call on up to 15 percent of stock, depending upon their investment, thus reducing the institutional investment arrangement by up to one half.

The efforts to meet this commitment are a classic case study of the problems and difficulties inherent in attempting to achieve a pioneering objective.

Early discussions of the problem made it very clear that—

(1) The institution could not purchase and hold the \$2,000,000 for later offering to the public (i.e., "warehouse" the security).

(2) The institution and the owners of BSI agreed that they could not participate in a public offering before the development is market-tested, where their reputation and involvement might be the basis for the decision to purchase a highly-speculative security;

(3) Moreover, the time required for a public offering at that stage of the development would make it impossible to have the firm long-range financing commitment necessary for the development to proceed. Since there could be no offering until after LDA execution, with marketing necessarily on a "best efforts" basis, and the time requirements for SEC approval, the project could not survive the uncertainties and delays.

The first decision was to attempt to combine the two offers for equity participation and to find an institution, preferably a minority one, to commit itself to the \$2,000,000 financing, and to offer, at a later date, the equity in the development entity to the local minority community on a broad basis facilitated by a SEC registration. To this end, BSI was hopeful that it would convince the Cooperative Assistance Fund to participate. CAF is a national fund located in Washington, operated by minorities and contributed to by several national foundations. Much time and effort went into this which included a BSI presentation in New York to its board of directors. As it turned out, CAF was interested, but unable to participate to the extent required. They did, however, indicate an interest in, but no firm commitment to, participation to the extent of assisting with the capital needed for the first 10 percent equity.

Accordingly, the decision was made to proceed with the development of a process for identifying the individuals with the interest and ability to purchase the front-end 10% equity. At the same time, efforts continued to find an institution or institutions that would "warehouse" the \$2,000,000 representing half of the institutional arrangement debt for later distribution to the minority community.

BSI has initiated discussions with prospective investors concerning the purchase of the first 10% of the equity of the Fort Lincoln Development Company. These discussions basically were held to give a brief summary of FLNT and to obtain an expression of interest for further consideration from the prospective investors. Also, during these discussions, the prospective investors were required to submit names of other prospective investors that BSI might talk to about FLNT. BSI to date has an expression of interest from a number of investors but no commitments have been made either by BSI or interested individuals.

The search to find entities that could be approached on a private placement basis, and that might have the resources and interest required, uncovered a number of possibilities, of which only one has survived.

BSI asked American Security and Trust Company, the bank that we expect to work with most directly during the development of FLNT, to assist us in warehousing the equity. AS&T discussed the proposal, and the risks and economics

of the venture, with seven local foundations and institutions. A copy of Mr. Conit's report on this effort is attached.

Several meetings were held with the Reconstruction Development Corporation, a local organization, in the hope of gaining their participation as a part of a total package. Other priorities, however, forced RDC to decline.

Initial discussions were held with William Fitzgerald as representative of the group which appeared at the urban renewal plan hearing. He registered interest in the second fifteen percent, but additionally wanted his group to be offered the first ten percent equity. This was described as virtually a condition of their participation. BSI was firm in its decision to consider the private placement of the first 10% to individuals and the placement of the debt/equity with an institution, and no further substantive discussions have been held with that group.

The remaining possibility is the Opportunity Funding Corporation (OFC), a Washington based national non-profit entity created and funded to promote minority entrepreneurial ventures. The Board of OFC is interested in an investment in FLDC, if the restrictions that control OFC's investment and their policy objectives can be met. OFC's investment capability in Fort Lincoln is limited to \$500,000. It was agreed at a meeting on 3/30 in New York that application of this amount to cover 25% of the \$2,000,000 debt equity requirement would not meet OFC's objective in terms of size of equity interest available for later distribution to the minority community.

Therefore, OFC is not a realistic possibility to invest in the \$2,000,000 debt equity. We and OFC agreed that an attempt to create a consortium of Foundations and interests with similar objective that would join with OFC in creating the capacity to commit \$2,000,000 would be both very time consuming and would have a very small likelihood of success.

BSI can place privately the 10% front-end investment. Although we have explored a variety of possibilities, as described above, BSI has not succeeded in its efforts to find an institution or group of institutions that are able to meet the necessary objectives of committing \$2,000,000 so that the institutional financial partnership that is required for Fort Lincoln New Town development can proceed with certainty.

SECTION 7.7. MINORITY INVESTMENT OPPORTUNITY PROGRAM

(a) The Redeveloper agrees that it will offer to members of minority groups located in the Washington, D.C. metropolitan area the following opportunities to acquire an equity interest in the Redeveloper in the manner described in this Section 7.7.

(i) The Redeveloper shall submit to individual minority group members who reside in the District of Columbia, to entities organized in the District of Columbia which are owned or controlled by minority group members, and/or to entities created to benefit the minority community (the individuals and entities described above being hereinafter collectively referred to as the "Minority Investors") an opportunity to acquire from the Redeveloper for an aggregate purchase price of \$125,000 a number of shares of stock of the Redeveloper such that, upon the issuance of such stock, the Minority Investors would own ten percent (10%) of the outstanding shares of each class of stock of the Redeveloper then outstanding; provided, that in no event shall such opportunity be submitted to more than an aggregate of twenty (20) such individuals and/or entities.

The offering shall be made by a private solicitation structured to qualify for an exemption from registration pursuant to Section 4(2) of the Securities Act of 1933. Such stock shall be subject to restrictions on transfers, legending requirements and other conditions limiting transferability. The aggregate ten percent (10%) interest shall be offered in minimum units costing \$12,500, each comprised of 7,000 shares of common stock (\$1 par value) and 11,800 shares of non-voting preferred stock (\$10 par value).

Minority Investors and the owners of shares of stock outstanding at the time of such issuance shall also be required to enter contracts committing said Minority Investors and owners to make additional contributions of capital as determined by the Board of Directors of the Redeveloper up to a maximum of \$_____ for each share of common stock purchased. The holders of common stock and the preferred stock will be subject to dilution of their interests by any future issuance of stock or rights to purchase stock.

The preferred stock shall be redeemable at any time at the option of the Redeveloper upon payment of \$10 per share. The Redeveloper in its own discretion shall select minority investors on the basis of their ability to bear the economic

risk of investment, their knowledge and experience (either individually or by the use of investment advisers) in financial and business matters, and their ability to evaluate the risk of the investment.

All minority members receiving offers pursuant to this Section 7.7(a) (i) shall have an opportunity to meet with the management of the Redeveloper and have access to such information as they may need to evaluate the investment.

(b) The Redeveloper agrees that it will complete the offering described in Section 7.7(a) no later than 30 days from the date of this Agreement and, upon completion of such offering, the Redeveloper shall submit to the Agency a report describing the results of such offerings, including the names of persons solicited. Upon submission of the aforementioned report the Redeveloper shall have no further obligations under this Section 7.7.

AMERICAN SECURITY AND TRUST COMPANY,

Washington, D.C., March 26, 1973.

Mr. H. RALPH TAYLOR,
President, Building Systems International, Inc.,
Washington, D.C.

DEAR RALPH: This is in response to your request for a description of the efforts we made to assist you in connection with the Fort Lincoln New Town Project.

Representatives of the bank discussed with representatives of seven foundations or church organizations headquartered in Washington to determine whether they might be interested in an investment in one-half of the proposed institutional financial partner arrangement that you discussed with us. We described the senior debt-equity warrants proposal and indicated that a major objective of their participation would be to "warehouse" the debt-equity to permit an offering to the minority community at a later date.

As I advised you orally, the response of the institutions we approached led us to conclude that they are not realistic prospects for participation in the "warehousing" effort you have been trying to accomplish. This is due to the financial uncertainties and risks involved in a pioneering real estate development venture such as Fort Lincoln, the legal complications relating to a possible public issue, and the dimensions of the financial participation relative to their available resources.

The institutions with whom we discussed Fort Lincoln share our view of its importance to the City and people of Washington. I regret that we were not able to help you deliver a workable plan that would provide both the current financial commitment required and a mechanism for later broad distribution of the opportunity to participate in the benefits of Fort Lincoln's development.

Very truly yours,

THOMAS S. CONDIT,
Assistant Vice President.

EXHIBIT 68

[Memorandum]

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY,

Washington, D.C., November 2, 1973.

To: Walter E. Washington, Mayor-Commissioner.

From: Melvin A. Mister, Executive Director.

Subject: Fort Lincoln.

I would like to bring you up to date on the status of the Fort Lincoln Project as it relates to the District's Bicentennial commitment. Despite lack of a formal agreement between RLA and BSI, much public and private planning and design work has been accomplished. A summary of public and private accomplishments to date is attached hereto. Such work should ensure a rapid movement towards construction once a formal agreement has been executed.

