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NOMINATIONS OF THOMAS G. CODY AND OTTO G. STOLZ

GOVERNMENT

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HEARING

BEFORE THE

COMMITTEE ON

BANKING, HOUSING AND URBAN AFFAIRS

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

THE NOMINATIONS OF

THOMAS G. CODY TO BE AN ASSISTANT SECRETARY OF
THE DEPARTMENT OF HOUSING AND URBAN DEVELOP-
MENT AND OTTO G. STOLZ TO BE A MEMBER OF THE BOARD
OF DIRECTORS OF THE NEW COMMUNITY DEVELOPMENT
CORPORATION

FEBRUARY 28, 1975

Printed for the use of the
Committee on Banking, Housing and Urban Affairs

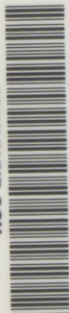


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HEARING

IN FRONT OF

COMMITTEE ON

HEARING, HOUSING AND URBAN AFFAIRS

UNITED STATES SENATE

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WASHINGTON, D.C.

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**NOMINATIONS OF THOMAS G. CODY AND
OTTO G. STOLZ**

FRIDAY, FEBRUARY 28, 1975

**U.S. SENATE,
COMMITTEE ON BANKING, HOUSING
AND URBAN AFFAIRS,
Washington, D.C.**

The committee met at 10 a.m. in room 5302 of the Dirksen Senate Office Building; Senator William Proxmire, chairman of the committee, presiding.

Present: Senators Proxmire, Sparkman, Helms, and Garn.

The CHAIRMAN. The committee will come to order. This morning we meet to consider the nomination by President Ford of two officials in the Department of Housing and Urban Development. The first official is Mr. Thomas G. Cody. Will Mr. Cody come forward.

STATEMENT OF THOMAS G. CODY, NOMINEE TO BE ASSISTANT SECRETARY FOR ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The CHAIRMAN. Mr. Cody was named Assistant Secretary for Administration by Secretary Lynn on May 26 of this past year. As Assistant Secretary for Administration, Mr. Cody is principal adviser to the Secretary and Chief Officer of HUD for administrative management.

Mr. Cody, former Executive Director of the Equal Employment Opportunity Commission, entered Federal service in 1972. Before that time you were a consultant with Fry Consultants of New York. You are a native of Massachusetts. You graduated magna cum laude from Holy Cross and did graduate work and were a fellowship teacher at Boston College Graduate School. You received a master's degree in business administration from Harvard University in 1957, so you and I are fellow alumni.

Active in civic and professional organizations, Mr. Cody was a board member of the Foundation for the Junior Blind, Los Angeles, Calif., and was on the board of the Sales and Marketing Executive Association of Los Angeles.

A former lieutenant in the Marine Corps, Mr. Cody lives in Annapolis, Md., with his wife, the former Kathleen Maguire, and their two children.

Am I correct, Mr. Cody, that you have been in this office for which you are being considered now and doing the work for the last 6 months or so, 8 months I mean?

Mr. CODY. Yes, sir.

The CHAIRMAN. Mr. Cody, you are one of about a dozen Secretaries, Under Secretaries, General Counsel and Assistant Secretaries, who run the Department of Housing and Urban Development.

And there is an old saying that he who controls the payroll and the personnel controls the action. Certainly you are in a very powerful position to thwart action if not to dictate, what gets done.

Therefore, even though you are not in charge of the programs, you are in on the policy meetings and you must carry out the decisions.

Therefore, I think it is of vital importance what your views are because you are in a position either to see that they work or don't work, to see whether there is too much paperwork or not, and to determine if the regional offices are functioning to expedite housing, and I presume you are in a position to judge the qualifications, attitude and record of the people hired by HUD.

One, do you support the expansion of public housing?

Mr. CODY. Mr. Chairman, can you make that question more specific?

The CHAIRMAN. Well, do you believe that the additional contract authority Congress provided HUD for public housing in 1974 should be used now?

Mr. CODY. I have to qualify my answer, if I may. I view my role within HUD both in the position of Assistant Secretary that existed before the passage of the 1974 act and the position I will serve in if confirmed as a staff and supportive job within the Department.

I agree entirely with what you said, sir, that I have the responsibility to effectively carry out policies once approved, to give advice to the Secretary on the administrative effectiveness and efficiency of those policies when they are decided and then to assist in appraising the effectiveness and implementation of those policies as they are implemented.

I really don't view my role, Senator, as making policy judgments on the substantive programs. I view that as a role of the Secretary, Under Secretary, and Program Assistant Secretaries.

The CHAIRMAN. One of the arguments the administration has against these programs is they are inherently wasteful and inefficient.

Do you agree with that?

Mr. CODY. Sir, I couldn't give you an opinion that I have documentation for. Much of my work since May of last year has been involved specifically in playing a supportive and assisting role in preparing for implementation of new legislation; also, in dealing with some of the other questions and issues you referred to, effectiveness of organization, efficiency of paper flow, and so on.

The CHAIRMAN. It would seem to me you are in a far better position than almost anybody I know to give us advice on this. The new Secretary who has been approved by this committee and who will be approved by the Senate, in the last few days has not had an opportunity to judge this.

But, Mr. Cody, you have been in that Department for 9 months now, and it seems to me you are in a good position to tell us whether or not the program is efficient or not. I won't pursue the notion of whether you approve the policies inasmuch as you tell me you do not have any policy voice and should not have.

You simply advise the Secretary on the efficiency and inefficiency.

Mr. CODY. Efficiency and effectiveness and the consequences of policy decisions as they are being made, Mr. Chairman.

The CHAIRMAN. Then it would seem to me you are one of the best people we could get to answer this. Our responsibility is to pass legislation that works and we would like to get your advice on this.

Mr. CODY. Yes, sir. I believe the best answer I can give, Mr. Chairman, is that the programs the Department now has as a result of the Housing and Community Development Act of 1974 appear to me eminently workable and potentially effective programs.

My management approach in the last several months with HUD and before that with the EEOC has been to try to make a contribution in making programs work and appraising them as they are made to work.

The CHAIRMAN. You tell us that in your judgment that the programs under the Community Development Act we passed last August are programs that you think are working.

Mr. CODY. Yes, sir.

The CHAIRMAN. Are inherently efficient.

Now, how about public housing and 235 and 236?

Mr. CODY. Well, 235, Mr. Chairman, raises a complex legal question involving whether 235 is covered under the Impoundment Control Act, to what extent it is a deferral or rescission, and I really am not competent to deal with that question.

The CHAIRMAN. It is not a legal question, a program question, an administration question.

Mr. CODY. The point I am trying to make, perhaps not clearly, is that during the period of time you refer to, HUD has been, as you well know, in a transitional period to a significant new piece of legislation. It is difficult, therefore, to appraise the effectiveness of programs during that period. I would prefer to appraise them based on actual operating experience, at a point in time where actual operating experience is gathered with new programs. When we have operational data, I would be much more comfortable in answering your question.

At this point in time, my answer would be speculative because, based on personal experience, I don't have the kind of operational data in hand to give you an answer I would feel confident of.

The CHAIRMAN. Now, the Secretary of HUD is in a position to release several hundred million dollars for a 235 program. She can do so at the stroke of a pen. She can do so today. If she called on you to make a recommendation, what recommendation would you make?

Mr. CODY. Again, Mr. Chairman, that would be speculative. My advice on that matter has not been sought. The best I can say, Senator, is that clearly I would carry out any policy decision based on the Secretary's—

The CHAIRMAN. This is a program Congress has passed, authorized and appropriated the money for. It is there and we want your advice now. What is your advice to us, this committee?

Mr. CODY. Mr. Chairman, I really have no advice to offer. I would defer that question to people who are responsible on a direct programmatic or line basis for carrying out that program. I think it would be presumptuous for me, Mr. Chairman, as a relative late-comer to HUD and one secondarily involved at best in these programs, to make an assessment.

The CHAIRMAN. The Community Development provision of the law provides that the community must use the funds for middle- or low-income families. Would you use your voice to make sure that policy is carried out?

Mr. CODY. Yes, sir, I believe so. I think I can say my service in the Federal Government, the areas in which I have had the opportunity to serve, specifically the EEOC, indicate I have a considerable personal interest in meeting the needs of inner-city residents, lower income people, minorities, and so forth.

The CHAIRMAN. Do you think HUD is administratively set to handle the new housing law?

Mr. CODY. I think we are making progress.

The CHAIRMAN. What provisions have you made for reviewing applications and making sure that local certifications are valid?

Mr. CODY. Again, I would respectfully defer that question to the responsible Assistant Secretary. The role that administration plays in preparing procedures for processing work at this point in time is to assist the responsible program officers—in this case, community development—to develop procedures and regulations.

The CHAIRMAN. Isn't your job to follow up and make sure that it is done properly?

Mr. CODY. Yes, it is, and I believe we have made very satisfactory progress in the whole area of community development application processing and review.

The CHAIRMAN. Personnel has been sharply reduced in community development. Maybe it should be reduced. All of us would like to see only those people at work who are needed, but do you have enough to do the job?

