Farm Labor Housing in California

I. INTRODUCTION

A. Historical Setting

Housing the agricultural worker in California, as in other states, historically has been viewed as a labor-management problem. The grower-employer has provided free or low-rent housing for the farm laborer and his family as a substitute for the payment of higher wages.[1] During the 1950's and early 1960's, however, the grower's attention was temporarily directed away from providing family housing because of the ready availability of cheap Bracero[2] labor.[3] These men could be housed in barracks which, compared with individual family housing units, were relatively inexpensive to build and maintain in compliance with federal regulations[4] governing Bracero housing. When the Bracero program was terminated in 1964,[5] however,

[1]GOVERNOR'S ADVISORY COMM'N ON HOUSING PROBLEMS, REPORT ON HOUSING IN CALIFORNIA 42 (1963) [hereinafter cited as REPORT ON HOUSING].

[2]"Bracero" is a term commonly used to describe the Mexican laborer imported to work in the fields under the Mexican National Program, Act of July 12, 1951, ch. 223, 65 Stat. 119.

[3]During the month of October, 1963, for example, there were 61,200 foreign contract workers employed in the California agricultural harvest. CAL. DEP'T OF EMPLOYMENT, CAL. ANNUAL FARM LABOR REPORT 1964, at 22 (1965).

[4]Under the Mexican National Program the U. S. Department of Labor had to accept a grower's application for workers before Braceros could be employed, and compliance with housing standards of the Department was a prerequisite to such acceptance. *See* H. Anderson, The Bracero Program in California With Particular Reference to Health Status, Attitudes and Practices, March, 1961 (unpublished thesis in the University of California, Berkeley, School of Public Health Library).

[5]Act of Dec. 13, 1963, Pub. L. No. 88—203, 77 Stat. 363 provided that "No workers will be made available under this title for employment after December 31, 1964."

single workers were no longer available in large numbers and growers were forced to rely once again on the family unit as the main work force. Barracks which had been adequate for the Bracero were not suitable for family housing.[6] However, the grower, faced with increased costs, became reluctant to again assume his former role as innkeeper for those who labored in his fields. In view of the changing pattern of need, the supply of farmworker housing thus fell far behind the demand.

With the demise of the traditional labor-management approach to housing, the various levels of government have intensified their interest in fostering the construction and maintenance of farm labor housing. These efforts, however, have been addressed primarily to the problem of housing migrant farmworkers, disregarding to a large extent the critical housing needs of the non-migratory workers[7] who comprise over 90 percent of the total farm labor force.[8] The problem of providing adequate shelter for the farmworker clearly requires a multifaceted program, one aimed at satisfying the housing needs of all agricultural workers, not merely one segment of that force.

B. Poor Housing Conditions: A Consequence of Low Wages

The problem of housing the farm laborer is primarily one of housing a low-income family incapable of competing either for ownership or for rental housing in the general market.[9] The housing alternatives open to the farmworker have been vastly narrowed because of his low economic position. With an average annual income of only $3,500[10] he must seek housing in a market where home ownership is rapidly becoming impossible for families with incomes of less than $7,000.

---

[6]*See State of Cal. Hearing on Farm Labor* 21 (transcript of proceedings before the Governor, Sacramento, March 13, 1964).

[7]*See* R. Barnes, Conflicts of Cultural Transition: A Review of Dilemmas Faced by the Mexican Farm Worker and His Family 15—16, May, 1969 (unpublished report in the University of California, Davis, Dep't of Applied Behavioral Sciences Library); REPORT ON HOUSING 36.

[8]CAL. DEP'T OF EMPLOYMENT, CAL. ANNUAL FARM LABOR REPORT 1967, at 8 (1968).

[9]*See* REPORT ON HOUSING 42—43; *See also* PRESIDENT'S NATIONAL ADVISORY COMM'N ON RURAL POVERTY, THE PEOPLE LEFT BEHIND 94 (1967); State Assemblyman R. Monagan, Background For [Proposed] California Home Ownership, Construction, And Rehabilitation Act of 1968 (Cal. Assembly Bill 108, 1968) at 1.

[10]DEVELOPMENT RESEARCH ASSOCIATES, LOS ANGELES, CAL., LOW COST HOUSING REQUIREMENTS IN CALIFORNIA 23 (1968) *[hereinafter cited as* LOW COST HOUSING].