In addition, much progress has been made in translating into firm contractual obligations the 12-point economic opportunity program which BSI committed itself to at the City Council hearings on the Urban Renewal Plan. Attorneys for the RLA and BSI are presently drafting the contract language. A key element of this economic opportunity program was the commitment to provide opportunities for minority equity participation in the development entity. BSI has indicated to us that they have developed a program that they are confident will achieve this objective and meet the test of public scrutiny. They have not

formally submitted this proposal to RLA, preferring to await the resolution of problems discussed below, before doing so.

Two significant problems have arisen which may affect the timing of reaching this formal agreement and thus could significantly impede achievement of the District's Bicentennial commitment.

These problems are by and large beyond the control of the public agencies and relate to BSI's financial position regarding the Fort Lincoln development. Since 1970, BSI has invested well over \$1 million in the Fort Lincoln Project. This investment was considered worthwhile because of the financial returns projected from the Project. However, these financial returns were predicated on the following:

1. A commitment by GSA to lease approximately one million square feet of office space at Fort Lincoln.

2. An institutional loan, upon execution of the land disposition agreement, that would repay BSI for most or all of their "front-end" costs, and would provide the bulk of the working capital needed for the future.

Within the past few weeks, problems have arisen concerning the above items which have called into question the financial viability of the Project, and BSI's continued participation as developer.

What follows is a brief analysis of the problems and the issues raised for the public agencies.

GSA BUILDING

Several weeks ago, GSA, with OMB concurrence, submitted a prospectus to Congress calling for GSA to lease approximately 1.2 million square feet of office space at Fort Lincoln. A prospective tenant for such space has been identified. Unexpected Congressional opposition to the prospectus has arisen due to the fact that the lease proposal, as envisioned by the prospectus, runs counter to the normal GSA procedures regarding private development of public office space. GSA and BSI have as yet been unable to satisfy Congress that the uniqueness of the Fort Lincoln situation requires a departure from standard GSA procedures.

In part, this is due to the fact that BSI has been unable or unwilling to release its financial data that purports to show lack of profitability in the overall Fort Lincoln development, if GSA space is developed other than by a "straight lease." Unless or until BSI releases this data, Congress is unlikely to approve the prospectus. Even if such data is supplied, there is a question whether Congress would agree to a departure from normal GSA procedures.

BSI is reported to have developed an alternative to the straight lease procedure which they are in the process of discussing with GSA. The fact that BSI has developed an alternative would seem to indicate that their supporting evidence for a straight lease is not convincing.

PRIVATE PROJECT FINANCING

As indicated above, BSI's financial program has been predicated on receiving a substantial loan from an institutional lender/investor. A condition of such loan would be that the lender accept BSI's minority equity arrangement. The negotiations between BSI and their hoped-for institutional lender (investor) have broken down, partly because of the minority equity situation and partly because of the problems surrounding the GSA lease. BSI has indicated that they are negotiating with another institutional lender who will accept the minority equity proposal BSI has developed and whose commitment is not predicated on any GSA lease whatsoever. Whether this is true remains to be seen.

QUESTIONS RAISED

1. Will the members of the consortium that comprise BSI want to continue their "front-end" costs, given (a) the increasing unlikelihood that Congress will approve the present "straight lease" prospectus; (b) the reduced profitability in the proposed alternative to the "straight lease"; and (c) the time needed to work out this alternative?

2. Can an institutional lender be found that will loan money to BSI without a firm "straight lease" commitment from GSA?

3. Will the basis of any revised GSA deal significantly change the terms of any institutional loans to BSI which would tend to further reduce the overall profitability of the Project, this causing BSI to decide that Fort Lincoln is no longer worth the risk?

4. Can an institutional lender/investor be found that will accept BSI's minority equity program, and if not, will BSI develop a new one (with the attendant time problems discussed above) or ask the District to be relieved of their commitment, or water down the commitment to the point where the District and the Agency could not accept it?

5. Will BSI remain as developer if no institutional lender/investor can be found?

6. If BSI seeks a new institutional investor, will BSI proceed with planning and submissions during the time it takes to work out a new arrangement with a new lender?

The answers to these questions are at present unclear. The BSI Board of Directors has recently met and their continuance as Developer and the conditions of such continuance no doubt was a prime subject for discussion.

In my opinion, the District and the Agency should not exert any efforts with Congress on behalf of BSI until BSI's position is known and judged reasonable. Once BSI's position is ascertained and its validity substantiated, a concerted effort between BSI, the District, and RLA should be made to obtain Congress' speedy approval of a revised prospectus.

Further, in my opinion, it is unlikely that BSI would continue to finance the project without an institutional investor. It will be several years before the project generates a positive cash flow, and this time plus the time already passed is too long to wait for a return on investment.

A new institutional investor should be able to be found but it will take time to close a deal that will satisfy all the interests. During this time, BSI is likely to continue "planning" (a low cost expenditure) but would not likely start detailed architectural and engineering work (a high cost expenditure). Therefore, I would not expect any formal plan submissions to be made by BSI.

IMPLICATIONS FOR THE DISTRICT

While there is financial risk in having public work continue, it should be continued at least regarding sewer and water lines to the site and in the peripheral roads. Similarly, design and construction work should continue on the major internal road, as that will be necessary for the school now under construction, and likely to be needed in any type of development at the site. Likewise, school and park planning should continue unless it appears that BSI is going to drop the project altogether.

However, if BSI delays architectural work or Development Area Plan submissions, which I expect they would do during the time needed to work out an arrangement with an institutional lender, then the 40% Bicentennial commitment will be seriously affected. There is no way of knowing precisely what the extent of the delay would be. However, it is unlikely that private construction could commence in the Spring, 1974. At best, this would be Fall, 1974, with first units available in early-mid 1975. By 1976 there could be about 1,000 dwelling units occupied or available for occupancy.

The alternatives to having BSI work out its financial problems do not appear to be any more promising in terms of achievement of our Bicentennial goals. Dropping BSI and seeking a new developer or developers would, in addition to probably involving us in litigation, delay development at least a year. Therefore, while it would appear to be in the District's best interests to continue with BSI, a definite time schedule or conditions should be established.

A reassessment of the entire Fort Lincoln situation is necessary and a high level meeting with Taylor and his principals should be convened soon. I would think you would want to be present as well as HUD, OMB, and Bicentennial officials. A briefing paper which would serve as the agenda should be prepared and distributed prior to such a meeting.

APPENDIX

ACCOMPLISHMENTS TO DATE (OCTOBER 15, 1973)

Private Sector

1. Development programs and plans for both the first residential area and the Town Center have been prepared and are ready for submission to the public agencies. Drafts of these submissions have been discussed with public agencies, and problems and issues clarified to permit ready resolution, once a formal submission is made.

2. A minority equity investment program has been developed which BSI believes will meet in full commitments to the District on this matter. Appropriate contract language to reflect the program is presently being prepared by BSI for submission to the RLA.

3. The land disposition agreement is substantially complete, in terms of agreement between the Agency and the developer. Once agreement is reached on the minority equity issue, the remaining issues should be settled quickly.

Public Sector

1. Demolition of existing structures at Fort Lincoln commenced in September, 1973, and should be completed in the next few weeks—in sufficient time to permit the unimpeded start of road grading work.

2. Planning and design on public streets and utilities has proceeded. The D.C. Government is about to award two major sewer contracts that will expand the sewer handling capacity of the site. Several major on-site sewer contracts are in final design with construction work estimated to start in early 1974.

3. Design work is under way on the major internal road, and a grading contract is scheduled to be advertised before the end of this year, with construction scheduled to start in February, 1974. This contract work will provide the access to the elementary school now under construction.

4. The District's FY '74 budget contained funds for the design of Eastern Avenue and the widening of South Dakota Avenue. Design efforts on both these roads are under way and will permit construction to start as soon as the programmed FY '75 construction funds are approved by Congress.

5. Construction of Elementary School No. One commenced in February, 1973, and work is well under way. Construction of this facility is scheduled for August, 1974, and that schedule appears capable of attainment.

6. Preliminary planning on the public park and open space system commenced in May, 1973, has been completed, and should be submitted to the concerned public agencies for approval once resolution is reached on a proposed site for the Fort Lincoln Secondary School. If approved, design of the first public parks at Fort Lincoln should commence by the end of the year. Construction of such parks is scheduled for late Spring, 1974.

EXHIBIT 69

BUILDING SYSTEMS INTERNATIONAL, INC.,

November 30, 1973.

Hon. JOHN GUNTHER,

Chairman, District of Columbia Redevelopment Land Agency, Washington, D.C.

DEAR MR. GUNTHER: For the past number of months Building Systems International (BSI) has been working closely with your staff and city officials to organize a development team and to negotiate financial arrangements to provide a development team with local development experience and participation (particularly from within the minority community) and adequate financial resources. We have also been working with your staff to detail our development plans and to complete negotiations with respect to the Land Disposition Agreement (LDA) which together with the Fort Lincoln Urban Renewal Plan will control the phasing and character of the development of Fort Lincoln New Town.