Mr. CODY. There has been a relatively minor reduction of personnel in community development. It is consistent with the process envisioned for lesser review and simplified paper processing.

And I believe we have enough personnel, sir.

The CHAIRMAN. During the time you have been on the job, the Civil Service Commission has sharply reprimanded HUD for illegal personnel practices. What could you tell us about that?

Mr. CODY. Mr. Chairman, the report of the Civil Service Commission was delivered on March 15, 1974, 2 months before I joined HUD.

The CHAIRMAN. What has the Department done to assure that this won't occur again?

Mr. CODY. The Department has taken a number of actions, Mr. Chairman. A very strong memo was issued from former Secretary Lynn to key officials of the Department, stating his absolute commitment to merit system principles and his expectations that all officials of the Department carry them out.

Another such memo went out from my office to all employees. We have considerably strengthened in my judgment, the application of merit system principles in selection panels—

The CHAIRMAN. Will you give us a copy of that memo?

Mr. CODY. Yes, sir. If I may just continue for a minute in reply to that question, Mr. Chairman.

The CHAIRMAN. Yes.

Mr. CODY. We have created a departmentwide talent bank with the intent of encouraging the applications of people now within the Department for higher level jobs. The response to that talent bank is encouraging.

Of the last 15 key office jobs within HUD, some 11 or 12 have been filled from within. I see some positive, encouraging signs. I believe, Mr. Chairman, that the employees of the Department are accepting the fact that we are putting more emphasis and making more effort to make merit system principles work effectively.

I believe, Mr. Chairman, that problems that may have existed in the past are well on their way to correction. The Civil Service Commission, itself, in August of last year, commented affirmatively and favorably on the actions the Department had by then taken.

[The memorandum referred to above follows:]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
WASHINGTON, D.C.,
November 20, 1974.

Memorandum for: All HUD Employees.

Subject: Merit Principles of the Career Civil Service System.

Recently, President Ford spoke out on the importance of keeping our Career Civil Service System free from political and other non-merit influences. In a memorandum to all department heads he charged them with the task to "make sure your agency fully complies with both the letter and the spirit of the law." Secretary Lynn has issued a statement that he expects full compliance with merit principles throughout the Department.

It is the responsibility of the Office of Administration to set forth sound personnel policy and practices that will stimulate competitive selections. In addition to this, supervisors and managers are responsible for applying merit principles in their daily decisions on the selection and advancement of employees.

Any employee who has information that a personnel law or rule is being violated should first consider whether the matter is appropriate to be handled under HUD's grievance or appeals procedures. If not, the Office of the Inspector General is designated as an independent party to which a complaint can be made. Facts should be presented to the Office of the Inspector General in Headquarters and the field without fear of reprisal with the assurance that appropriate action will be taken.

Our merit system was created in the Civil Service Act in 1880. It has stood the test of time. Continued progress will require the full cooperation of every HUD employee.

THOMAS G. CODY,
Assistant Secretary.

The CHAIRMAN. You feel that you are in a position now to make sure that competency and not political preference is rewarded and is the basis for promotions and also the basis for hiring?

Mr. CODY. If that condition existed in the past, yes, sir. I'm sure I am in a position to assure that it does not occur now, and I'm totally committed to that principle, sir.

The CHAIRMAN. How would you rate the morale of HUD, particularly in the housing area—yes, in the area of housing. We hear of low morale particularly among persons responsible for processing FHA housing documents.

Mr. CODY. Sir, very candidly, I think the Department had morale problems. The evidence I have to make an accurate and full and objective assessment are limited, frankly. I think problems of morale within the Department are clearly understandable in view of: (a) Significant changes in program direction, (b) periods during which talented, committed, and energetic people were not fully utilized by vital ongoing programs, (c) changes of organization within the Department, and (d) by problems of communication within the Department.

I think we are making progress, Mr. Chairman. I think the launching of new programs and the full utilization of people within those program efforts is the most important thing we can do. I would be less than honest if I said I thought we had solved the morale problems at HUD or raised the morale to a fully acceptable level, but I think we are making progress here.

The CHAIRMAN. A former assistant of mine said a good, sharp, efficient personnel officer could hire or fire anybody in the Civil Service, if he wanted to; do you agree with that judgment?

Mr. CODY. I'm not sure I follow your question, Mr. Chairman.

The CHAIRMAN. That a man who knew his way around as a personnel officer—a former Assistant Secretary for Administration and Personnel at HUD once told my administrative assistant that a good personnel officer who was very capable at handling the office could hire or get rid of anybody in Civil Service if he wanted to—perhaps transfer them to the Alaskan field office; do you agree that is correct?

Mr. CODY. I don't believe that is true, Mr. Chairman, I think the merit system permits the effective manager to get work done and permits the manager to remove an employee who is not performing competently. But your question is phrased in so general a way, I don't believe I could give an affirmative answer to it.

The CHAIRMAN. You don't think that is something that can be done? At least, is done?

Mr. CODY. I think the question would have to be made more specific, Mr. Chairman. I believe, as I previously started to say, that the merit system permits the government executive the opportunity to deal with nonperformance in a proper way through a clearly established set of procedures.

If we're talking about nonperformance, the manager can remove someone from a job, even though that person has career status.

The CHAIRMAN. You came into the Department when Secretary Lynn was Secretary?

Mr. CODY. Yes, sir.

The CHAIRMAN. And since it's been said that you're a protege of Secretary Lynn, as a protege of Secretary Lynn, would you support Mrs. Hills against the Director of OMB if she fights for the congressionally mandated programs of public housing, sections 235 and 236, housing for elderly and other programs against your former boss' and mentor's position?

Mr. CODY. Sir, I obviously feel strongly that I'm responsible to the Secretary. Upon Mrs. Hills' confirmation I certainly will support her in any policy position she takes.

The CHAIRMAN. Any questions, gentlemen?

Senator GARN. No questions.

Senator HELMS. I have none.

The CHAIRMAN. I just have a few more.

I understand that FHA can require applicants for single family loans to submit as many as 41 forms. Have you ever looked into the need for all these forms? Lenders have all but stopped doing business with FHA because they say they just have one form after another.

Mr. CODY. Mr. Chairman, we have looked into that situation. I honestly don't know that there are exactly 41 forms involved. I must say my impression is there are a considerable number, and we need to eliminate and simplify wherever we can.

The CHAIRMAN. There is a grand total of over 90, but there are 41 forms on some occasions a lender—can you imagine a businessman having to go through 41 forms to get action? This frustrates especially smaller businessmen.

Mr. CODY. Yes, sir.

The CHAIRMAN. Will you take a look at that?

Mr. CODY. Yes, sir.

The CHAIRMAN. It may be our fault and it may well be that Congress has passed such complicated laws and requirements that you have to add these endless forms.

Senator GARN. It isn't just FHA. Two months ago I was still a mayor and sometimes there were more than 41 forms on various grants and so on and it is an area that is absolutely intolerable for one who has to work with them. So I agree with the chairman, anything you can do within the law to cut it down and if it is our fault, come back and tell us because I was paying a person over \$20,000 a year in my administration in Salt Lake just to figure out what kind of forms HUD and HEW wanted to have and usually we would get them back at least once. Now the most gross example I have ever had was to have a man who was working for HUD several years ago and the regional office was still in San Francisco, not in Denver, as it is now, for that region, come up and tell me that, "Mayor, we are sorry that there haven't been as many funds distributed in the Second Congressional District as in the first," and, "Gee, do you have any projects?"

"Oh, yes; I do. I've got some reservoirs I need covered."

"Fine, This is March. We have some extra funds. We'd like to distribute them to you in this fiscal year, so I will help you. Fill out the forms right now on the spot."

We did. Two weeks later, I got them back rejected. He rejected his own application. He had said, "They'll come to me. We'll expedite it."

Two and a half years later, I don't know how many forms, a lot more than 41, we finally got the grant to cover that reservoir. Sometimes it is just absolutely staggering. I couldn't agree with the chairman more. Anything you and Mrs. Hills can do to eliminate the paper work, and if it is our fault, come back and tell us, but is it an unbelievable burden.

Mr. Cody. If I may make one comment, I believe the Housing and Community Development Act of 1974 does go a long way toward resolving that problem in the community development area. You have my assurance that the problem in other areas of HUD is one we are most interested in. I am personally interested in. I am committed to the kind of objective that you and the chairman are talking about and I assure you I will do everything I can to simplify the processes within HUD and improve the outside view of HUD in that respect, which I know from personal experience is often that we're excessively paperbound and exceedingly slow in processing, and I'm committed to improving our performance there.

The CHAIRMAN. I have a General Accounting Office statement by the Comptroller General, or I should say examination and study by the Comptroller General, and in that study, which is made available to us on December 11, he says this in part:

For several years HUD has experienced considerable difficulty in closing the FHA insurance operation books and preparing the annual financial statements in a timely manner. We express concern with the condition of FHA's financial records pertaining to insurance operations.

Is this a matter of your concern?