A discussion of the reasons for the low income of agricultural workers would go beyond the scope of this chapter. The direction this discussion must take, therefore, is thus suggested: can the deplorable housing conditions of the farm laborer and his family be improved, given the limits imposed by a low income? This question, in turn, logically leads to two further inquiries: (1) How can the demand for new housing best be met? and (2) To what extent can an effective program of building code enforcement improve the condition of existing housing?

Before discussing these two primary aspects of the farm labor housing problem, it is necessary to first identify the nature of the market for housing in terms of the number and employment stability of the workers creating the demand in that market.

C. Characteristics of the Market for Farm Labor Housing

Farm labor can be classified into two broad groups: regular farmworkers and seasonal farmworkers. In California, the Department of Employment defines regular farmworkers as those who work for a single employer 150 days or more per year.[11] This group enjoys more or less permanent employment with a single employer and generally is provided adequate housing as a supplement to income.[12] As the size of the average farm and the need for semi-skilled workers increase, this segment of the farm labor population can be expected to expand from its present size of over 91,000 workers.[13] Regular farmworkers are, to a considerable extent, spared the housing problems which confront the seasonal farmworker.[14] The focus of this chapter will therefore be on the problem of housing the seasonal farmworker.

Seasonal or temporary farmworkers are those who work for one employer for fewer than 150 days per year.[15] California agricultural employment historically has been highly seasonal in nature, with peak period temporary employment typically reaching a level between two and three times that of the same year's low.[16] Seasonal workers can be further separated into local seasonal workers employed in the area in which they live, and migrant seasonal workers.[17] The latter group is

---

[11] *Id.* at 9.

[12] *Id.*; CAL. SENATE FACT FINDING COMM. ON LABOR AND WELFARE, CALIFORNIA'S FARM LABOR PROBLEMS, PART I, at 75 (1961).

[13] CAL. DEP'T OF EMPLOYMENT, *supra* note 8.

[14] *See* note 12 *supra*.

[15] LOW COST HOUSING 9.

[16] *See* CAL. DEP'T OF EMPLOYMENT, *supra* note 3; *See also* CAL. DEP'T OF EMPLOYMENT, *supra* note 8, at 9.

[17] LOW COST HOUSING 9—10.

declining in number as seasonal workers are increasingly inclined to settle in one community.[18] The 1967 peak California employment of seasonal workers was 190,000, of which some 70 percent were locally employed.[19]

It is important to recognize that factors beyond the scope of this chapter may directly affect future patterns of farm employment, and thereby alter the demand for farmworker housing. Mechanization on the farm can be expected to continue, thereby reducing the demand for farmworkers.[20] New innovations in farm machinery appear every season and experimentation is continual.[21] Labor, it seems, is a factor of production that ultimately the grower would like to eliminate. Mechanization will be accelerated by the fact that the Bracero labor force is no longer available to the grower. Termination of this source of labor has caused the agricultural industry to rely even more heavily upon labor saving machinery.[22] But offsetting somewhat this trend is the future outlook of not only improved yields on land currently under cultivation, but also of more farm land as water becomes available for irrigation.[23] These variables make forecasting future agricultural employment difficult, but one recent and thorough study indicates that California's total paid farm work force can be expected to remain numerically equal over the next few years. More of the work force will have become nontransient during that period.[24]

II. TYPES OF FARM LABOR HOUSING: CONTRIBUTION TOWARD MEETING THE DEMAND

A. Employee Housing

Growers and grower associations have been a major source of housing for the California farmworker. With the advent of the Bra-

[18] *Id.* The average number of seasonal workers employed declined by 6,800 or 5.6 percent from 1966 to 1967, with most of the decline occurring in the migrant category. CAL. DEP'T OF EMPLOYMENT, *supra* note 8; *see* CAL. DEP'T OF EMPLOYMENT, CAL. ANNUAL FARM LABOR REPORT 1968, at 8(1969).

[19] *See* CAL. DEP'T OF EMPLOYMENT, *supra* note 8, at 9.

[20] *See* C. BISHOP, FARM LABOR IN THE UNITED STATES 41—52 (1967); U.S. DEP'T OF AGRICULTURE, EFFECTS OF TERMINATION OF THE BRACERO PROGRAM (Agricultural Economics Rep't No. 77, at V, 1965).

[21] CAL. DEP'T OF EMPLOYMENT, *supra* note 8, at 7—8.

[22] *See* U.S. DEP'T OF AGRICULTURE, *supra* note 20; CAL. DEP'T OF EMPLOYMENT, CAL. ANNUAL FARM LABOR REPORT 1965, at 11 (1966).