At this time we are pleased to advise you that we have completed the formation of the development team. Enclosed for your review and approval is a Statement of Public Disclosure and Financial Disclosure describing Fort Lincoln Development Corporation (FLDC), the entity which we have formed to be the redeveloper of this project. In reviewing this statement you will see that Mr. Theodore Hagans, an experienced local developer, has formed a new development company to be associated with BSI in this venture.

For a long time we have felt that this project needed the involvement of experienced local developers with the commitment and the capacity to see the project through to completion. This concern was shared by your Board and by members of the D.C. City Council. We feel the addition of Mr. Hagans both provides experienced leadership and fulfills our commitment to involve local minority participation in the ownership in the development entity.

In addition to the Statement of Public Disclosure and Financial Disclosure, we are also enclosing for your consideration the following:

1. A Memorandum of Understanding executed by BSI and Mr. Hagans detailing the financial arrangements relating to the participation of both BSI and Mr.

Hagan's company in FLDC. We would appreciate your keeping this information confidential.

2. Financial analyses showing cash requirements to complete the project. Again, this material is submitted to you on a confidential basis.

3. Financial commitments showing the finances committed to complete the project.

4. List of the FLDC staff which will be involved in the execution of the project.

5. List of the consultants who will be involved as part of the development team.

6. Articles of Incorporation of FLDC which will be modified to reflect the arrangement set forth in the Memorandum of Understanding described in paragraph 1 above.

We would appreciate your reviewing the enclosed material and advising whether the proposed development organization is acceptable to your Agency. Our attorneys have been working with your staff to finalize the Land Disposition Agreement. As soon as we are advised that the proposed development organization is acceptable, we will proceed to finalize the Land Disposition Agreement so that your Agency will be in a position to immediately proceed to take the necessary steps to hold a public hearing so that the parties will be in a position to execute the Agreement.

Sincerely yours,

RAYMOND D. NASHER.

PART II.—REDEVELOPER'S STATEMENT OF QUALIFICATIONS AND FINANCIAL RESPONSIBILITY

1. a. Name of Redeveloper: Fort Lincoln Development Corporation.

b. Address and ZIP Code of Redeveloper: 1341 G Street, NW., Washington, D.C. 20005.

2. The land on which the Redeveloper proposes to enter into a contract for, or understanding with respect to, the purchase or lease of land from Redevelopment Land Agency in Fort Lincoln in the City of Washington, District of Columbia, is described as follows:

Approximately 176 acres for private development as part of a larger 360-acre area bounded generally by New York Avenue, South Dakota Avenue and Bladensburg Road and the Prince George's County line.

3. Is the Redeveloper a subsidiary of or affiliated with any other corporation or corporations or any other firm or firms? Yes.

If Yes, list each such corporation or firm by name and address, specify its relationship to the Redeveloper, and identify the officers and directors or trustees common to the Redeveloper and such other corporation or firm: Hagans Investment, Inc., Building Systems International, Inc. (See Attachment A.)

4. a. The financial condition of the Redeveloper, as of Execution of the LDA will be as reflected in the attached financial statement.

(NOTE: Attach to this statement a certified financial statement showing the assets and the liabilities, *including contingent liabilities*, fully itemized in accordance with accepted accounting standards and based on a proper audit. If the date of the certified financial statement precedes the date of this submission by more than six months, also attach an interim balance sheet not more than 60 days old.)

b. Name and address of auditor or public accountant who performed the audit on which said financial statement is based:

5. If funds for the development of the land are to be obtained from sources other than the Redeveloper's own funds, a statement of the Redeveloper's plan for financing the acquisition and development of the land:

6. Sources and amount of cash available to Redeveloper to meet equity requirements of the proposed undertaking:

a. In banks: See letter from National Savings and Trust to Hagans Investment, Inc., \$1,000,000.

b. By loans from affiliated or associated corporations or firms: Theodore R. Hagans, Jr., 4105 Southern Avenue, SE., Washington, D.C. 20020, \$500,000.

7. Names and addresses of bank references: Don Scott, Vice President, National Savings and Trust, 15th & New York Ave., Wash., D.C.; Lou Jennings, Chairman, Riggs National Bank, 1503 Pennsylvania Ave., Wash., D.C.

8 a. Has the Redeveloper or (if any) the parent corporation, or any subsidiary or affiliated corporation of the Redeveloper or said parent corporation, or any of the Redeveloper's officers or principal members, shareholders or investors, or other interested parties (as listed in the responses to Items 5, 6, and 7 of the *Redeveloper's Statement for Public Disclosure* and referred to herein as "principals of the Redeveloper") been adjudged bankrupt, either voluntary or involuntary, within the past 10 years? No.

b. Has the Redeveloper or anyone referred to above as "principals of the Redeveloper" been indicted for or convicted of any felony within the past 10 years? No.

9. a. Undertakings, comparable to the proposed redevelopment work, which have been completed by the Redeveloper or any of the principals of the Redeveloper, including identification and brief description of each project and date of completion: None.

b. If the Redeveloper or any of the principals of the Redeveloper has ever been an employee in a supervisory capacity, for construction contractor or builder on undertakings comparable to the proposed redevelopment work, name of such employee, name and address of employer, title of position, and brief description of work: H. Ralph Taylor, Executive Vice President.

10. Other federally aided urban renewal projects under Title I of the Housing Act of 1959, as amended, in which the Redeveloper or any of the principals of the Redeveloper is or has been the redeveloper, or a stockholder, officer, director or trustee, or partner of such a redeveloper: None.

11. If the Redeveloper or a parent corporation, a subsidiary, an affiliate, or a principal of the Redeveloper is to participate in the development of the land as a construction contractor or builder: None.

a. Name and address of such contractor or builder: None.

b. Has such contractor or builder within the last 10 years ever failed to qualify as a responsible bidder, refused to enter into a contract after an award has been made, or failed to complete a construction or development contract? No.

c. Total amount of construction or development work performed by such contractor or builder during the last three years: \$ * * *

General description of such work: None.

d. Construction contracts or developments now being performed by such contractor or builder: None.

e. Outstanding construction-contract bids of such contractor or builder: None.

12. Brief statement respecting equipment, experience, financial capacity, and other resources available to such contractor or builder for the performance of the work involved in the redevelopment of the land, specifying particularly the qualifications of the personnel, the nature of the equipment, and the general experience of the contractor: None.

13. a. Does any member of the governing body of the Local Public Agency to which the accompanying bid or proposal is being made or any officer or employee of the Local Public Agency who exercises any functions or responsibilities in connection with the carrying out of the project under which the land covered by the Redeveloper's proposal is being made available, have any direct or indirect personal interest in the Redeveloper or in the redevelopment or rehabilitation of the property upon the basis of such proposal? No.

b. Does any member of the governing body of the locality in which the Urban Renewal Area is situated or any other public official of the locality, who exercises any functions or responsibilities in the review or approval of the carrying out of the project under which the land covered by the Redeveloper's proposal is being made available, have any direct or indirect personal interest in the Redeveloper or in the redevelopment or rehabilitation of the property upon the basis of such proposal? No.

14. Statements and other evidence of the Redeveloper's qualifications and financial responsibility (*other than the financial statement referred to in Item 4a*) are attached hereto and hereby made a part hereof as follows: None.

CERTIFICATION

I (We)¹ _____ certify that this Redeveloper's Statement of Qualifications and Financial Responsibility and the attached evidence of the Redeveloper's qualifications and financial responsibility,

¹ If the Redeveloper is a corporation, this statement should be signed by the President and Secretary of the corporation; if an individual, by such individual; if a partnership, by one of the partners; if an entity not having a president and secretary, by one of its chief officers having knowledge of the financial status and qualifications of the Redeveloper.

including financial statements, are true and correct to the best of my (our) knowledge and belief.²

Dated: _____ Dated: _____

(Signature)

(Signature)

(Title)

(Title)

(Address and ZIP Code)

(Address and ZIP Code)

PART II.—ATTACHMENT A: 3.: OFFICERS AND DIRECTORS OF FORT LINCOLN DEVELOPMENT CORPORATION

Hogans Investment, Inc., will own as of the date of the public hearing on the LDA, 70% of the stock of FLDC. BSI will on that date own 30% of the stock of FLDC.

	FLDC	Hogans Investment, Inc.
Officer or directors common to FLDC and Hogans Investment, Inc.:		
Theodore R. Hagans, Jr.	(1)	(1)
Emmett J. Rice	(2)	(2)
Flaxie M. Pinkett	(2)	(2)
John Duncan	(2)	(2)
Harry Calhoun	(2)	(2)

	FLDC	Building Systems International, Inc.
Officers or directors common to FLDC and Building Systems International, Inc.:		
Raymond D. Nasher	(1)	(1)
H. Ralph Taylor	(1)	(2)
Henry C. Beck, Jr.	(2)	(1)

¹ Director and officer.

² Director only.

³ Officer only.

EXHIBIT 70

BUILDING SYSTEMS INTERNATIONAL, INC.,
December 4, 1973.