Mr. CODY. Yes, Mr. Chairman, it is very much a matter of my concern. I have met with the GAO on that report. As a matter of fact, we have a reply to that report which should be in your hands very shortly. There are serious problems, as stated in that report, in terms of closing the FHA books. We did make progress last year as compared with prior years. I would not represent that that is satisfactory progress. There is a lot more I would like to see done in that area. Some of the problems GAO specifically refers to came at a time of conversion of one generation of computer equipment to another, which has since then been corrected.

Again I'm strongly committed to improving the financial management practices within HUD and I must say this is closely related to the question you and Senator Garn asked earlier about our processing of applications, the number of HUD forms, and our ability to respond more rapidly to clients, whether cities, builders, mortgagors, or mortgagees.

The CHAIRMAN. How about the failure of HUD to report on housing goals on a timely basis? Every year they're later. This year they're almost a year late. We spoke to the Secretary about that—she's not in the position yet. What is the reason for this and what will be done about it?

Mr. CODY. Mr. Chairman, again, that is not an area that falls within my direct responsibility. My understanding is that the National Report on Housing Goals which was due on February 15, I believe, is now in draft and is in the process of being circulated this week or next for comment. I believe, Mr. Chairman, although I'm not sure, that the problem is more in interagency and further clearance after the report is drafted. Last year, the report you are referring to was completed in draft in February or March, and I frankly don't understand at this point what subsequent steps in the process occurred before that report was ultimately forwarded here.

The CHAIRMAN. Of course, we provide that this is supposed to be available to us on February 15.

Mr. CODY. Yes, sir, I understand.

The CHAIRMAN. If you have to finish your job in late December or early January in order to get it through, it seems to me that is necessary. Who are the other agencies that have been slowing this down? OMB?

Mr. CODY. They are involved in it, sir, but I really don't know.

The CHAIRMAN. Will you find out and give us a report on it. Tell us roughly the kind of schedule we can expect from the other agencies.

Mr. CODY. Yes, sir. We will supply that to the committee as soon as possible.

The CHAIRMAN. In other words, a week, so and so, a few days, so we have some notion of when that will be coming along.

Do you honestly and conscientiously believe in the programs that Congress has authorized? Will you really fight for them and provide administrative means to get them done?

Mr. CODY. Yes, sir, I will.

The CHAIRMAN. You admitted that HUD has had, in part at least, a morale problem. And many of us feel that it is rather serious. In some cases you have people committed to housing that have seen their programs gutted. How do you expect to bring the program morale to a high level and will you outline how specifically you would do it?

Mr. CODY. Briefly, first, I think the most important way is to get people busy in implementing current programs and to clearly state the objectives and performance standards that are expected. It seems to me some of the problems you refer to may relate to a conflict in expectations in terms of what is to be accomplished, what constitutes good performance, and what are meaningful goals.

Second, I think we have to provide the clear procedural guidance to carry out the work necessary to accomplish those specifically agreed-upon results.

Third, I think we have to provide resources adequate to do the work.

And then, fourth, I think we need to improve the communications processes in HUD which, as you know, involve a variety of programs, some closely related, some less closely related: communication within headquarters, and communication between headquarters and the field particularly. That is a very brief answer and I will be happy to make it more specific if you wish.

This kind of problem is probably inevitable any time the people committed to carry out the programs are not fully occupied. I believe that this step of getting HUD personnel fully occupied toward specific areas of result and performance and impact which they accept and understand is the most important thing that we can now do.

The CHAIRMAN. Mr. Cody, you're a very impressive person. I think you appear to be very sincere and honest. It is awfully hard for us on a committee of the Senate to carry out its advise and consent responsibility as seriously and responsibly as we should. It is my view that the only people that should come before us are those that are in a policy position. Obviously there's no point in us going through an advise and consent process if nominees have no discretion of their own. I presume one of the reasons why you're required to have Senate confirmation is that you do have a policymaking force and power. For that reason, I don't think these questions are unfair to the extent that I try to elicit from you what you would do on these programs, and I'm still perplexed because I say you have been in office for a while. I don't hold you responsible, of course, for everything that's been done by HUD, but you have been in office for a while, and I don't think that I got from you any real notion how you would stand on either public housing or 235 or 236 or these other programs that Congress has passed as the law of the land. Do you want to try again?

Mr. CODY. Mr. Chairman, to make two responses, I do think I have a policy responsibility, but my policy responsibility is in nonprogrammatic areas. My policy responsibility is to see that the Secretary is fully advised in terms of the policies of the Department regarding personnel, budget, financial management, contracting, and other administrative functions, and to develop and carry out policy in these areas.

I feel, Mr. Chairman, that it is a substantial and an important policy responsibility. That is a separate responsibility from evaluating—

The CHAIRMAN. You see, it is a responsibility that goes to the very heart of the effectiveness of these programs.

Mr. CODY. Yes, sir.

The CHAIRMAN. If they don't get the right kind of people. Not enough personnel or in some cases too many personnel, then the program won't work as it is designed to work. That is why your own feeling about the program is important if we're going to have an effective program.

Mr. CODY. The only answer I can give, Mr. Chairman—and I'm not trying to evade your question—is that my whole background in management in Government, and before joining Government, is to base the kind of answer you're requesting on operational experience, on the kind of operating experience that involves a plan, a set of procedural rules, and a set of objectives which people in the department develop—which headquarters states and the field officers agree to, understand, and accept. Until we have that kind of experience within the department—I can't speak for the past, and I'm not commenting on the past—I would be very hesitant to deliver an evaluation of 235 or anything else, not because I'm trying to evade your question or because I disagree with your point that I ought to have an opinion and you ought to know what it is, but because my managerial mind-set is such that I base such conclusions on hard data from operational experience. I don't myself have the data in order to make that kind of judgment.

The CHAIRMAN. We have objective expressed goals in the Housing Act of 1968 with respect to the number of units that are supposed to be constructed.

Mr. CODY. Yes, sir.

The CHAIRMAN. You have that. That is the law. And HUD has fallen very, very far short of that.

Mr. CODY. Yes, sir.

The CHAIRMAN. It would seem to me that equipped with that, they would be in a position, then, to move ahead, recommend the policies, and push for the policies that would achieve that particular goal. Somehow HUD has not been able to do it showing how. We had charts showing how far HUD has fallen below those goals.

Mr. CODY. I am in the position of supporting the overall objectives of HUD and assisting to make the programs of HUD work more effectively. Frankly, during the period last summer and fall—

The CHAIRMAN. One more question, then. We have been told by HUD that they're going to rely primarily on section 8, that new program for Government-assistance housing, and they expect according to Under Secretary Mitchell, only about 27,000 completions, more starts than that, but not a great deal more. Due to the fact that our goals would require about 700,000 assistance housing starts in 1975, this is an enormous shortfall.

What do you see can be done to get a better performance and a better record?

Mr. CODY. Mr. Chairman, I go back, not to be repetitious, to my earlier answer. I believe at this point the most important thing is to get section 8 working rapidly. I have been in the field in recent weeks with people in various regional and area offices and have some optimism that that program will be an effective program. Then, it is my judgment that we should concurrently begin to evaluate the results of that effort, and see what other programmatic tools—

The CHAIRMAN. You had no starts in section 8 after it was first started in 1974. None so far in 1975. Only very few in the rest of this year?

Mr. CODY. Yes, sir.

The CHAIRMAN. Why not proceed with a program like 235 that we have. It may not be the best program for many reasons. It is going to go out of existence in August. We only have a few months left, but we have an enormous need for housing, a great need for the job that housing can provide. It is true it costs more money, but the private sector is going to have to pay for most of the cost of housing. At this time especially, why not put people to work?

Mr. CODY. On 235, Mr. Chairman, all I can say is I will certainly carry out whatever is the ultimate determination.

The CHAIRMAN. Will it be your position in the policy counsel that this program should move ahead?

Mr. CODY. I really don't believe it is appropriate for me to say. Again I say that it is an area that is not——

The CHAIRMAN. Well, it was appropriate for you to support section 8. You said you wanted to carry that out.

Mr. CODY. Sir, that is a program that is in a very critical implementation stage.

The CHAIRMAN. 235 only has a few months, then it dies. This is for 235. And it is there.

Mr. CODY. Yes, sir. All I can say is I will attempt to assist in the implementation of any policy with regard to 235 that is determined by the new Secretary.

The CHAIRMAN. Any questions? Senator Sparkman?

Senator SPARKMAN. No questions.

The CHAIRMAN. Thank you very much, Mr. Cody.

Mr. CODY. Thank you, Mr. Chairman.

The CHAIRMAN. It's been good to have you and I apologize if I have put you through a strenuous pace here.

[Biographical sketch of Mr. Cody follows:]

THOMAS G. CODY

ASSISTANT SECRETARY FOR ADMINISTRATION

Thomas G. Cody was named Assistant Secretary for Administration by Secretary James T. Lynn on May 26, 1974.

As Assistant Secretary for Administration, Mr. Cody is principal adviser to the Secretary and Chief Officer of HUD for administrative management.

Mr. Cody, former Executive Director of the Equal Employment Opportunity Commission, entered Federal service in 1972. Prior to that he was consultant and an officer of Fry Consultants Incorporated of New York, an international management consultant firm.