[23] *See* CAL. DEP'T OF EMPLOYMENT, *supra* note 8, at 4—6. Approximately 8,000 additional acres of land per year are expected to come into agricultural production in California as water becomes available. Interview with V. Ralph Gunderson, Chief, Migrant Programs, Cal. Office of Economic Opportunity, in Sacramento, Cal., October 31, 1968.

[24] LOW COST HOUSING 16.

cero program in 1951, the grower had a seemingly endless source of cheap labor, constituted wholly of single men. Since the grower provided a barracks-type of housing for the Braceros, any attention which might have been devoted to satisfying the needs of the farm laborer for non-grower provided housing was temporarily delayed. Although relatively inexpensive to build and maintain,[25] the barracks housing satisfied standards of the Department of Labor which had to be met before the grower could employ Braceros under the program.[26] Department standards included specific requirements for interior size, ventilation, heating, lighting, and sanitary facilities.[27] Many housing units were constructed during the duration of this program. In 1964, for example, growers in Yolo County provided facilities for the housing of 16,084 single male workers. In the same period, there were facilities for only 141 families.[28] In June, 1967, only 20 of 225 crop areas[29] in the state offered housing for non-local farm labor families.[30]

1. Supply and Condition

Employer provided housing is generally one of two types: labor camps operated on a seasonal basis to house single workers and families, and single family dwellings occupied throughout the year. State housing codes define "labor camp" to include any living quarters set aside for the housing of five or more employees.[31] In 1960 there were approximately 6,450[32] labor camps of record in the state,[33] which were providing housing for 200,000 single workers and 16,000 families.[34]

[25]*See* CAL. SENATE FACT FINDING COMM. ON LABOR AND WELFARE, CALIFORNIA'S FARM LABOR PROBLEMS, PART II, at 45 (1963).

[26]*See* note 4 *supra*.

[27]*See* U.S. DEP'T OF LABOR, HOUSING REGULATIONS OF THE U.S. DEP'T OF LABOR FOR OUT-OF-STATE AGRICULTURAL, WOODS, AND RELATED INDUSTRY WORKERS RECRUITED THROUGH STATE EMPLOYMENT SERVICE 4—10 (1967) [hereinafter cited as U.S. DEP'T OF LABOR HOUSING REGULATIONS].

[28]*Hearings on Housing for Agricultural Workers: Housing Authorities and Related Problems Before the Assembly Interim Committee on Agriculture* 37 (In Sacramento, Cal., Dec. 2, 1965) [hereinafter cited as *Hearings on Housing for Agricultural Workers*].

[29]"Crop areas" are areas of California in which the economies are heavily dependent on agricultural production.

[30]*The Farm Laborer; His Economic and Social Outlook*, in PROCEEDINGS OF THE WESTERN REGIONAL MIGRANT HEALTH CONFERENCE, (University of California, Los Angeles, June 26—28, 1967).

[31]CAL. LABOR CODE §§ 2615—17 (West Supp. 1968).

[32]H. Anderson, *supra* note 4.

[33]Labor camps of record are camps which are either opened for occupancy in the current year or registered in a prior year and currently available for occupancy. *Hearings on Housing for Agricultural Workers* 13—14.

[34]CAL. SENATE FACT FINDING COMM. ON LABOR AND WELFARE, *supra* note 25, at 42—43.

The number increased to over 8,000 camps by 1963,[35] but declined to 4,800 camps[36] with the termination of the Bracero program. Eighty percent of the growers charge no rent for this housing; the other 20 percent charge only an amount sufficient to cover the cost of utilities and maintenance.[37] Rental housing ranges from $26 to $53 per month.[38]

The condition of labor camps has been a subject of much concern and debate. Inspections conducted by local health departments in more than 1500 farm labor camps during 1967 and 1968, for example, revealed that approximately 22 percent of the housing did not meet public health standards because of unsanitary, overcrowded, or deteriorated conditions.[39] The problem may be of a terminal nature, for the number of camps opening each year is declining; and camps in the poorest condition are being closed.[40] Moreover, with the termination of the Bracero program and the greater demand for domestic labor, the condition of labor camps has improved as the grower has reconditioned and converted housing built for single workers into family housing units.[41] One recent study conducted in 13 California counties indicates, for example, that over a one year period the number of labor camps for single workers decreased by 13 percent while family and combination family-single worker camps increased by 17 and 20 percent respectively.[42]

Mechanization on the farm has created a greater need for semi-skilled labor to perform the more demanding tasks, including the operation and maintenance of harvesting equipment. To attract and retain this labor on a permanent basis, growers have provided single family dwellings which do not fall within the usual definition of labor camps and which are more suited to comfortable living.[43] It seems doubtful, however, that this housing will meet the total demand since

[35] *Id.* at 42.