Mr. MELVIN A. MISTER,
Executive Director, D.C. Redevelopment Land Agency, 1325 G Street, NW.,
Washington, D.C.

DEAR Mr. MISTER: Enclosed are Statements of Public Disclosure and Financial Qualification (H-6004), including a Pro Forma Balance Sheet of Fort Lincoln Development Corporation showing the interests in FLDC as they would appear upon giving effect to a proposal and Memorandum of Understanding between BSI and Theodore Hogans. A draft of the Memorandum of Understanding was submitted to you with Mr. Nasher's letter of November 30, 1973.

The Statements, including the Pro Forma Balance Sheet, are based upon the firm commitments in hand to date. As Mr. Hagans and I advised Mr. Werner late on November 30, negotiations now underway with Opportunity Funding Corporation (OFC) could lead to the addition of \$500,000 in cash available to FLDC, which may be divided between debt and equity, participation by OFC

² *Penalty for False Certification:* Section 1001, Title 18, of the U.S. Code, provides a fine of not more than \$10,000 or imprisonment of not more than five years, or both, for knowingly and willfully making or using any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry in a matter within the jurisdiction of any Department of the United States.

in the ownership of FLDC through a Foundation to support minority entrepreneurship in real estate development and the addition to the FLDC Board of a representative of OFC.

Attached is a copy of a letter dated December 4, 1973 from OFC stating their intent to make available the \$500,000. When this has been formally approved by the Board of OFC, we will modify the disclosure and financial qualifications documents. The Board of OFC will meet within the next ten days so that the revisions can be completed before the advertising of the public hearing on the LDA, which hopefully can be scheduled for mid-December.

If there are any questions, please contact me by telephone.

Very truly yours,

H. RALPH TAYLOR, *President.*

EXHIBIT 71

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY,

January 21, 1974.

Mr. RAYMOND D. NASHER,

Chairman, BSI—Westinghouse Joint Venture, Republic National Bank Tower, Dallas, Tex.

DEAR MR. NASHER: The Agency has carefully considered your November 30, 1973 proposal to carry out the development of the Fort Lincoln New Town. We have concluded that the proposed development organization does not conform to our agreement and is not acceptable.

Your conversation with me late last year, confirmed by the Memorandum of Understanding between BSI and Mr. Hagans, which states that BSI will no longer be responsible for project expenses after December 31, 1973, has made it clear that BSI no longer intends to control the Fort Lincoln development entity.

The Agency, therefore, now believes that the interests of the project would be best served by a public offering whereby all interested would have an opportunity to compete for primary development responsibility for Fort Lincoln.

Within 30 days, we intend to announce publicly the terms and conditions under which development rights to Fort Lincoln will be offered.

Sincerely,

JOHN J. GUNTHER, *Chairman.*

EXHIBIT 72

BUILDING SYSTEMS INTERNATIONAL, INC.,

January 25, 1974.

Mr. JOHN J. GUNTHER,

Chairman, D.C. Redevelopment Land Agency, 1325 G Street, NW., Washington, D.C.

DEAR MR. GUNTHER: Your letter of January 21, 1974 rejecting our proposal to proceed with the development of Fort Lincoln New Town was both a surprise and a disappointment.

Since being selected in accordance with the terms of your Prospectus for the Feasibility Study and Development Proposal for the Fort Lincoln New Town, BSI has spent to date approximately \$1 million in planning the development of Fort Lincoln New Town. With our time, money and efforts, and your staff's support, a master plan for the development of the site has been prepared, a financing program developed and an urban renewal plan approved by local authorities and funded by the Department of Housing and Urban Development. Finally, we have nearly completed negotiations with GSA which would assure initiation of the steps necessary to secure the major employment center we have all envisioned for Fort Lincoln. While completing these efforts we have been attempting to: (a) satisfy the Washington community's expressed desire to provide an opportunity for members of the minority community to participate in the development; (b) finalize our financial plan; and (c) secure commitments which would assure the availability of the financing required to complete the project. These three efforts were accomplished as reflected in our proposal of November 30, 1973.

Our proposal contemplates the formation of the Fort Lincoln Development Corporation by BSI in conjunction with Mr. Theodore Hagans, Jr. and his as-

sociates, Miss Flaxie Pinkett and Mr. Emmett Rice. We believed the involvement of Mr. Hagans and his associates satisfied our commitment for local participation. As part of our negotiations, we considered the advisability of retaining a controlling position in the project. We determined that local control would enhance the success of the project by minimizing some of the demands and criticisms which, as you know, have occupied a significant amount of our time and effort. Your letter of January 21, 1974 states as a reason for objecting to our proposal that "BSI no longer intends to control the Fort Lincoln Development entity." In light of this objection to local control, a consideration which we thought reflected community desires and to be in the best interests of the project, we would like to submit an alternative proposal for your consideration. This proposal, again prepared with Mr. Hagans and his associates, satisfies your requirement that BSI retain its position of control. Further, I believe the financial arrangement will indicate the availability of adequate funds and our continuing financial interest in the project.

Enclosed you will find the following documents for your consideration:

1. A Statement of Public Disclosure and Financial Disclosure detailing BSI maintaining a 60% controlling interest and the participating interests of Mr. Hagans and his associates together with an indication of the sources of funds available to contemplate the project.

2. Financial analyses showing cash requirements to complete the project. Again, this material is submitted to you on a confidential basis.

3. Financial commitments showing the finances committed to complete the project.

4. Articles of Incorporation of FLDC (previously submitted).

The foregoing documents clearly indicate that BSI wants to go forward with the development of Fort Lincoln New Town. In response to your objections to our previous proposal, we have retained control of FLDC. Further, they indicate BSI's continuing financial involvement in the project. At the same time, we are delighted with the participation of Mr. Hagans and his group and appreciate their confidence in the project and this organization.

Your letter of January 21, 1974 indicated that "BSI will no longer be responsible for project expenses after December 31, 1973." This shows a misunderstanding of our financial arrangements, which contemplate that at least \$1.5 million in funds to be borrowed by FLDC would be used prior to contribution of additional capital by the stockholders or by securing additional loans. These funds should be sufficient to complete the project. As I have indicated to you, in the event additional funds are required, FLDC will seek to borrow additional funds or seek additional contributions from the shareholders. I am sure you are aware that this is a customary financial arrangement. Contrary to the impression suggested in your letter, it has always been our intention that BSI would provide all funds required prior to December 31, 1973, and thereafter, expenses would be paid from loan proceeds. In fact, we have continued to incur expenses subsequent to that date while this matter is explored.

We hope you will review the enclosed material and advise us whether this arrangement is acceptable to your agency. Please be advised, as the proposal reflected in our November 30th letter was contingent on your approval, it should not in any way be construed as an indication of our unwillingness to go forward with the project. I believe the proposal reflected in this letter indicates our intention and commitment to go forward in accordance with the Prospectus. Accordingly, we anticipate you will not take any action to offer the development to others since we have a continuing intention to proceed with Fort Lincoln in accordance with our earlier agreements. We hope to receive a timely response to this proposal, since any delay would further jeopardize our ability to complete a significant portion of the development in the Bicentennial year which, I am sure you are aware, was a factor in HUD's approval of the project. In this regard, we do not believe that Fort Lincoln can be rebid and another developer selected with any reasonable assurance that HUD's timetable will be honored.

Sincerely,

RAYMOND D. NASHER.

HAGANS MANAGEMENT Co.,
Washington, D.C., January 28, 1974.

Mr. RAYMOND D. NASHER,
One Northpark, Fourth Floor, 3950 North Central Expressway, P.O. 31705,
Dallas, Tex.

DEAR RAY: As you know, I was most disappointed with the letter of January 21, 1974 to you from John Gunther rejecting the proposal which we had negotiated relating to my participation with you in the development of the Fort Lincoln New Town. As I understand the position of the Redevelopment Land Agency, their concern centers around my acquisition of 60% of the common stock of Fort Lincoln Development Corporation (the proposed developer for Fort Lincoln). This stock ownership apparently concerns RLA because, as a controlling block of stock, it would transfer to me ultimate voting control over the decisions made by FLDC in connection with the development of Fort Lincoln. Based upon this position, it is my understanding that an alternative proposal, which would retain in BSI voting control over FLDC, should satisfy all of the requirements of RLA concerning continuity of BSI control of Fort Lincoln. It is my further understanding that an arrangement between us pursuant to which I could become a significant investor in FLDC would be consistent with your commitment to allow investment in FLDC by members of the Washington minority community.