A native of Massachusetts, Mr. Cody, 45, graduated magna cum laude from Holy Cross College, Worcester, Mass., in 1950. He did graduate work and was a fellowship teacher at Boston College Graduate School. He received a Master's Degree in Business Administration from Harvard University in 1957.

Active in civic and professional organizations, Mr. Cody was a Board member of the Foundation for the Junior Blind, Los Angeles, Calif., and was on the Board of the Sales and Marketing Executive Association of Los Angeles.

A former Lieutenant in the Marine Corps., Mr. Cody lives in Annapolis, Md., with his wife, the former Kathleen Maguire, and their two children.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
WASHINGTON, D.C.,
February 28, 1975.

Hon. WILLIAM PROXMIRE,
*Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your further inquiry, I would be pleased, upon invitation, to appear before any Committee of the Congress any time that I am invited to do so.

Sincerely,

THOMAS G. CODY.

The CHAIRMAN. Our next witness is Mr. Stolz.

Mr. Stolz, would you come forward.

Mr. Stolz, I take it that that attractive young lady and that child belong to you, is that correct?

**STATEMENT OF OTTO G. STOLZ, NOMINEE TO BE A MEMBER OF THE
BOARD OF DIRECTORS OF THE NEW COMMUNITY DEVELOPMENT
CORPORATION**

Mr. STOLZ. That is correct.

The CHAIRMAN. Would you like to introduce them to us?

Mr. STOLZ. Yes, this is my wife, Jill, and my son, Whitney.

The CHAIRMAN. Mr. Stolz, I am going to defer to the distinguished Senator from North Carolina to present you this morning.

I might say the junior Senator wanted very much to be here, but he is a little under the weather and apologized.

Senator Helms?

Senator HELMS. Thank you, Mr. Chairman, I appreciate the privilege of presenting the distinguished citizen of my State, who has been nominated by the President of the United States to serve in the capacity of General Manager of the New Communities Development Corporation.

Frankly, I have met Dr. Stolz for the first time this morning, but he has been highly recommended to me by many mutual friends in North Carolina, and of course, by the President.

While I have not known him personally, I have been impressed by his credentials, some of which are before us today. And I might say, Mr. Chairman, you will note that he has been associated with Duke University, a North Carolina institution once described by Time magazine as "A university that has already grown great, and which now needs only to grow old."

I will not consume the time of the committee by a recitation of the many achievements of Dr. Stolz. As I say, we have this information before us, but I am pleased to present a fellow Carolinian, and extend to him my best wishes as he embarks upon this new effort in his career.

The CHAIRMAN. Mr. Stolz, you have been nominated to run a program that is little understood, and to occupy a position that is not generally enjoyed.

You are a comparatively young man, born in 1942; graduated with honors in the top 5 percent of your class, Stevens Institute of Technology; and also at the University of Virginia with honors, fourth in the class of 250. Obviously, a distinguished educational record.

You have been an associate in a firm that specializes in corporate finance, special counsel to Under Secretary of the Treasury; professor of law at Duke University; Administrator of New Communities since September, is that correct?

Mr. STOLZ. That is correct.

The CHAIRMAN. You have written on a number of issues. I like the title of one of your publications, "New American Revolution or Trojan Horse."

Senator SPARKMAN. I was attracted to that, too. I would like to ask you what you found it to be?

Mr. STOLZ. As is usual in the academic world, I equivocated.

The CHAIRMAN. Mr. Stolz, I have mixed views about this particular position that you are nominated for.

You have, as I say, a distinguished academic background. I am just wondering, though, whether or not we ought to have this kind of a program; whether we ought to have a program at all, and in view of the great need we have for housing in our cities whether we ought to start brand new towns.

I know that recent headlines indicate that the program isn't working very well. Such headlines as "Rouse Drops Planned Cities, Minnesota Town up for Sale, HUD Retreats from New Town Deal, HUD Ends New Town Programs."

It seems that this whole program may be disappearing. You are being nominated for a position that may just go up in smoke.

What salary would you have?

Mr. STOLZ. I understand it is \$38,000 at a level IV, Senator.

The CHAIRMAN. How large a staff do you have?

Mr. STOLZ. Total staff of 80 persons is authorized for the New Communities Administration in HUD at this time.

The CHAIRMAN. At what cost?

Mr. STOLZ. The projected administrative cost for this year is approximately \$4 million.

The CHAIRMAN. That takes care of all the personnel for the New Communities program paid for by the Federal Government?

Mr. STOLZ. Sir, that amount will be paid this year from the New Community Revolving Fund so it will not be a budgetary item in that sense. It will come out of the revolving fund which is supported by fees by new community developers.

The CHAIRMAN. What is the cost to the revolving fund over all?

Mr. STOLZ. A long-term potential impact on the budget would result if there were significant failures of any of these projects that were not covered by the amounts in the revolving fund.

As of this time there is no direct impact on the budget since the administrative costs are covered by the revolving fund.

The CHAIRMAN. In view of the fact some of these programs are disappearing, the Minnesota one is the one I have heard so much about, the one for sale, what is the liability involved?

Mr. STOLZ. The potential liability would arise if a significant number of these projects were to fail and the security for the debentures that the Federal Government has guaranteed proved inadequate to cover the full amount of the debentures. In such circumstances, HUD would have to pay off the debentures and could not realize the full amount of the security.

In that case, the amount would have to come out of the revolving fund, and if the revolving fund was inadequate, it would come from the Treasury, and thus become a budgetary item.

The CHAIRMAN. What might that be?

Mr. STOLZ. At this time it is difficult to project what the future losses will be. We are working hard to make sure those losses will be at a minimum.

The CHAIRMAN. Can you give us a range?

Mr. STOLZ. We have commitments outstanding of approximately \$350 million of guaranteed debentures. Some \$250 million has been issued to date, so that would be the outside range of the potential losses. But, theoretically, 110 percent of the debentures are covered by security.

Thus, the only losses would be to the extent that security was inadequate to cover the face amount of the debentures.

The CHAIRMAN. It sounds like the job you have is primarily a financing job.

Mr. STOLZ. That is correct. At this time, the thrust of this job is to deal with the severe financial problems of these projects.

The CHAIRMAN. As I understand the Secretary of HUD on January 14 announced suspension of the new communities program; is that right?

Mr. STOLZ. That's correct. The Secretary suspended acceptance of any new applications and the processing of the applications already in-house for new projects in order to permit us to devote all of our resources to assisting the existing projects.

The CHAIRMAN. Was Congress consulted before that action was taken?

Mr. STOLZ. Sir, the decision was made by the President at a meeting with Under Secretary Mitchell and representatives of OMB in the middle of December just before the Christmas break. At that time, I understand that the Secretary had discussions with some Members of Congress and that all of the Members who have projects in their districts which were directly affected by the suspension were contacted. I also understand that since oversight hearings had been contemplated for early in the new year, further contact did not take place with the Congress at that time.

The CHAIRMAN. What committees had responsibility for the oversight? Did that include this committee?

Mr. STOLZ. As I understand it, the Housing Subcommittee of the House Banking and Currency Committee had oversight scheduled for early 1975. Those hearings have now been rescheduled for late spring.

The CHAIRMAN. What plans are there, if any, to complete action on applications which were ready for final financing? Tree Farm, for example, is threatening to sue.

Mr. STOLZ. The suspension affected all of the applications which had not received an offer of commitment. That includes Tree Farm.

The CHAIRMAN. Have you given consideration to the positive employment impact the program could have where military bases are closing, are large-scale housing expected?

Mr. STOLZ. I have not been approached about the prospect of an application for a military base closing. I must say in my own personal view new communities could be very helpful with many of the energy extraction problems faced in the Western States where there will be terrific

growth in areas that have not previously experienced that type of growth. I'm going to be meeting with a large corporation in the near future to provide them with technical assistance on a proposed new community to support an extraction project in the West.

The CHAIRMAN. I spoke with another Member of Congress at the Governors' Conference, and one of the problems they brought up was the very, very serious problems in the Western States where you have big energy developments moving in with thousands of workers and no infrastructure for a town or a city—is this the kind of thing you could move into?

Mr. STOLZ. Yes; I have made recommendations to the Under Secretary's office on how new communities could be used in connection with these energy problems.

The CHAIRMAN. It seems to me that here if you could develop something that wouldn't have a budget impact. In other words, have the people out there who are benefiting pay the bill that your program may be a very useful program. What concerns me is the notion that somebody has an idea to build a perfect town out of a platonic notion somewhere, with a balance of low, moderate, and higher incomes with tennis courts and swimming pools and without an economic base and the Federal Government paying the bill. That's outrageous in my view because of the great needs of our cities. But on the other hand if you have a particular energy development then I think it's quite different and is this the kind of thing you have in mind.

Mr. STOLZ. Yes, sir. Exactly. One of the problems in our existing projects is that the economic base in terms of employment—jobs in industry and commerce—is not there. That is one of the serious difficulties and, in an energy development where that base would be there and would be the reason for progress, the chances of success would certainly be much greater.