[36] Interview with Lillian McCracken, Cal. Dep't of Housing and Community Development, Division of Building and Housing Standards, in Sacramento, Cal., November 4, 1968.

[37] LOW COST HOUSING 31.

[38] *Id.*

[39] Letter from Douglas Taylor, Consulting Sanitarian, Cal. Dep't of Public Health, Farm Workers Health Service, to the *U.C.D. Law Review*, December 24, 1968.

[40] Interview with Francis McNeil, District Representative, Cal. Dep't of Housing and Community Development, Division of Building and Housing Standards, in Sacramento, Cal., December 18, 1968.

[41] *Id.*

[42] Letter from Douglas Taylor, *supra* note 39.

[43] *See* CAL. DEP'T OF EMPLOYMENT, *supra* note 22, at 14; SOUTH CENTRAL FARMERS COMMITTEE, THE DELANO GRAPE STORY . . . FROM THE GROWER'S VIEW 17 (1968).

it cannot profitably be provided for the seasonal worker within the context of available methods of financing.[44]

2. Financing

Several methods of financing employee housing may be utilized by the qualifying grower or grower association. Private mortgage capital is available at market interest rates when lending institution requirements can be met. More favorable are federal programs of financial assistance available to foster construction of employer owned housing. As amended in 1968, the Housing Act of 1949[45] authorizes the Farmers Home Administration to insure loans at terms of five percent for up to 33 years.[46] To qualify, growers must use the loans for the construction or repair of housing or related facilities for domestic farm labor.[47] The grower must also be unable to provide the necessary housing from his own resources or with credit from other sources and yet be financially capable of repaying the loan.[48] Other amendments to the act authorize the Farmers Home Administration to make direct loans or grants to any public or private nonprofit organization for the purpose of providing low-rent housing for domestic farm labor.[49] To qualify for direct assistance the applicant must contribute a minimum of one-third of the total development cost from his own funds or funds borrowed under the insured loan program or elsewhere,[50] and it must be shown that the housing cannot be provided without such assistance.[51] Annual obligations under the insured loan program may total $25 million nationally.[52] Sufficient funds, however, have not been available under the direct assistance program to foster adequately employee housing construction.[53] In fiscal year 1968, for example, the appropriation for direct loans and grants for domestic farm labor housing was only $3.5 million.[54]

Were grant funds made available on a large scale, employee housing construction would increase significantly. Reduced construc-

---

[44]CAL. SENATE FACT FINDING COMM. ON LABOR AND WELFARE, *supra* note 25, at 43—44.

[45]Housing Act of 1949, 42 U.S.C. §§ 1441—86 (1964), *as amended*, 42 U.S.C. §§ 1441—90 (Supp. IV, 1965—1968).

[46]42 U.S.C. §§ 1472(a), 1484(a) (1964), *as amended*, (Supp. IV, 1965—1968).

[47]*Id.*

[48]42 U.S.C. §§ 1472, 1484(a) (1964).

[49]42 U.S.C. § 1486 (1964).

[50]42 U.S.C. § 1486(a) (2) (1964).

[51]42 U.S.C. § 1486(a) (1) (1964).

[52]42 U.S.C. § 1484(d) (1964).

[53]*See Hearings on Housing for Agricultural Workers* 77.

[54]81 Stat. 332 (1967).

tion costs would overcome grower reluctance to make a heavy capital investment in housing to attract labor at a time when farm jobs are rapidly coming under mechanization. A recent legislative proposal[55] that would encourage greater construction of employee housing is a tax incentive system which would allow rapid amortization of building costs over a five-year period rather than over the entire useful life of the property as required under present treasury regulations.[56] The accelerated deduction from ordinary income would afford the grower an immediate return on his long-term capital investment through tax savings that would otherwise be unavailable.