Accordingly, I would like to confirm our new understanding as follows:

1. FLDC would be capitalized with (a) 6,000 shares of \$5 Cumulative Preferred Stock, par value \$1.00 per share (dividends being payable only out of profits); (b) 1,000 shares of Non-voting Common Stock, par value \$1.00 per share, which would be entitled to all (or almost all) dividends and distributions after required payments had been made with respect to the Preferred Stock; and (c) 1,000 shares of Voting Common Stock, par value \$1.00 per share, with respect to which no (or minimal) dividends and distributions would be payable.
 2. Pursuant to a Loan Agreement containing customary provisions, I would arrange Senior Loans to FLDC in the amount of \$1,200,000, \$200,000 of which would be loaned by Opportunities Funding Corporation ("OFC").
 3. In exchange for its prior investments valued at approximately \$300,000, BSI would receive 3,000 shares of the \$5 Cumulative Preferred Stock.
 4. In exchange for an investment of \$600, I would receive 60% of the Non-voting Common Stock; in exchange for an investment of \$300, BSI would receive 30% of the Non-voting Common Stock; in exchange for an investment of \$100, OFC would receive 10% of the Non-voting Common stock.
 5. In exchange for a cash investment of \$300,000, OFC would receive 3,000 shares of \$5 Cumulative Preferred Stock.
 6. BSI would retain 60% of the Voting Common Stock; 30% of the Voting Common Stock would be issued to me in exchange for an investment of \$300; 10% of the Voting Common Stock would be issued to OFC in exchange for an investment of \$100.
 7. OFC would create a foundation for the purpose of fostering minority business enterprises in the Washington area and would contribute to the foundation its 10% of the Non-voting Common Stock.
 8. FLDC would enter into a long-term management contract with me for services as President of FLDC.
 9. Until this proposal is approved by RLA, parties will be responsible for their respective expenses, thereafter, all expenditures will be paid by FLDC.
- It is my hope that RLA will find itself in a position to move more expeditiously with regard to its review of this proposal. In view of the difficulties encountered in connection with the prior proposal, I would suggest that we not undertake the preparation of formal legal documents effecting the proposed transaction until the approval of RLA has been received.

Sincerely yours,

THEODORE R. HAGANS, Jr.,
President.

EXHIBIT 73

FEBRUARY 20, 1974.

MR. RAYMOND D. NASHER,
*Chairman, BSI-Westinghouse Joint Venture, 35th Floor, Republic National Bank
 Tower, Dallas, Tex.*

DEAR MR. NASHER: We have reviewed your January 25, 1974 letter and find no basis for altering our decision to select a Fort Lincoln developer through a public offering process.

In October 1973, you indicated that BSI had decided to withdraw from its role as developer of Fort Lincoln as of December 31, 1973. We understood this to mean that our obligations to BSI stemming from our selection of the Westinghouse-BSI Joint Venture as Fort Lincoln contractor had ended. If BSI or the Fort Lincoln Development Corporation desires consideration as the developer of the Fort Lincoln Project, I suggest that you submit an offer in accordance with the terms of the prospectus which will be issued in the near future.

We apologize for the premature release of the Board's decision on your January 25, 1974 proposal. Mr. Gunther apparently thought that a letter had been sent to you before he talked to the Washington Post reporter. We are sorry for any embarrassment caused BSI or the Fort Lincoln Development Corporation.

Sincerely,

STEPHEN S. DAVIS,
Acting Chairman.

EXHIBIT 74

HENRY C. BECK CO.,
 March 7, 1974.

MR. JOHN GUNTHER,
*Chairman, D.C. Redevelopment Land Agency,
 1325 G Street NW., Washington, D.C.*

DEAR MR. GUNTHER: We are in receipt of Mr. Stephen S. Davis' letter of February 20, 1974, addressed to Mr. Raymond D. Nasher, Chairman, BSI—Westinghouse Joint Venture. Since all development rights to Fort Lincoln New Town were assigned (with your agency's approval) by Westinghouse to BSI in 1972, we assume that the letter was intended to be addressed to Mr. Nasher in his capacity as an officer of Building Systems International ("BSI").

Mr. Davis' letter indicates that the District of Columbia Redevelopment Land Agency ("RLA") has terminated our opportunity to develop Fort Lincoln New Town because "[i]n October, 1973, you indicated that BSI had decided to withdraw from its role as developer of Fort Lincoln as of December 31, 1973." Furthermore, the letter asserts RLA's intention to select another developer through a public offering process. Notwithstanding Mr. Davis' assertion, BSI did not and has not withdrawn from its role as developer of Fort Lincoln. At no time did BSI send "written notice of termination to the RLA" as required in Section E.2.b. of the "Prospectus for the Feasibility Study and Development Proposal for the Fort Lincoln New Town" (the "Prospectus"). In November, 1973, BSI had indicated orally that it was *considering* withdrawing if by December 31, 1973, we were unable to successfully secure minority participation on a basis which was satisfactory to your agency and to satisfactorily negotiate certain unresolved issues relating to the Land Disposition Agreement.

At no time did BSI provide any notification, written or otherwise, of its withdrawal from the project. In fact, on November 30, 1973 following discussions with RLA's staff and Board, BSI submitted a formal proposal relating to its financing which also addressed the issue of minority participation through the participation of Mr. Theodore R. Hagans. This proposal and the remaining issues relating to the LDA were the subject during December and January of extensive negotiations with the staff and involved discussions with your Board, indications of our continued commitment and of your recognition thereof. To our surprise by letter dated January 21, 1974, the proposal was rejected on the grounds that "BSI will no longer be responsible for project expenses after December 31, 1973 . . . BSI no longer intends to control the Fort Lincoln Development Corporation entity." Shortly thereafter, BSI submitted a letter dated January 25, 1974 indicating that the reasons expressed in the RLA letter of January 21, 1974 were erroneous and submitting an alternate proposal clarifying BSI's intention. Without further negotiations or discussions, the officers of RLA, by letter dated February 20, 1974, rejected this proposal.

It is our position that BSI is still entitled to all of the rights as the developer of Fort Lincoln, in connection with which we have committed three years of activity and over one million dollars. The Prospectus specifically states that once the development proposal prepared by BSI as the "Contractor" was accepted by RLA and public funds and public actions necessary to commence development were accomplished, the RLA would conduct a public hearing for the purposes of considering the sale and/or lease to the Contractor. After the selection of BSI as the Contractor and the acceptance by RLA and other agencies of the General Development Proposal and the Specific Development Proposal prepared by BSI, subsequent steps as outlined in Section C.2 of the Prospectus were undertaken and successfully completed as a result in large part of the efforts of BSI and significant expenditures made by BSI.

Accordingly, as of this date, Items 1, 2, and 4 of Section C.2 (adoption of the Urban Renewal Plan, HUD funding, and transfer to RLA of jurisdiction over Fort Lincoln) have been completed and Item 3 (public management mechanisms) has been significantly advanced. Only Item 5, a public hearing by RLA and execution of a Land Disposition Agreement, remain uncompleted. RLA is accordingly obligated, in the words of the Prospectus, as follows:

"If the RLA and other concerned public agencies are of the judgment that the development of the site as proposed would be in the public interest, and there are or will be sufficient public funds for the development of the site, and public actions necessary to commence such development are accomplished, the RLA shall conduct a public hearing for the purpose of considering the sale and/or lease to the Contractor of the portions of the site designated for private ownership for development of such areas in accordance with the accepted proposal (See Sec. II.E. for details). Any such sale or lease shall be made at the fair value or fair rental of such land for its proposed uses under the publicly approved development plan for the site. Commencing with the selection of a Contractor, the RLA will neither seek nor solicit any other organization and will deal exclusively with the Contractor for the performance of the work under this Prospectus." (Prospectus, pages 1 and 2).

Further, the Prospectus provides that once BSI was selected as the "Contractor", RLA could neither seek nor solicit any other organization, but must deal exclusively with the Contractor. Accordingly, BSI considers any past or future efforts by RLA to seek or solicit other organizations to be a breach of contract. In view of your agency's refusal to negotiate with us and its actions in contacting other developers and announced intention to select another developer, all in violation of the contractual obligations as set forth in the Prospectus, we have no other alternative if RLA maintains its present position but to seek compensation for reimbursement of over one million dollars expended by BSI on this project and compensation for the loss of potential profits.

BSI is somewhat amazed by RLA's attitude toward a private developer which has expended over one million dollars in planning this extremely complex development and which stood by this complex project for some three years and brought it to a point where construction is ready to begin. We fail to understand how RLA can refuse to negotiate with this developer but chooses instead to terminate this long relationship without any specific indications of how BSI has failed in any way to live up to its obligations.

On October 19, 1970, the BSI-Westinghouse Consortium submitted a proposal to be selected as Contractor pursuant to the Prospectus. On December 4, 1970, your Executive Director, Mr. Melvin A. Mister, advised the Consortium that it had been selected as the Contractor. The BSI-Westinghouse Consortium spent over one and one-half years in planning the Fort Lincoln Development Proposal in accordance with the provisions of the Prospectus. In January 1972, Westinghouse elected to withdraw from the undertaking. Your agency approved an agreement dated May 1, 1972, assigning the interest of the Consortium to BSI. Since the beginning of 1972, BSI has assisted in the refinement of the Fort Lincoln Development Plan and has conducted negotiations with the Office of Management and Budget (formerly The Bureau of the Budget) to secure the allocation of the necessary federal funds to RLA and the District of Columbia. In addition, we have continued negotiations with the Department of Housing and Urban Development and the District of Columbia Bureau of the Budget to secure necessary action to make this funding a reality. BSI also worked to secure the National Capital Planning Commission's and the City Council's approval of the Urban Renewal Plan which was based on the plans and programs prepared by our organization. These approvals were delayed as a result of insistence by the City

Council upon equity participation by minority group members, an issue with respect to which RLA did not intercede and which was resolved only as a result of the efforts and undertakings of BSI.