Senator HELMS. Thank you, Mr. Chairman. I want to follow up on your line of questioning, Mr. Chairman. Specifically I want to address myself to the proposition that the taxpayers should not be forced to prop up dubious enterprises or finance for a so-called moral obligation bond or at least back financing as in the case of the State of New York. For example, the constitution of the State of New York, article 7, section 2, provides that I accept the debts specified in section 9 and 10 of this article, no debts shall be hereafter contracted by or on behalf of the State unless such debts shall be authorized by law for some single work for purpose to be distinctly specified therein. No such law shall take effect until it shall at a general election have been submitted to the people and have received a majority of all votes for and against it at such elections.

Now, in the case of New York, the Urban Development Corporation, a public benefit corporation, has issued \$968 million in UDC bonds; is that correct?

Mr. STOLZ. I think that number is roughly correct.

Senator HELMS. Now, these bonds have the State's moral obligation bond. This moral obligation pledge to issue initiated by then Governor Rockefeller in my view to circumvent a constitutional ban on State borrowing without approval. In order to illustrate the point, Mr. Chairman, I would like to submit for the record and have printed an editorial from the New York Times for February 19, 1975, entitled "A 'Moral Obligation.' "

The CHAIRMAN. Without objection, it will be submitted. Let us also insert a letter from Senator McClellan at this point.
[The documents follow:]

[From the New York Times, Feb. 27, 1975]

A "MORAL OBLIGATION"

In establishing a new state funding agency to bail out the overextended Urban Development Corporation, but without providing new state funds for either the U.D.C. or the new agency, Governor Carey and the Legislature have circumvented the basic issue raised by the U.D.C.'s threatened bankruptcy. That is the question of the state's readiness to back up with hard cash the "moral obligation" which was the basis of the public's acceptance of \$1.1 billion in U.D.C. bonds, to say nothing of \$9 billion in similar bonding by other New York State agencies.

The new Project Finance Agency is a complex and ingenious fiscal device which could prove helpful in solving the U.D.C.'s long-term funding problems. The Governor argues that the new agency can issue bonds that will be more attractive to investors because they will be secured in part by income from specific U.D.C. projects, presumably those with the most revenue-producing potential.

Nevertheless, the saleability of the new bonds, like those of U.D.C., depends on public confidence in the reliability of the state's "moral obligation" backing. Unfortunately, the integrity of that commitment has been thrown into some question by the failure of U.D.C. to meet \$104.5 million in notes which fell due Tuesday. It is not enhanced by the Governor's refusal to ask the Legislature immediately to fund the state's share in the new Project Finance Agency, which he estimated at approximately \$260 million over the next two years.

Governor Carey insists that he will meet this commitment, but only after the banks show a willingness to buy some \$370 million in bonds of the new agency. The banks so far have refused to go along, unwilling to risk additional funds on "moral obligation" bonds until it has been clearly demonstrated that the state is prepared to meet its obligations when they are put to the test. The "moral obligation" pledge, initiated by former Governor Rockefeller at the suggestion of former Attorney General John Mitchell (then a private lawyer and bond expert) to circumvent a constitutional ban on state borrowing without voter approval, is a dubious device in any case. But a commitment has been made in the name of the State of New York by both Governor and Legislature and that commitment must be honored.

Bailing out U.D.C. will be costly and painful, especially in light of current budgetary problems. But failing to pay the price would be even more costly in terms of lost housing, lost jobs and, above all, compromised credibility of the State of New York.

U.S. SENATE,
Washington, D. C., February 26, 1975.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR SENATOR: It is my understanding that your committee will consider the nomination of Mr. Otto Stolz as General Manager of HUD's New Communities Administration on Friday, February 28, 1975. His own record of accomplishments attest to the fact that he has held a number of very responsible legal and administrative positions in private business, our higher education system, and in the Federal Service. On the surface it would appear that his own resume and record would tend to recommend him for this important housing position to which the President has nominated him.

In addition to his official credentials, I thought it might be helpful to you to have some personal observations which may have some bearing on the Committee's judgment as to his qualifications. During the past several months I have had occasion to work with Mr. Stolz in attempting to resolve several difficult and complex housing problems. Based on this limited professional association with him I observed that he exhibits the kind of innovative leadership in dealing with New Communities Administration problems which I believe will enable him to fully implement the intent of Congress with regard to the authorized New Communities Program while being ever mindful of his responsibility to administer it in a prudent and businesslike manner.

Although my experience and association with Mr. Stolz have been limited and I certainly will reserve final judgment as to his qualifications pending your confirmation inquiry, I wanted you to know of my association with him. As of this time I know of no reason why I could not support his nomination.

With kindest regards, I am
Sincerely,

JOHN L. MCCLELLAN.

Senator HELMS. With that predicate, I have a few questions. The new communities development grant program enables borrowers to obtain financing on favorable terms by pledging the full faith and credit of the United States. Eligible for this assistance are private developers and public land development agencies, if income from the obligations guaranteed is not exempt from the Federal taxation.

Mr. STOLZ. That's correct.

Senator HELMS. Now, under supplementary grants, the NCDC assists in financing new community projects. Those eligible include public land development agencies and any other State or local body and agency.

Mr. STOLZ. That's correct.

Senator HELMS. Are you familiar with the Urban Development Corporation of the State of New York?

Mr. STOLZ. Yes, sir.

Senator HELMS. Is this the type of State agency that NCDC would be assisting?

Mr. STOLZ. The Urban Development Corporation of New York is the sponsor of two of the projects which have received certificates of eligibility from our Department, but they have not received direct financial assistance from us. That is, we have not in any way guaranteed or participated in the debentures which have been issued to finance UDC's new communities. Rather, we have made a determination that they fit within the general legislative description of a new community.

Senator HELMS. NCDC is pledging the full faith and credit of the United States for obligations to finance such agencies. You have just stated that you have not yet completed any arrangement with them.

Mr. STOLZ. No; UDC has not applied to participate in a HUD-guaranteed financing, nor have we made any commitments, nor are any financial commitments contemplated at this time.

Senator HELMS. Well, would this obviate the necessity to issue so-called moral obligation bonds?

Mr. STOLZ. I guess as a purely theoretical or hypothetical question, the debentures could be issued by an agency such as the Urban Development Corporation for one of the projects that it is sponsoring.

Senator HELMS. So I understand you're saying, probably.

Mr. STOLZ. Well, it has not been done in the past. They have come in and requested financing in the past. It has not been granted, and certainly now under the suspension it could not be granted.

Senator HELMS. Well, under two concepts of this program, would you make grants to State agencies developing new communities which have defaulted on moral obligation bonds?

Mr. STOLZ. I do not think we could approve such an agency as a new community sponsor. One of the very specific findings that we must make in connection with any new project is that the project is financially viable and economically sound. In circumstances where the project

was being sponsored by an agency that had defaulted on its bonds, I would think it would be impossible for us to make those required findings.

Senator HELMS. Do you think that moral obligation bonds are a sound way to finance public land development?

Mr. STOLZ. Since HUD is not involved with moral obligation bonds, I really don't have an opinion on it.

I understand that it has been used in New York because of a very serious constitutional obstacle to having the full faith and credit of the State on the obligations. That is my understanding, but I am not involved nor have I looked at all the intricacies of these kinds of bonds.

Senator HELMS. Let me address this question to you just as a tax-paying citizen. Do you think the people in the States should have a voice in deciding whether or not the debt is to be assumed?

Mr. STOLZ. I will answer it as a taxpayer rather than as an official of HUD. If one is talking about a potential obligation of \$1 billion, and if the New York constitution requires, as I understand it to, taxpayer approval, then the taxpayers certainly ought to be involved.

As I understand Governor Carey's proposal to establish a new corporation, it would issue bonds that would have the full faith and credit of New York in order to bail out, if you will, the urban development corporation. Thus, it is probable that the taxpayers will have a say, at least through their representatives, in establishing such a corporation and assuming the obligations of the urban development corporation.

Senator HELMS. That aside, just addressing the parameters of moral obligation bonds in general, do you consider them a device for circumventing the constitutional requirements in the States where such requirements exist?

Mr. STOLZ. I don't think there is any question that the background of these obligation bonds is, from a legal standpoint, to find an alternative to the obstacle posed by the constitutional provision.

Senator HELMS. One man's meat is another man's poison.

Circumvention or eliminating obstacles are subject to interpretation, depending on which side you are on. Mr. Chairman, I will conclude with reference to one of the new communities' projects. It is specifically in our State, North Carolina, Soul City.

Can you tell me what is the status of that project now?

Mr. STOLZ. This project, sponsored by Mr. Floyd McKissick, has received \$5 million in guaranteed funds. It is in the process of building some roads and an industrial building. The major problem that this project faces because of its location—40 miles north of the Raleigh area—is the necessity to obtain an industrial and commercial job base, in order to support the housing that they contemplate. This is a very serious problem being faced by the project.

To date, they have not obtained any commitments for industry or commerce. Without such commitments, I think everyone recognizes that the project would experience severe difficulties.

Senator HELMS. Mr. Chairman, just a couple of minutes further, and I will conclude.

The CHAIRMAN. Oh, yes.

Senator HELMS. Following up your comment, this particular project has been going on for how long—it was initiated in 3 or 4 years ago, wasn't it?