3. Another Approach

Unless national public policy is to encourage in the agricultural industry the company-town concept of housing and to perpetuate the segregation of the farm laborer and his family from the rural community with all its conveniences and amenities, however, grower provided housing should not be further encouraged as an adequate means of meeting his housing needs. Only if housing is divorced from the employment relationship is the farm laborer truly free to pursue the most attractive employment opportunities. It would seem both economically and socially more desirable to provide public and private low-cost housing for the farm laborer in communities which are in close proximity to agricultural areas. Federal funds appropriated to finance employee housing could thus be used to finance the construction of off-the-farm housing, in this manner avoiding the perpetuation of a system where the farm laborer is a second class citizen and encouraging a more stable, localized farm labor force.

B. Public Housing

Government involvement in housing the farmworker, in addition to financing programs available to private individuals, has been directed to housing the migrant farmworker during the harvest season. Such housing includes the old farm labor supply centers and the more recent Office of Economic Opportunity migrant housing. Exceptions to this general appraoch are low-rent public housing provided by local housing authorities and efforts currently being

---

[55]S. 2260, 88th Cong., 1st. Sess. (1963). For remarks by Senator Harrison Williams upon introducing the bill, see 109 CONG. REC. 20,165 (1963).

[56]The useful life of an asset for purposes of depreciation "is the period over which the asset may reasonably be expected to be useful to the taxpayer in his trade or business or in the production of his income." Treas. Reg. § 1.167(a)—1(b) (1964).

made in at least one community to provide home-based housing for single male migrant workers during non-harvest periods. Although each level of government is involved to some extent in providing public housing for the farm laborer, federal and local government authorities are the most directly involved under existing programs.

1. Farm Labor Supply Centers

Earliest efforts at providing public housing for the farm laborer in California were made under authority of the Federal Emergency Relief Appropriation Act of 1935[57] which authorized the President to allocate funds to certain useful projects for the purpose of increasing employment through work relief. Executive Order No. 7027,[58] issued pursuant to this act, authorized a program of construction under which 21 farm labor supply centers were built in California by 1937.[59] By 1949, facilities in these centers provided approximately 4,450 individual housing units.[60] From 1950 to 1957 responsibility for these centers was transferred from the United States Public Housing Administration to local housing authorities.[61] Because of their poor condition, however, all but one of these centers, the Wasco Center in Kern County, had been torn down by 1968.[62] During 1967 and 1968 over 1,400 units were razed.[63] Although it had a salutory effect upon farm labor housing conditions in the long-run, the razing of these dilapidated family housing units left 7,500 people without housing because no provision was made for their needs.[64] This need was reflected by the very substantial increase in migrants turned away from Office of Economic Opportunity migrant centers. Approximately 3,000 were turned away in 1967 and more than 8,000 in 1968.[65]

2. OEO Migrant Housing

Termination of the Bracero program in 1964 precipitated a substantial influx of additional migrant families into California to meet

---

[57]Authorized useful projects included rural rehabilitation and relief in stricken agricultural areas, and housing. The President was authorized to spend up to $950 million in these two project areas. Federal Emergency Relief Appropriation Act of 1935, 49 Stat. 115.

[58]*See Hearings on Housing for Agricultural Workers* 3—4.

[59]*Id.*

[60]*Id.*

[61]*Id.* at 7.

[62]Interview with V. Ralph Gunderson, *supra* note 23.

[63]Letter from Douglas Taylor, *supra* note 39.

[64]*Id.*

[65]*Id.*

the seasonal demands of the state's agricultural industry.[66] With an already acute shortage of adequate housing for migrant worker families, immediate action was required to provide alternative housing to migrants who would otherwise live along ditch banks, under bridges, in orchards, in overloaded trailer courts, and in rundown motels.[67] A special anti-poverty staff in the Governor's office developed the California Migrant Master Plan (CMMP), setting forth goals and criteria for shelter and other needs of the migrant farmworker family including education, health service, and day care for children.[68] Shortly thereafter, the State Office of Economic Opportunity was established, also in the Governor's Office, and given the responsibility for administration of the CMMP.[69] In 1968 all duties, functions and responsibilities of the State Office of Economic Opportunity were transferred to the new Department of Human Resources Development.[70] This Department now administers the CMMP and maintains a liaison with the Federal Office of Economic Opportunity (OEO) and any local government or citizen groups involved in implementing the Plan.[71]

The CMMP is funded by OEO grants which bear 100 percent of initial costs exclusive of site acquisition.[72] The purpose of the CMMP is to provide a decent living environment for the migrant worker and his family while harvesting crops, not to satisfy the permanent housing needs of the migrant and non-migrant seasonal worker.[73] The OEO housing program conducted pursuant to the CMMP is structured to meet the demand for temporary migrant housing only so long as the demand exists.[74] As presently conceived, the program is a five-year experiment under which housing sites are made available by local communities on a short-term, renewable basis.[75] There are currently 1,738 housing units available at 21 sites throughout the state,[76] which are managed by local housing authorities under the direction of the State Department of Human Resources.[77] Estimated expenditures

---

[66]CAL. OFFICE OF ECONOMIC OPPORTUNITY, FARM LABOR CENTERS 3 (1968).