Subsequent to the federal approval, we have prepared and submitted detailed economic and architectural plans for the development of the site and with specific attention to the initial phase of the development. Finally, we have worked with the General Services Administration to secure the designation of Fort Lincoln as a major employment center which hopefully will result in the location of the National Oceanic and Atmospheric Administration at Fort Lincoln in a one million square foot leased office building. Until receipt of your letter dated January 21, 1974, we were attempting to finalize negotiations on this item.

In addition to the foregoing, we have worked closely with the Mayor's Advisory Committee in the planning for the project and have had a most satisfactory working relationship with MAC. As part of this process of working with the community, our organization has prepared plans for the involving the minority community in all phases of the development and ownership of the project. BSI's efforts make possible the investment in the project by members of minority groups were both time consuming and exhaustive, and our success in this effort has apparently occasioned the actions of RLA purporting to terminate our rights as developer, notwithstanding RLA's rigid insistence on this matter heretofore.

All of BSI's efforts and commitments have been embodied in a draft Land Disposition Agreement prepared by our attorneys. We have constantly but unsuccessfully pressed for prompt consideration of relatively few remaining issues and have been at all times available for the continuation of discussions.

At this time, RLA, for unexplained reasons, wishes to select another developer. We do not believe that it is either fair or equitable to use the product of our efforts without compensation. Most significantly, as indicated above, we think RLA's action is in violation of its contractual obligations.

BSI would like to understand the basis of your legal authority to take the action which you have asserted and we invite the RLA to explain the basis of its action. BSI will be glad to meet with RLA to discuss the development of Fort Lincoln and a settlement for this obvious breach of a contract for which we believe, as a matter of law, we are entitled to compensation. In the interest of the development of this very important community, we urge that this meeting take place as promptly as possible.

Yours truly,

LAWRENCE A. WILSON,
Board of Directors,
Building Systems International.

EXHIBIT 75

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY,
Washington, D.C., March 13, 1974.

Mr. LAWRENCE A. WILSON,
Building Systems International, c/o Henry C. Beck Co., 2930 First National Bank
Tower, Atlanta, Ga.

DEAR MR. WILSON: We are in receipt of your March 7, 1974 letter wherein BSI requests an immediate meeting with the Agency "to discuss the development of Fort Lincoln and a settlement for this obvious breach of contract. . . ."

After consideration of this matter, we have concluded that such a meeting would not be mutually beneficial for the following reasons:

1. The Agency's contractual obligations to BSI are at end, and we have no intention of reinstating these obligations.

2. The Agency has not breached its contractual obligations but, on the contrary, is of the view that BSI's actions constituted a withdrawal from the contract, thus ending our mutual obligations. Even if the Agency were to recognize the existence of a legitimate claim (which we do not), the Agency does not have the legal authority to settle unliquidated claims arising out of an alleged breach of contractual obligations. There exists a procedure for filing such claims against a federal agency, and the Agency can only act in accordance with this procedure.

3. The Agency has already indicated to BSI the basis for its action, and we can see nothing to be gained by an exchange of views regarding the legal authority for this action.

At this time the Agency's sole objective is to move Fort Lincoln into development. The Agency has determined that a public offering of the development rights is the best way to accomplish this.

Since we have concluded that any further discussions with BSI would not be productive in this regard, we must decline your request for a meeting.

Sincerely,

JOHN J. GUNTHER, *Chairman.*

EXHIBIT 76

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

Washington, D.C., February 12, 1974.

In reply refer to: H-25-74.

Mr. JOHN GUNTHER,

*Chairman, Board of Directors, Redevelopment Land Agency, 1325 G Street NW,
Washington, D.C.*

DEAR MR. GUNTHER: My staff has recently completed a review of developments over the past months in the Ft. Lincoln Urban Renewal Project. The purpose of this letter is to convey to you some of the concerns of the Department of Housing and Urban Development regarding these developments. Also, I have outlined certain actions which we feel must be taken by the Government of the District of Columbia and the Redevelopment Land Agency over the coming months to ensure satisfactory progress in the execution of this project.

The Department reserved funds for 490 units of Section 235 housing for this project in June, 1973. This exception to the nationwide suspension of new approvals for Section 235 was made pursuant to certain conditions. One of these was that applications for firm commitments would be received in the HUD Area Office by March 31, 1974. Recent developments have indicated that there is some doubt as to whether or not this deadline can be met. In addition, the RLA has not yet requested HUD concurrence in a Land Disposition Agreement, which would include the parcels to be redeveloped for the Section 235 units.

We have been advised that the RLA may be considering rejection of proposals made by Building Systems International regarding the nature of the developer entity which is to implement the present urban renewal plan for Ft. Lincoln approved by HUD and the District of Columbia City Council. Furthermore there have been no official representations to HUD as to whether or not the Department's concurrence in revisions to the redeveloper's equity, finance, or organization proposals would be requested. This, despite the fact that HUD's feasibility determinations in approving the Loan and Grant Contract for this project were based, in part, upon the capability of the developer selected pursuant to the 1970 prospectus issued by RLA.

These few facts indicate that the Ft. Lincoln Project may not proceed as expeditiously as anticipated when it was approved for execution in 1972. We believe it is time for a re-examination of the timing and nature of critical actions to be taken over the next few months.

To assure successful initiation of this important undertaking in connection with the President's commitment for the observance of the Bicentennial Celebration in the District of Columbia, HUD expects that:

By March 1, 1974.—A progress report should be submitted to the HUD Area Office detailing the present status of the developer entity, the options considered by RLA with respect to that entity and what changes, if any, are contemplated in the RLA's relationship with the redeveloper.

By March 15, 1974.—A statement as to when, and by whom, the applications for Section 235 housing will be submitted. An extension of the March 31, 1974 deadline to June 30, 1974 for their submittal will only be considered with a detailed explanation of the circumstances which make it impossible for the RLA and its selected redeveloper to comply with that deadline and the circumstances that would permit compliance with the June 30, 1974 deadline.

By March 31, 1974.—A locally approved Land Disposition Agreement is to be submitted for HUD concurrence.

By June 1, 1974.—Satisfactory evidence shall be submitted to the HUD Area Office that the redevelopment schedules originally contemplated can be achieved together with the assumptions (concerning other Federally supported activities such as the GSA office building, transportation facilities, etc.) upon which these schedules are based.

As you know, any significant change in the identity of the developer and its acceptance by RLA will require concurrence by the HUD Area Office. Any extension of the deadline for utilizing the Section 235 set-asides requires concurrence from the Assistant Secretary for Housing Production and Mortgage Credit. We will give high priority to a prompt review of a Land Disposition Agreement to avoid any further delays in project execution.

I would appreciate your response to these schedules and our concerns at your earliest convenience.

In this regard, I must advise you that should RLA be unable to furnish reasonable assurances that the development schedule can generally be met, this Department will have no choice but to reconsider the extent of its commitments to the project.

Sincerely,

DAVID O. MEEKER, Jr., FAIA,
Assistant Secretary.

EXHIBIT 77

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C.

In reply refer to: H-29-74.

Mr. MELVIN A. MISTER,

Executive Director, D.C. Redevelopment Land Agency, 1325 G Street, N.W., Washington, D.C.

DEAR MR. MISTER: This letter comes as a result of our February 15, 1974, meeting with members of your staff at which recent developments regarding the Fort Lincoln Urban Renewal Project were discussed. We have also had discussions with representatives of Central Office and it has been agreed that the Area Office is to have the lead responsibility in the review of the new Fort Lincoln prospectus to be issued shortly by your Agency.

The prospectus is to be submitted to this office as soon as it is completed which we understand from Mr. Mays will be no later than close of business February 20, 1974. Mr. Mays has asked that we be prepared to comment on the substance of the prospectus by February 22, 1974. I regret to inform you, however, that the Department will be unable to commit itself to perform an adequate review in less than a week. Therefore, we will provide you with our comments no later than close of business February 27, 1974.

As you know, the Department has yet to receive any written notification from your Agency regarding the present status of Building Systems International. Such a report was requested in Assistant Secretary Meeker's February 12, 1974 letter to Mr. Gunther. This report is to accompany your submission of the new prospectus for our review and should specifically address the legal ramifications of your Board's action in releasing B.S.I. as the developer of Fort Lincoln.