Mr. STOLZ. HUD's commitment to guarantee Soul City's financing was issued in June of 1972 and the guarantee was executed in March of 1974, with the project receiving the money in March of 1974.

Senator HELMS. I might add, Mr. Chairman, in connection with the project, "Soul City" has no housing, no residents, it is a paper scheme and yet the Federal Government is paying over \$9,000 a year for an "art director" for the project.

Not a dwelling, not one business, nothing, just as flat as the back of your hand, but they have hired an "art director" for the "new community" of "Soul City, N.C.

My time is up and I thank you.

The CHAIRMAN. Senator Sparkman?

Senator SPARKMAN. What kind of director?

Senator HELMS. Arts.

Senator SPARKMAN. Of course, Mr. Stolz, we enacted this law, didn't we?

Mr. STOLZ. Yes, sir.

Senator SPARKMAN. And reaffirmed it in a later housing act?

Mr. STOLZ. I understand it was in fact recently reaffirmed in 1974.

Senator SPARKMAN. On November 18, I wrote a letter to Secretary Lynn regarding this program. On January 28 I had a reply from him. In the reply he stated that HUD has had considerable difficulties with the program. You seem to be giving the same report; is that right?

Mr. STOLZ. Yes, sir.

Senator SPARKMAN. Well, just what can you do? Are you thinking about resurrecting it—I won't say resurrecting it—but are you thinking about making it a viable program, a workable program, an active program, or are you going to recommend that it be put to rest for a time?

Mr. STOLZ. The program has been suspended, that is, we are not looking at any new projects until we see if we can get our house in order with respect to our existing projects. We must determine whether that can be done, where we are to go, and what kind of recommendations we are to make before we get any deeper into this.

Senator SPARKMAN. You have 14 new projects; is that right?

Mr. STOLZ. We have 14 projects where we have financial commitments, yes.

Senator SPARKMAN. And you are continuing with those, but not accepting any new applications?

Mr. STOLZ. That is right. We are not getting into any new ones. With respect to our existing projects, we are trying to see whether they can be refinanced or restructured to improve their chances of success and survival.

Senator SPARKMAN. I feel you did the right thing. You did try to see these out. I hope they work out. I don't have too much more time so I will not ask further questions.

The CHAIRMAN. Senator Garn?

Senator GARN. I would like to make an observation. I certainly agree with the Chairman about this concept of attempting to go out and create a new community. Cities don't run that way and they won't, and I don't think it is really possible in my opinion for that type of program to work.

In an energy related area, coming from the State of Utah, I do think the concept can be used. We have new oil discoveries, gas fields, tar sands, oil shale and a massive amount of coal.

We have areas that have no facilities whatsoever. They are practically barren desert land in some cases. One project alone, Kaiparowits, will produce some 400 megawatts of power, is going to create a new town of over 10,000 people in an area that has no existing town or facilities at all.

I would like to emphasize what the Chairman has said. I think that is the direction this Department ought to go, creating communities like this. The economic base is there to produce the jobs. The tax base is there to pay back loans or whatever is necessary, but I certainly can't agree with the concept of let's go create a new euphoric community and have it just appear.

I think that is very idealistic, so I would like to see it go in the direction of building new communities where the tax base is going to be there, where the jobs will be there. I think it will work and can be very helpful, because believe me, local jurisdictions do not have the means to build these new facilities where these communities are going to come along in the energy field.

The CHAIRMAN. Senators Humphrey, Tower, and Stevenson have some questions for you also. I would appreciate if you would answer them for the record (see p. 23).

I note, Mr. Stolz, there is a very heavy concentration of new towns in relatively few States. There are probably seven or eight States that have these programs. Minnesota has \$45 million of guarantee in two programs. Maryland has one program, \$20 million guaranteed, 75,000 people. Illinois, \$30 million guarantee, 110,000 people. Texas has a number of programs, \$777.5 million guarantee, 202,000 people. There isn't much rhyme or reason. You haven't distributed this by regulation. There's none in California, as I understand it. There's none in my State, none in Michigan. It is hard to understand why some areas of the country were selected and some were not.

Is there any fundamental reason for this or does this require initiative? Somebody must come in and ask for a guarantee and if you have no objection you give it to them?

Mr. STOLZ. Yes. Well, I wasn't involved at that time, but as best I can reconstruct it, it depended on the initiative of the individuals in the area and the lawyers developed the expertise in preparing these applications, yes.

The CHAIRMAN. I have an article here from the paper, Saturday, January 11, which says that the new town of Columbia suffering from what developer James Rouse described as the precipitous collapse of the real estate industry. That raises two questions. Is the collapse of the real estate industry putting this whole program in serious jeopardy?

Mr. STOLZ. There is no question that the state of the real estate business for the last year and a half to 2 years has contributed to the difficulties of new communities, because it certainly materially reduced the revenues they projected during this period of time. But I would say that even if the real estate and home building industry would have remained at a reasonable level, many of these problems would still be with us today.

The CHAIRMAN. They say there is an extension of $3\frac{1}{2}$ years. Doesn't that jeopardize the Government's guarantee, increase the liability?

Mr. STOLZ: I'm sorry. I didn't understand the question.

The CHAIRMAN: It is a private guarantee?

Mr. STOLZ: Yes; we are not involved with Mr. Rouse in Columbia. That is a purely private venture.

The CHAIRMAN: You comment on these assertions by—one, most of the grant provisions of the act have been funded?

Mr. STOLZ: It is true that we have relied primarily on the Federal loan guarantee. However, grant assistance has been provided to the new communities. In addition, some 5,000 units of HUD-subsidized low and moderate income housing have been allocated to eligible new communities.

The CHAIRMAN: Give me that again. How much has been granted?

Mr. STOLZ: \$95.6 million has been approved, reserved, or is pending for 11 projects.

The CHAIRMAN: Are those grants?

Mr. STOLZ: Yes.

The CHAIRMAN: From the Federal Government?

Mr. STOLZ: In the aggregate, yes. I can provide you with the specific programs that those grants were funded from.

The CHAIRMAN: That is water and sewer and open space?

Mr. STOLZ: Yes.

The CHAIRMAN: Are those the same kind of grants that would go to Milwaukee or Salt Lake City?

Mr. STOLZ: Right. HUD water and sewer grants, EPA waste treatment grants, HUD open space grants, EPA grants, et cetera.

The CHAIRMAN: That raises the question of whether or not with a limited amount of money and most of these grants being funded, doesn't that mean less money would go to the established cities?

Mr. STOLZ: I can't answer what trade-offs occurred.

The CHAIRMAN: If \$95 million goes here, then that much less would go to the other cities. Is that not right or isn't it correct?

Mr. STOLZ: I don't know whether I can draw that conclusion. It would depend on whether there were other funds available.

Assuming that there were more applications than the limit on assistance available, it could be a conclusion.

The CHAIRMAN: Wasn't it your knowledge as a HUD executive that that is true, there have been far more applications than funds available? I know it is true in my State in many programs, housing for the elderly, many, many applications are not funded.

Mr. STOLZ: I don't have the figures for the various programs.

The CHAIRMAN: They say supplemental grant support was terminated.

Mr. STOLZ: Yes; supplemental grants under title VII of the 1970 act were terminated in connection with the overall termination of the categorical grants in 1973. They have now been replaced by Discretionary Fund grants available under the 1974 acts for new communities as one of six eligible uses of the Fund.

The CHAIRMAN: They argue that subsidized housing allocations have not been provided in a timely manner, or the quality called for by the department and the developer.

Mr. STOLZ: As I indicated earlier, new communities have received allocations of some 5,000 units of low and moderate income housing. We have obtained a set-aside of \$5 million under the section 8 program which should provide something in the neighborhood of 1,500-2,000 units.

The CHAIRMAN. They say the program has not been effectively coordinated in HUD.

Mr. STOLZ. Again I can't answer for what occurred prior to my arrival. It has been one of my primary efforts to see that we coordinate effectively with FHA and with the Office of Community Planning and Development within HUD, to see that new communities were treated fairly and reasonably.

The CHAIRMAN. Let me in conclusion ask two questions that may seem repetitive, but I think it is desirable to get into them. What is your view on the future of the new communities program? There have been reports in the press and elsewhere that the administration is phasing out the program. Is that true, and do you think the program is unreasonable?

Mr. STOLZ. During this period of time after the suspension, we are concentrating all of our efforts to see whether or not these projects can be refinanced and put on a sound basis. Simultaneously, the Office of Policy Development and Research of HUD is preparing an evaluation report which should be finished some time in the month of March. Until these joint efforts, the overall evaluation of the program and the individual evaluation of the projects, are completed, it would be premature for me to conclude that the program should be terminated or should continue in new and different directions.

The CHAIRMAN. That is a partial answer, but the answer should indicate how you feel about new towns. You say you're analyzing present ones. Do you have a position on whether or not new communities should be funded on the basis that Senator Garn and I have suggested would be sound; that is, where there is a clear economic base for jobs and resources, where obviously if you assisted in providing a guarantee for a new town, you could move ahead?