[67]CAL. OFFICE OF ECONOMIC OPPORTUNITY, CAL. MIGRANT MASTER PLAN PROGRESS REPORT 1966, at 5 (1960).

[68]*See* CAL. OEO, *supra* note 66.

[69]CAL. UNEMP. INS. CODE §§ 301.5, 328 (West Supp. 1968).

[70]*Id.*; CAL. GOV'T CODE § 7100 (West Supp. 1968). In substance this transfer was merely a departmental consolidation and name change.

[71]CAL. UNEMP. INS. CODE § 328 (West Supp. 1968).

[72]CAL. OEO, *supra* note 66, at 4.

[73]*See Id.* at I—III.

[74]*See Id.* at 1.

[75]*Id.* at I.

[76]Interview with V. Ralph Gunderson, *supra* note 23.

[77]CAL. OEO, *supra* note 66, at 33.

to date approach $11.5 million.[78] Capital cost per shelter has averaged about $2,450,[79] with no significant variance in cost between the short-term or "flash peak" units (termed the "Paradom" and "Plydom") used at the outset of the program,[80] and the more suitable intermediate-term ("Pacific Panel") unit now being constructed.[81] The program has from the outset been characterized by its innovative use of materials and methods of construction.[82] The "Pacific Panel" unit, for example, utilizes plywood sandwiched around styrene insulation on both interior and exterior surfaces.[83]

Construction innovations require that the units be temporary structures which may be readily disassembled or moved, and seasonal structures available for occupancy a maximum of 180 days per year.[84] Temporary facilities operated on a seasonal basis are not required to comply with building regulations of the State Housing Law[85] or local ordinances which govern permanent housing.[86] Further, the Employee Housing Act[87] regulating labor camps specifically excludes application of its regulations to public housing of this nature.[88] The 180 day limit and the Employee Housing Act exception remove OEO housing from state building regulations that might otherwise restrict the use of new and innovative methods and materials in construction. The 180 day occupancy limitation has in the past had the additional and undesirable effect of denying benefits under welfare programs to migrants who could not satisfy residency requirements because of the limitation.[89] The United States Supreme Court has recently declared such residency requirements to be unconstitutional, however, so this problem no longer exists.[90] The forced migrancy effect of the occupancy limitation remains nonetheless.

Based on the number of migrant families that will require seasonal shelter over the next few years, the State Department of Human Resources presently places the demand for OEO housing at approximately 5,000 units.[91] Future plans for the program include the organi-

---

[78] *Id.* at 4.

[79] *Id.* at 43.

[80] The "Paradom" and "Plydom" are constructed of materials such as paper and vinyl which are subject to rapid deterioration. *Id.* at 17—19.

[81] CAL. OEO, *supra* note 66, at 43—44.

[82] *Id.* at I.

[83] *Id.* at 22.

[84] *Id.* at 40.

[85] CAL. HEALTH & SAFETY CODE §§ 17910—95 (West 1964).

[86] CAL. HEALTH & SAFETY CODE § 17951 (West 1964).

[87] CAL. LABOR CODE §§ 2610—46 (West Supp. 1968).

[88] CAL. LABOR CODE § 2629 (West Supp. 1968).

[89] CAL. OEO, *supra* note 66, at 5.

[90] Shapiro V. Thompson, 394 U.S. 618 (1969).

[91] Interview with V. Ralph Gunderson, *supra* note 23.

zation of a factory in the city of Fresno, staffed with farm laborers, which will manufacture a new unit (designated the "Rohr Unit") with a larger interior area.[92] The new interior and other structural refinements will satisfy housing code requirements should they become applicable through use of the structures on a permanent basis.[93] With the construction of these units the program will potentially enter the permanent housing field, since they can economically be upgraded to comply with all the relevant building regulations.