You should be aware, moreover, that if your Agency elects to proceed with issuance of the prospectus without prior HUD concurrence, we will be obliged to state publicly that certain aspects of the prospectus and/or the proposed contract may not be fulfilled to the extent that they relate to any commitment of funds or other resources by the Department. I regret the necessity of making such a statement, however, I am sure you understand our concern that any prospective developers of Fort Lincoln be fully aware of any reservations on the part of the Department.

Sincerely,

HARRY W. STALLER,
Acting Area Director.

EXHIBIT 78

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., February 22, 1974.

Mr. MELVIN A. MISTER,

Executive Director, D.C. Redevelopment Land Agency, 1325 G Street NW., Washington, D.C.

DEAR MR. MISTER: This is in response to the submission by your Agency on February 21, 1974, of the draft prospectus and the Land Disposition Agreement for Fort Lincoln.

We are unable to accept either the prospectus or Land Disposition Agreement for review at this time and are returning same to you.

As stipulated in our letter of February 19, 1974, your proposed submission was to have been accompanied by the information requested in Assistant Secretary Meeker's correspondence to Mr. John Gunther of February 12, 1974, viz: "By March 1, 1974; a progress report should be submitted to the HUD Area Office detailing the present status of the developer entity, the options considered by RLA with respect to that entity and what changes, if any, are contemplated in the RLA's relationship with the redeveloper."

While it is recognized that Assistant Secretary Meeker's letter indicated a March 1, 1974, response date for this report it was of course unknown by us at that time that you contemplated the issuance of a new development prospectus.

In view of the fact that RLA staff and representatives of HUD have been involved in recent months in informal discussions regarding proposals submitted by BSI to continue its involvement in Fort Lincoln, further action by this office will be contingent on one of the following:

1. Documentation confirming the agreement of BSI to their withdrawal as the officially designated redeveloper of Fort Lincoln; or
2. Reinstatement by the RLA Board of BSI as the officially designated redeveloper of Fort Lincoln.

The above information is required by HUD by March 1, 1974, as stated in the Assistant Secretary's letter; however, RLA may wish to submit this information as soon as possible in order to keep to its schedule. In such a case HUD stands ready to review the material as soon as it can be submitted.

Sincerely,

HARRY W. STALLER,
Acting Area Director.

EXHIBIT 79

FEBRUARY 22, 1974.

Mr. HARRY STALLER,
Acting Director, Washington Area Office, Department of Housing and Urban Development, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

DEAR MR. STALLER: There is a apparently some misunderstanding regarding the Fort Lincoln project, which is causing a problem between HUD and the Agency. I understand fully the concern expressed in your February 19 letter over the lack of what you and your staff believe to be an unreasonably short time to review the Agency's Prospectus for the reoffering of the Fort Lincoln development rights. The attached schedule, I believe, will illustrate our dilemma. This schedule was prepared at the request of the Administration to show how a reoffering of the Fort Lincoln project would not significantly delay the Administration's objective of having substantial construction completed at Fort Lincoln by the Bicentennial. It is a judiciously optimistic schedule, which we believe can be achieved if a) the Agency is given a reasonable amount of flexibility and b) there is cooperation among the various public agencies concerned with Fort Lincoln, particularly HUD.

We believe that a reoffering of the development rights, under the terms and conditions set forth in the Prospectus, can achieve a selection of a developer by early June, 1974. If this can be done, and the other steps set forth in the Prospectus accomplished, we can have a developer submit an application for subsidized housing funds, in time for a HUD commitment of such funds by June 30, 1974. If this can be accomplished, there is a reasonable chance that housing construction could be under way in early 1975. The schedule also illustrates how a similar acceleration could produce a start of construction of the GSA buildings in early 1975. These are the *latest* times for construction to be under way in order to show substantial progress by 1976.

However, if we delay the events precedent to these critical dates, it will be virtually impossible to make an early '75 start of construction. The time established in the schedule (and Prospectus) for response to the offering, and selection of a developer are considered to be minimums. They cannot be further reduced, without jeopardizing the entire reoffering.

Therefore it becomes essential to publish the Prospectus by March 1. To do this all comments must be received no later than Monday February 25. In addi-

tion to HUD, the District Government and the Mayor's Advisory Committee (as well as the Agency's Board of Directors) must also review the draft Prospectus. They have been requested to meet the same schedule. We realize the burden this schedule imposes upon all concerned parties. Nonetheless, if our objective for Fort Lincoln is to be met, every effort should be made to meet these deadlines.

Your February 19 letter requests a written report on the status of BSI. It is the Agency's view that BSI has withdrawn from the Fort Lincoln Project. In October of 1973 we were informed verbally by Mr. Raymond Nasher that BSI would end its financial commitment to the project on December 31, 1973. Mr. Nasher did say that BSI would assist Mr. Ralph Taylor in his efforts to form a group which might carry forward the development of Fort Lincoln. The proposals submitted to the Agency on November 30, 1973, and January 25, 1974, did not in our view represent a continuation of BSI as the organization with principal responsibility for the Fort Lincoln development. The Fort Lincoln Development Corporation was determined to be a new group. The Agency believed it had the discretion to negotiate with this new group, but as a matter of policy decided that selection of a new group should be accomplished through a public offering. Both proposals from BSI have been rejected by the Agency. A copy of the Agency's February 20 letter to Mr. Nasher has been sent to you under separate cover.

We cannot forecast legal action which may be taken by BSI or the Fort Lincoln Development Corporation. BSI claims that they did not withdraw from the project. In their view their proposals were consistent with their prior commitments. After local minority investors agreed to supply funds for the project, BSI claims that their attitude toward the project changed from the position enunciated in October of 1973. Our review of the materials submitted to us did not give us a basis for concluding that we could reasonably look to BSI as the entity responsible to the Agency for the development of Fort Lincoln.

Based upon this decision, we feel that it is essential at this time to concentrate our joint efforts in selecting a new developer in accordance with the attached schedule.

We would suggest that HUD concentrate its efforts in the following areas:

1. Acceptance of the attached schedule as a basis for our joint efforts on Fort Lincoln.

2. Full delegation of authority to the Area Office to act on Fort Lincoln matters or appointment of a Central Office contact with decision-making authority. If it is necessary for policy issues to follow the normal Area, Regional and Central Office review process, the schedule we have proposed cannot be followed.

3. Agreement to begin processing and reserve funds on the basis of an Agency submission of application for subsidized housing, with a developer to be selected on the schedule attached. Such action, we believe, would greatly enhance our ability to achieve an early '75 start of construction. The selected developer's confirmation of this application would be submitted to HUD prior to June 30, 1974. This will require an extension of the March 31, 1974 deadline for the special allocation of subsidy funds to June 30, 1974. (I would like to note that we were not aware of the March 31, 1974 deadline until receipt of the February 12, 1974 letter.)

In our view your approval of the Prospectus and the above is essential in order to show substantial progress on the Fort Lincoln Project by 1976. All of these items are within the discretion of the Department to approve, and I urge you to do so. I hope that this letter addresses the concerns expressed in your February 19 letter. If not, I will be glad to supply any additional information you desire.

We will address the points raised by Assistant Secretary Meeker by separate letter.

Sincerely,

MELVIN A. MISTER,
Executive Director.

Fort Lincoln schedule

(Present to first start of construction)

Advertise prospectus	Mar. 1-Mar. 3, 1974.
Pickup prospectus	Mar. 4, 1974.
Start DAP I design	Mar. 4, 1974.
GSA prospectus draft complete	Mar. 4, 1974.
GSA prospectus to Congress	Apr. 1, 1974.
Local approval DAP I	Apr. 30, 1974.
Developer responses due	May 15, 1974.
Local approval town center DAP land transfer	June 1, 1974.
RLA selects developer	June 15, 1974.
Congress approves GSA prospectus	June 15, 1974.
HUD approves DAP I subsidizes housing	June 30, 1974.
Execute LDA	Aug. 15, 1974.
Execute GSA Lease-purchase agreement	Oct. 1, 1974.
Submit initial plans DAP I	Oct. 1, 1974.
Approve initial plans DAP I	Nov. 1, 1974.
Submit final plans DAP I	Jan. 1, 1975.
Submit preliminary foundation plans—town center DAP	Jan. 1, 1975.
Approve preliminary foundation plans—town center DAP	Feb. 1, 1975.
Approve final plans—DAP I	Feb. 1, 1975.
Land transfer, DAP I	Feb. 15, 1975.
Land transfer, town center DAP	Feb. 15, 1975.
Start construction—DAP I	Mar. 1, 1975.
Start construction—town center DAP	Mar. 1, 1975.

EXHIBIT 80

FEBRUARY 27, 1974.

MR. HARRY STALLER,

Acting Director, Washington Area Office, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. STALLER: Your letter of February 22 states two alternative conditions for further HUD action on Fort Lincoln. Since the first condition would not appear to be a practical possibility, I can only interpret your letter as requiring, as a condition to further HUD action, that the development entity proposed by BSI be designated as the developer of Fort Lincoln.