Mr. STOLZ. Senator, my own view is that until we have completed this review on the projects to see where the mistakes were made and the kinds of controls that have to be imposed to insure success, it would be premature for me to state any conclusions. There have been other problems associated with the absence of financial controls, the absence of proper local coordination, and zoning difficulties, that have made the situation very difficult. I think we have to get answers to those problems in addition to the economic base problem before we can go ahead.

The CHAIRMAN. If you conclude that the program is not viable, will you recommend legislation repealing title VII to the 1970 Housing Act? I think whether we have doubts about the program or approve the program, it should be abolished by the Congress since we have passed the law, rather than phased out by the administrative without our having an opportunity to make a decision ourselves?

Mr. STOLZ. Yes; whatever conclusion comes out of our evaluation, we will be reporting to the Congress with recommendations as to either the termination of the program or its continuation in a different manner than was done in the past.

The CHAIRMAN. Do you agree that Congress should make that decision?

Mr. STOLZ. Yes.

The CHAIRMAN. Thank you very much. I think all of us would agree that our questions in some cases that are critical of the program

were not critical of you. You're a man clearly of distinction and ability. We don't have a quorum. We'll poll the committee on the nominees.

[Whereupon, at 11:30 a.m., the hearing was adjourned.]

[Biographical sketch of Mr. Stolz and the additional material ordered inserted in the record follows:]

OTTO G. STOLZ

Address: Route 1, Box 249, St. Mary's Road Hillsborough, North Carolina.

Birth date: January 23, 1942.

Status: Married (2 children).

College: Stevens Institute of Technology, Hoboken, New Jersey. Graduated with honors in 1963; Bachelor of Engineering Degree; Top 5% of Class; Major emphasis in Mathematics and Systems Analysis.

Law school: University of Virginia Law School, Charlottesville, Virginia. Graduated with high honors in 1966 (J. D. Degree); 4th in a class of 250; Law Review Editorial Board; Order of the Coif; Instructor in Legal Method Course.

Post-graduate: L'Institut De Hautes Etudes Internationales, Geneva, Switzerland. Course work for Doctorate in International Law and Economics; Harriman Fellowship

PROFESSIONAL EXPERIENCE

May 1968–December 1971: Associate, Latham & Watkins, Los Angeles, California. Specialized in Corporate Finance.

December 1971–December 1972: Special Counsel to the Under Secretary of the Treasury; Primary Areas of Activity: Legal and Legislative Responsibility for Revenue Sharing and Tax Policy.

December 1972–September 1974: Professor of Law, Duke University Law School (Courses in Securities Regulation, and Business Planning; Seminar in Corporation Planning and Drafting); Consultant, U.S. Department of the Treasury.

September 1974–Present: Administrator, New Communities Administration—HUD.

PUBLICATIONS

Revenue Sharing: New American Revolution or Trojan Horse, Minnesota Law Review (October 1973).

Revenue Sharing: Legal and Policy Analysis of New Federal Grant Concept, Praeger Publishers, Inc. (January 1974).

Faculty, ALI/ABA Conference on Municipal Finance, Chicago, Illinois (March 1973).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

NEW COMMUNITIES ADMINISTRATION,

Washington, D.C., March 31, 1975.

HON. WILLIAM PROXMIRE,

*Chairman, Committee on Banking, Housing and Urban Affairs,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your further inquiry, I would be pleased to testify any time before any committee of the Congress whenever I am invited to do so.

Sincerely,

OTTO G. STOLZ,
Administrator.

WRITTEN RESPONSE OF MR. STOLZ TO SENATOR STEVENSON'S QUESTIONS

Question 1. Congress through Title VII of the 1970 Housing Act anticipated that new communities would run into difficulties due to economic down-turns, the basic cyclical nature of the real estate industry, and the initial start-up period inherent in developing new communities.

Can the 16 existing new community projects achieve the goals of Title VII on the strength of a loan guarantee and existing grant assistance?

Response

We are in the process of reviewing and evaluating each of the projects in order to determine the financial condition and prospects for each of the projects. Thus, it is not possible for me to conclude at this point in time whether the existing projects are in a position to achieve the goals of Title VII solely on the strength of a loan guarantee and the existing grant assistance. However, I can conclude that the present severe financial difficulties of the existing projects are not due solely to the state of the economy and the housing industry. Even if housing starts had remained at a reasonable level, many of the projects would be in severe financial difficulty today for a number of reasons including the following:

1. The original financial projections and appraisals were frequently done on totally unrealistic assumptions (as supported by the conclusions of the GAO report on New Communities);
2. Many projects had little or no "hard" equity to support the massive debt load;
3. Many projects expended the debenture proceeds 3-4 times faster than their own projections due to excessively large planning staffs and the absence of effective financial and cost controls.
4. Repeated management changes occurred; frequently an annual turn over.
5. At a time when revenues were nominal many projects exceeded their own projections on overhead by sizeable amounts.
6. The necessity for an environmental impact statement and local governmental approval frequently resulted in costly delays.

Question. What action beside loan guarantees is HUD taking to assist the existing projects?

Response

HUD has made a substantial commitment of financial resources to the existing projects in addition to the guarantee commitments of \$354 million. This assistance includes the following:

1. A total of \$95.6 million of grants has either been approved, reserved or is pending for eleven projects.
2. Approximately 6500 units of low and moderate income housing, including at least 1500 units under the Section 8 Leased Housing Program, have been set aside for new communities.
3. The Discretionary Fund under Title I of the Housing and Community Development Act of 1974 provides for grants for six uses including new communities. Preliminary indications are that approximately \$12 million of this fund will be allocated to new communities.

I understand that assistance under the following programs has been withheld:

- Section 713—interest differential grants for state development agencies;
- Section 714—interest loans for developers;
- Section 715—public service grants to state and local governments;
- Section 718—supplementary grants for public facilities;
- Section 719—technical assistance for developers;
- Section 720—special planning assistance to developers; and
- Section 735—comprehensive planning assistance to governmental bodies.

Question. Can you explain this, and to what extent has this contributed to the financial difficulties facing the 16 new community projects?

Response

As indicated in the response to the previous question, the total financial assistance to new communities has been quite substantial. Potential assistance under Sections 714, 715, 719 and 720 has not been utilized because the Department determined that, based on the best data available during the early 1970's, the financial guarantee was adequate to achieve the purposes of the Act. This finding was buttressed by the large number of applicants seeking guarantees in 1970-71. Each applicant was fully aware that funding was being requested only under Sections 713 and 718 and that there was no intention of requesting any other type of funding.

Funding was requested under the Supplementary Grant Program created by Section 718 for Fiscal Years 1971, 1972 and 1973 and a total of \$22.5 million was appropriated for that purpose in those years. The Supplementary Grant Program was suspended with the other categorical grant programs in 1973. It is anticipated that grant assistance available under Title I of the 1974 Act will be an adequate substitute for the Supplementary Grant Program.

While funding under Section 735—Planning Assistance—has never been provided, similar planning assistance has been provided for several new communities under the Section 701 program. All new community developers have been required to show financial viability of their project on the assumption that no more grants will be provided. Because of this and because they were informed, as is noted above, that none of these grant programs would be funded, I do not believe that the nonfunding has significantly contributed to the financial difficulties presently facing the eligible new community projects.

Question 2. It was reported that at a recent seminar at MIT you commented that a number of new community projects are in financial difficulty and that you would be surprised if only eight or nine of the 16 projects survived.

Is this report accurate and does it represent your current opinion? If so, what are the reasons for those difficulties? Which projects will not survive and why?

Response

At the time of the MIT meeting there were 12 projects which had received guaranteed financial assistance from HUD. It was informally indicated at that meeting that 3-4 projects would possibly be subject to bankruptcy/foreclosure proceedings if the conditions existing in the Fall of 1974 with respect to the economy, the operations of the projects and the conduct of the program continued for any significant period of time. Currently, 3 projects have a zero or nominal cash balance in their escrow account, and absent refinancing it is currently projected that 7 out of the 13 financially assisted new communities will exhaust their available cash in the next six months.

The reasons for these severe financial difficulties have been referenced in answer to a previous question.

Question 3. I understand that there may possibly be foreclosures on several of the new community projects.

What will happen to the residents of a new community in such circumstances? In the event of foreclosure, what role will HUD play and what action will be taken?

Response

We are currently studying in-depth the options available to us in the event refinancing efforts are totally unsuccessful and if HUD, the involved banking institutions and potential investors determine that an individual project is simply not financially and economically viable under any set of reasonable assumptions. The analysis will be conducted in recognition of the unique set of circumstances in each project. For example, we have some projects experiencing severe difficulty which have no residents and little or no development. On the other hand, the problems posed by a project with a sizeable number of residents and public facilities are very difficult indeed both from a legal and policy standpoint. Accordingly, HUD's appropriate role will probably have to be determined on a case by case basis.

WRITTEN RESPONSE OF Mr. STOLZ TO SENATOR TOWER'S QUESTIONS

Question 1. Several millions of dollars in bonds have been guaranteed by HUD for the development of New Communities. Many communities have developed serious cash shortages due to inflation over the past two years and other economic problems that were not foreseen in the planning stages. Will HUD now make grants for public facilities in these new communities, considering the tremendous investment HUD already has in the project? I understand that in many cases, these grants could make or break a project. What are your comments on this matter?