It would be a mistake to permit OEO to enter the permanent housing field and thereby play a larger role in housing the farm laborer than present plans provide. Grouping of families into "centers" separated from the balance of the rural community has many of the same disadvantages as grower-provided housing. The Dixon Center in Solano County, for example, is located four miles from Dixon in barren, open country,[94] and the Harney Lane Center in San Joaquin County is adjacent to the county dump.[95] The lasting benefits of home ownership and community involvement are thus unavailable to the farm laborer. Despite these drawbacks, experimentation with new construction methods and materials in conjunction with the provision of a favorable alternative to employer provided housing at a price the migrant can afford ($30 per month),[96] are important advantages of OEO housing. Construction costs and the declining migrant population considered, the OEO program should be continued to provide housing for migrants as long as they remain an identifiable segment of the farm labor force.

3. Local Public Housing

Low-rent housing provided by local housing authorities has played a minor role in meeting the farm laborer's housing demands. The statutory basis for this housing is the United States Housing Act of 1937[97] which provides for below market rentals for low-income families. The act declares that it is the policy of the United States to assist states in remedying unsafe and unsanitary housing conditions and the acute shortage of decent family housing existing in both urban and rural communities.[98] Pursuant to the act an agency has been cre-

[92] *Id.*; CAL. OEO, *supra* note 66, at 20.
[93] CAL. OEO, *supra* note 66, at 20—21.
[94] *Id.* at 71.
[95] *Id.* at 73.
[96] *Id.* at VI.
[97] United States Housing Act of 1937, 42 U.S.C. §§ 1401—30 (1964).
[98] 42 U.S.C. § 1401 (1964).

ated which survives today as the Public Housing Administration and which has the authority to make loans of up to 90 percent for development and acquisition costs of low-rent housing projects.[99] Dwellings in such projects must be available at rents not exceeding 80 percent of the rent charged locally for private rental housing of a comparable quality.[100]

The California Housing Authorities Law[101] and its companion measure, the Housing Cooperation Law,[102] were enacted in 1938 to take advantage of the federal legislation.[103] The Housing Authorities Law provides for the creation of a housing authority in each city and county of the state and empowers them with the authority to acquire, lease, construct, and operate housing projects in their area.[104] It further provides that the projects must be non-profit, with rents fixed at the lowest possible rate.[105] Housing authorities are given the power to enter into agreements with the federal government for loans and grants, and to issue bonds, the interest and principal of which are payable only from income and revenues of the housing project or federal grants.[106] The Housing Cooperation Law, in turn, authorizes local governments to purchase or invest in housing authority bonds.[107]

In 1963 there were 45 local housing authorities in 90 separate communities throughout the state which either operated or had under construction 26,775 low-rent public housing units in 191 projects.[108] Approximately one-third of these projects were located in farm communities.[109] From 1963 through 1968, 11 new housing authorities were created[110] and over 5,000 additional low-rent public housing

---

[99]42 U.S.C. § 1409 (1964).

[100]42 U.S.C. § 1415(7)(b) (1964).

[101]CAL. HEALTH & SAFETY CODE §§ 34200—402 (West 1967).

[102]CAL. HEALTH & SAFETY CODE §§ 34500—21 (West 1967).

[103]Public housing under the California Housing Authorities Law was declared a constitutionally proper government function in Housing Authority v. Dockweiler, 14 Cal. 2d 437, 94 P.2d 794 (1939). In that case the court held that the erection of safe and sanitary low-rent housing would do much to advance the public welfare and protect the public safety and morals, and was in fact and law, therefore, a public purpose for which public money could be expended and private property acquired. *Id.*, at 449—50, 94 P.2d at 801.

[104]CAL. HEALTH & SAFETY CODE §§ 34240—45, 34312 (West 1967).

[105]CAL. HEALTH & SAFETY CODE § 34321 (West 1967).

[106]CAL. HEALTH & SAFETY CODE §§ 34327, 34351 (West 1967).

[107]CAL. HEALTH & SAFETY CODE § 34516 (West 1967).

[108]REPORT ON HOUSING 55.