My letter of February 22, which reached you after your letter had been dispatched, attempted to explain the reasons for the Board's decision, as well as our understanding of BSI's position. I would like to briefly restate some of these facts here, in response to your letter.

The Agency's Board of Directors, exercising what they believe to be their clear responsibility, has determined that the development entity proposed by BSI in its letter of November 30, 1973 and January 25, 1974, is not the same as BSI, the entity which the Agency approved in 1972 as the successor to the BSI-Westinghouse Joint Venture. In your letter, you refer to BSI as "the officially designated redeveloper of Fort Lincoln." In fact, BSI has always been described as the "proposed" or "tentative" developer. A developer can only be officially designated after a public hearing which has not yet been held.

The Agency believes that it could have designated the development entity recently proposed by BSI as the Fort Lincoln developer, but it chose not to do so for the reasons set forth in my February 22 letter.

Regarding your alternate condition of receiving a written confirmation of withdrawal from BSI, BSI does not agree with our conclusion that they have withdrawn. Therefore, I do not believe it likely that they will provide such a letter. The significance of this condition is not clear to us. It suggests, however, that HUD is concerned that a dispute between BSI and this Agency as to whether BSI had withdrawn would create a litigious situation. If HUD's concern is the

threat of litigation, we do not understand why a potential lawsuit, the merits of which we do not concede, would prevent your Department from reaffirming its commitment to Fort Lincoln and concurring in the Agency's proposed offering.

In view of the above, your conditions could only be satisfied if the development entity proposed by BSI is designated as the developer of Fort Lincoln. This could only be accomplished if the Agency Board of Directors reverses its decision. In my judgment, there is no likelihood that they will do so.

The Agency feels strongly that the best method for going forward with the development of Fort Lincoln at this time is on the basis of a public offering of the private development rights. We have provided you with a schedule which we believe can be achieved, with the support of HUD and other public agencies. The early publication of the Fort Lincoln Prospectus is a necessary first step. Therefore, in the hope that HUD will change its position and review the Prospectus and Land Disposition Agreement, I am resubmitting them to you for consideration.

Sincerely,

MELVIN A. MISTER,
Executive Director.

Enclosures.

EXHIBIT 81

FORT LINCOLN,
March 14, 1974.

I. AGENCY POSITION

By letters dated January 21, and February 20, 1974, the Agency notified BSI that its proposals for development of Fort Lincoln were not acceptable and it was the Agency's intention to seek a new developer for the Project through a public offering.

The reasons for the Agency's decisions were as follows:

BSI was no longer responsible for the development entity and therefore the development of Fort Lincoln and to accept this proposal would negate the public process employed in selecting the BSI/Westinghouse Joint Venture initially.

Given the fact that both BSI proposals indicated no change in position regarding responsibility for Fort Lincoln debts after December 31, 1973, further negotiations with BSI would prove fruitless.

The most expeditious manner to obtain development of Fort Lincoln would be to publicly reoffer the development rights.

It would be possible, by strict adherence to a new schedule and cooperation from other agencies, to obtain a new developer and get construction underway at Fort Lincoln, so that a substantial portion of the site could be developed by the Bicentennial.

The Agency thereupon commenced preparation of a prospectus for a public offering with a schedule providing for its issuance by March 1, 1974.

II. HUD POSITION

On February 22, HUD advised the Agency that it would not take any further actions on Fort Lincoln until either of the following two conditions were met:

Obtain a written confirmation from BSI as to their withdrawal; or
Reinstatement of BSI by the RLA Board.

Implicit in these conditions is the concern that BSI's disagreement with the Agency will lead to litigation which will have either of the following effects:

1. The cost of settling the litigation will have an adverse effect on public costs for Fort Lincoln.

2. The project will be delayed in meeting its Bicentennial commitment.

III. RESPONSE

As stated in the Agency's Feb. 27 letter to the Area Director, it is the Agency's position that the HUD conditions (as set forth in its February 22 letter) are impractical for the following reasons:

The Agency has made a determination that the actions of BSI constituted a withdrawal from its contractual obligations to the Agency for responsibility for the development of Fort Lincoln. Once having made this determination, which was in its authority to make, the Agency does not plan to reverse this decision and reinstate BSI.

Since BSI does not agree with the Agency's determination that it has withdrawn from the project, there is no likelihood that they will agree to provide the Agency with documentation stating they have withdrawn.

We would also like to comment on the matters of cost and delay implied in the HUD position:

We do not believe BSI would prevail in any litigation, and therefore no damages would be incurred by the public agencies.

Even in the unlikely event that damages were assessed against the public agencies, the threat of such damages should not deter the public agencies from proceeding to develop a Presidentially-mandated Bicentennial Project.

It would not be in the public interest to dissipate the public investment already made in Fort Lincoln by not proceeding with rapid development. In this connection, the District Government to date has expended approximately \$8.5 million on Fort Lincoln (this figure does not include District Personnel costs). This is about 2½ times the amount of HUD money expended since 1967. The District Government is presently seeking an additional \$4 million for public improvements at Fort Lincoln, and its 6-year Capital Improvement Budget calls for approximately \$70 million to be spent on Fort Lincoln-related public improvements. The total District costs for Fort Lincoln will be approximately three times the HUD cost.

The District cannot assume the cost of any damages arising from successful legal action by BSI. However, the District can pay for site improvement costs. To the extent project (HUD) funds are reduced by litigation-related costs, the District would assume a greater share in providing site improvements costs. Furthermore, community development funds could be used for this purpose.

Even if the matter is litigated in all likelihood such litigation would not delay the project, since an injunction would be unlikely; absent an injunction, the litigation of itself would not affect selection of a new developer and the transfer of marketable title to the Fort Lincoln land to such a developer.

It is still possible that the Bicentennial commitment can be met through a public offering. The Agency has proposed an accelerated schedule which indicated construction could commence at Fort Lincoln in early 1975. Such a schedule will require that several actions be taken immediately by HUD:

Approval of the Prospectus;

Extension of subsidized housing commitment to June 30, 1974, and agreement to accept for review an Agency-promulgated application;

Agreement to permit RLA to retain BSI's design consultant to complete plans for the 1st residential area and Town Center; and

Cooperate with Agency in delaying with GSA on the federal office facility.

EXHIBIT 82

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY,

April 26, 1974.

Mr. LAWRENCE A. WILSON,
Building Systems International,
First National Bank Tower,
Atlanta, Ga.

DEAR MR. WILSON: The contractual relationship between the District of Columbia Redevelopment Land Agency and Building Systems International, Inc. (BSI) has been terminated as a result, *inter alia* of BSI's withdrawal as developer of Fort Lincoln. The Agency, however, remains determined to make this critically important project a reality, and is prepared to consider pragmatic approaches to avoid still further delay. Accordingly, without prejudice to the Agency's position as described above, and without implying that our contractual relationship has been resumed or is hereby resumed, the Agency is enclosing herewith a proposed Land Disposition Agreement (LDA) for your consideration.

If prior to the expiration of 30 days from your receipt of these materials you should make an offer to us in writing whereby BSI will enter into a contract with the same terms and conditions as are contained in the enclosed document and only with whatever changes are agreed to by us within such period of time, and will comply with the other conditions of this letter, the Agency, without prejudice, is prepared to schedule a public hearing on the agreement. Please note that the Agency is willing to negotiate within the 30 day period reasonable changes in the document. All such changes must be found acceptable by the Agency prior to the end of the period.

In the event the Agency and BSI reach agreement on the foregoing basis and the LDA is approved by the U.S. Department of Housing and Urban Development (HUD), BSI will be required within 10 days thereafter, to submit a written commitment to execute such LDA within 10 days following its approval by the Agency after the public hearing.

Your written commitment must be accompanied by the following documents, which the Agency will need before scheduling a public hearing:

1. Certified copy of BSI's charter and by-laws;
2. Executed copy of Redeveloper's Statement for Public Disclosure & Redeveloper's Statement of Qualifications and Financial Responsibility;
3. List of BSI directors and staff who will be involved in the execution of the project and a brief description of their qualifications and their responsibilities and the percentage of time they will devote to the project; and
4. List of consultants who will be involved as part of the development team together with evidence of their commitment.

If (i) there should not be an offer from BSI which is acceptable to the Agency by the end of such 30 day period (ii) no letter of commitment from BSI to execute the LDA as approved by HUD has been submitted to the Agency by BSI within 10 days after such HUD approval or (iii) BSI does not execute the LDA and pay the good faith deposit required therein within 10 days after approval of the LDA by the Agency after a public hearing, then the Agency reserves the right to take such action, including but not limited to re-offering the development rights to the project to others, as may appear to the Agency to be appropriate at that time.

This letter and its enclosures in no way constitute a waiver or revocation of any elections made to date by the Agency and are submitted without waiving any position of the Agency to the effect inter alia that BSI has committed a breach of or anticipatorily repudiated, its contractual obligations to the Agency or that the contract has otherwise been terminated.

Sincerely,

JOHN J. GUNTHER, *Chairman.*