Response

First, I would like to comment that the serious cash shortages of the existing communities are not due solely to the economic conditions of the last two years. The following factors have made a significant contribution to those shortages:

1. The original financial projections and appraisals were frequently done on totally unrealistic assumptions (as supported by the conclusions of the GAO report on New Communities.)

2. Many projects had little or no "hard" equity to support the massive debt load.

3. Many projects expended the debenture proceeds 3-4 times faster than their own projections due to excessively large planning staffs and the absence of effective financial and cost controls.

4. Repeated management changes occurred; frequently an annual turn over.
5. At a time when revenues were nominal, many projects exceeded their own projections on overhead by sizeable amounts.
6. The necessity for an environmental impact statement and local governmental approval frequently resulted in costly delays.

HUD has made a substantial commitment of financial resources to the existing projects in addition to the guarantee commitments of \$354 million. This assistance includes the following:

1. A total of \$95.6 million of grants has either been approved, reserved or is pending for eleven projects.
2. Approximately 6500 units of low and moderate income housing, including at least 1500 units under the Section 8 Leased Housing Program, have been set aside for new communities.
3. The Discretionary Fund under Title I of the Housing and Community Development Act of 1974 provides for grants for six uses including new communities. Preliminary indications are that approximately \$12 million of this fund will be allocated to new communities.

Question 2. It is my understanding that in the HUD guaranteed new communities, over 76,000 units of low income housing is being planned. It is next to impossible to produce low income housing without some government assistance.

A. How many units of low income housing has HUD given commitments for in these new communities?

B. How many low income housing units will HUD commit to these new communities in the future.

Response

Federally-assisted new towns are projected to have a total of 73,250 dwelling units for low- and moderate-income families when development is complete. This represents 26% of the total of 282,000 dwelling units scheduled ultimately to be built. Of the 3,535 dwelling units built and occupied by the end of calendar 1974, 997 or 28.2 percent were for low- and moderate-income families.

Five thousand units of subsidized housing have been allocated to new communities (132—235 units and 4833—236 units) of which 997 units have been built and are occupied, 1339 units are under construction, and 2035 units are in processing.

Sufficient Section 235—236 support is evidenced by the fact that 1631 units remain in the processing stage due to the immaturity of the project's development resulting in an inability to demonstrate market feasibility—i.e., most 236 units are built where moderate income people already live; whereas, in general, the market for 236 units in a new community requires the prior development of a job-base in the community.

For the future, we have obtained a \$5 million set-aside for new communities under the Section 8 Leased Housing Program.

Question 3. Will HUD approve Section 714 interest loans to assist developers in making interest payments in the future to the already approved new communities?

Response

Section 714 interest loans do not provide a significant benefit to most new community developers since the same statutory criteria must be satisfied before interest loans can be approved as are required before approving additional guarantees. Since the proceeds of an additional guarantee can be used for a wide range of land development and acquisition expenses, this would appear the more advisable course. Finally, when a developer defaults on an interest payment and HUD makes that payment to the debenture holders, this constitutes an effective interest loan. Nevertheless, there may be circumstances under which a Section 714 interest loan should be considered. In the Secretary's letter to Senator Sparkman dated January 28, 1975, it was stated: "It may be necessary to consider interest loans in the future. As we gain further experience in negotiating refinancings and evaluate the results of those efforts, interest loans in limited amounts for limited durations may be considered."

Question 4. In your opinion, will the already approved new communities prove to be financially successful?

Response

We are in the midst of an economic and financial review of each of the projects; therefore, it is premature for me to conclude as to whether all of the existing new communities will ultimately prove to be financially successful.

Question. Do you think any will fail in the foreseeable future? If so, how many? What is the potential dollar amount involved?

Response

It is possible that as many as 3 or 4 of the existing financially-assisted new communities will fail in the foreseeable future. If that were to occur, the potential loss to the Federal government from such failure could be approximately \$110 million.

Question 5. To what degree is the success of the new community development program dependent on other divisions of HUD, i.e., the office of Community Planning and Development and the office of Housing Production and Mortgage Credit? Do you find that these other offices at times impede quick action by the New Communities Administration?

Response

There is no doubt that the success of the New Communities Program is heavily dependent upon other offices within HUD, including the Office of Community Planning and Development and the Federal Housing Administration. We have been working closely with these offices to insure the efficient and reasonable processing of various matters concerning new communities. I believe that we have significantly improved the coordination within the last several months.

Question 6. How much of the Secretary's discretionary grant funds of the community development grant funds will new communities receive this year?

Response

Pursuant to the regulations under Title I, applications for the New Communities Fund will be accepted by HUD area offices during the period February 1 to May 15. The initial applications have started to arrive at our central office. Until such time as all of the applications are received, it is obviously impossible to ascertain the aggregate demand for these funds and the merits of the individual applications. However, Under Secretary Mitchell has preliminarily indicated that that up to \$12 million may be available for New Communities.

WRITTEN RESPONSE OF MR. STOLZ TO SENATOR HUMPHREY'S QUESTIONS.

Question 1. Cedar-Riverside, the only Federally guaranteed new-town-in-town in the United States, has successfully completed over 10 percent of its long-range development but has recently experienced financial difficulty caused by an environmental lawsuit filed against HUD. HUD has taken more than one year to complete the required environmental impact statement causing extreme hardship to the developer which has the Federal guarantee. What are the New Communities Administration's plans to assist in the completion of this important project?

Response

Although almost the full \$24 million of the proceeds for the Federally guaranteed debentures have been spent, no significant development has occurred in the portion of the Cedar-Riverside New Town to be built under the Federal New Communities program. The problems confronting the Cedar-Riverside development certainly have been exacerbated by a still pending law suit filed in December 1973 alleging noncompliance with the National Environmental Policy Act of 1969. The New Communities Administration has initiated discussions with the City of Minneapolis to determine whether a basis exists on which to seek a joint solution to the very serious problems of this project.

Question 2. Cedar-Riverside has experienced grave difficulties caused by lack of agreement between various divisions within the Department of HUD. What role can the New Communities Administration play in assuring the cooperation and coordination of the various divisions within HUD which are required in a new town which is also an urban renewal area?

Response

The problems of Cedar-Riverside are very grave indeed, for reasons unrelated to the performance of the Department. However, let me say that the New Communities Administration has assumed a leading role in pursuing the cooperation and coordination of the various divisions of HUD whose contributions will be necessary in order to pursue a solution to the severe problems of the Cedar-Riverside New Town.

Question 3. If a financial plan involving the City of Minneapolis, the Federal government and the private developer is presented to the New Communities Administration, is your office prepared to make every effort to obtain the necessary Federal commitments to such a plan?

Response

The New Communities Administration has actively encouraged the pursuit of a joint public/private solution to Cedar-Riverside's problem. Initially, it was indicated that the local interests, both public and private, would present a proposal to HUD in December 1974. Due to various difficulties at the local level, this has not yet been forthcoming. We are hopeful that with our efforts and encouragement, the local difficulties can be overcome and a joint solution pursued.



There is no doubt that the success of the New Communities Administration is heavily dependent upon other offices within HUD including the Federal Housing Administration. We have been working closely with these offices to ensure the efficient and successful processing of various matters concerning New Communities. I believe that we have significantly improved the coordination within the last several months.

Question 4. How much of the Secretary's discretionary grant funds of the Community Development Grant funds will New Communities receive this year?

Response

Presented to the President under Title I application for the New Communities Fund will be received by HUD and other offices during the period February 1 to May 15. The initial applications have started to arrive in our central office. From each time one of the applications are received, it is forwarded to the relevant offices for review. The Secretary's discretionary grant funds are available for the New Communities Fund at \$12 million per year.

Written Response of Mr. Brock to Senator Harrison's Question

Question 1. Cedar-Riverside, the only publicly subsidized new housing town in the United States, has successfully completed over 10 percent of its total target development but has recently experienced financial difficulties caused by an environmental lawsuit filed against HUD. HUD has taken more than one year to complete the required environmental impact statement. Can you estimate the impact to the development which has the Federal guarantee? What are the New Communities Administration's plans to assist in the completion of this important project?

Response

Although since the full \$24 million of the proceeds for the publicly guaranteed bonds have been paid, no significant development has occurred in the portion of the Cedar-Riverside New Townsite in East Minneapolis under the Federal New Communities program. The public law concerning the Cedar-Riverside development originally have been extended by a still pending law and filed in December 1973. The New Communities Administration has initiated discussions with the City of Minneapolis to determine whether a lease option on which to sell a joint solution to the current problems of the project.

Question 2. Cedar-Riverside has experienced severe difficulties caused by lack of agreement between the public and private interests within the community. What role can the New Communities Administration play to ensure the completion and coordination of the various efforts which HUD which are required in a new town which is the subject of the project?

Response

The problem of Cedar-Riverside is a very complex one, but we are working to resolve the problems. The New Communities Administration has been working to ensure the completion and coordination of the various efforts which HUD which are required in a new town which is the subject of the project.