[109]*Id.*

[110]There are presently 56 local housing authorities in the state. CAL. DEP'T OF HOUSING AND COMMUNITY DEVELOPMENT, ROSTER OF REDEVELOPMENT AGENCIES AND HOUSING AUTHORITIES IN CALIFORNIA 5—9 (July, 1968).

units were constructed.[111] Rent charged for such public housing is based on a family's ability to meet payments and is currently averaging approximately $55 per month.[112]

One impediment to the effective utilization of federal funds in public housing construction has been Article 34 of the California Constitution.[113] This article, which passed in 1950 by a margin of less than 1 1/2 percent of the approximately three million votes cast, despite substantial support from the private real estate lobby,[114] requires voters to approve by referendum all proposed development, construction, or acquisition of local public housing. Article 34 is an unnecessary deterrent to the state's overall housing effort and should be repealed.[115] A cogent argument can be made that the veto power over local public housing projects is properly vested in the electorate of the community which stands to be affected. Certainly, however, once the local housing authority and the local city council or county board of supervisors whose members are elected by the people have approved a project, following a determination that a need for additional low-rent housing exists, no worthwhile social purpose is served by then requiring voter approval. Disapproval often results, irrespective of the 90 percent contribution of federal funds. For example, since 1950 only 69 percent of the Article 34 referenda have been approved.[116] In terms of the number of dwelling units, only 43 percent were approved while 57 percent were rejected.[117]

---

[111]There are approximately 31,500 low-rent public housing units available in California. U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, HOUSING ASSISTANCE ADMINISTRATION, LOW-RENT PROJECT DIRECTORY 168—76 (June 30, 1966).

[112]CAL. OEO, *supra* note 66, at VI; *See generally* the discussion by local housing authority officials of rents charged in *Hearings on Housing for Agricultural Workers* 86, 139.

[113]CAL. CONST. art. 34 § 1 (West 1954).

[114]Letter from Larry L. Sipes, Special Counsel, Cal. Constitution Revision Comm'n, to the *U.C.D. Law Review*, October 9, 1969.

[115]*See* REPORT ON HOUSING 65; Cal. Constitution Revision Comm'n, Report of the Article 34 Committee 14 (December, 1968). State Senator Albert S. Rodda introduced Cal. Senate Constitutional Amendment No. 6 on Jan. 19, 1970 which, if enacted, would provide for the repeal of Article 34. Shortly thereafter, a three-judge federal court in San Francisco granted plaintiff's motions for summary judgment declaring Article 34 to be unconstitutional, and granted an injunction restraining its enforcement. Valtierra v. Housing Authority of San Jose, Civil No. 52076, and Hayes v. Housing Authority of San Mateo, Civil No. 69—1—RFP (N. D. Cal., decided Mar. 23, 1970). The court held that it was unconstitutional to require referendum approval on public housing projects which are financed substantially by federal funds and are designed to meet the federal constitutional mandate to promote the general welfare. If upheld on appeal, this ruling should render the Article 34 problem moot.

[116]Report of the Article 34 Committee, *supra* note 115, at 8.

[117]*Id.* at 11.

Since enactment of legislation in 1963, the effect of the Article 34 restruction on farm labor housing has been less significant. That legislation excludes public housing projects for agricultural workers from the term "low rent housing project" used in Article 34 by providing that housing projects for agricultural workers shall be furnished to such workers and their families "without regard to whether such persons and families have low incomes."[118] Any public housing project which contains more than "20 per centum of standard housing units" as opposed to units housing agricultural workers and their families, however, remains within the confines of Article 34.[119] Thus, the article continues to have an adverse effect on the provision of low-cost housing units to farm laborers who choose to live in communities where the demand for public housing goes substantially beyond that created by agricultural workers, and, therefore, should be repealed.

Another impediment to the construction of local public housing is the requirement that, to qualify for federal funds, an economic survey must be made to determine the capacity of a particular community to keep the number of units requested rented over the 40 year payback period.[120] In most instances farmworkers have not been considered as part of the market for this low-rent housing because of their long-term economic instability in terms of both income and seasonal occupancy.[121] In 1965 in Fresno County, for example, where the number of hired farmworkers ranged from approximately 17,000 to 40,000, there were only 750 low-rent family units provided by the housing authorities of the city and county.[122]

One recent federal leasing program, authorized by the Housing and Urban Development Act of 1965,[123] would circumvent the problems involved in obtaining referendum approval and financing of low-rent public housing.[124] Under this program low-income tenants can occupy available private homes and apartments with the federal government making up the difference between the rent the owner usually receives and the amount the tenant pays in accordance with standards applicable to low-rent public housing.[125] Leasing arrangements are worked out between the private owner and the local housing authority.[126] The local housing authority receives the federal con-

[118]CAL. HEALTH & SAFETY CODE § 36051 (West 1967).

[119]CAL. HEALTH & SAFETY CODE § 36068 (West 1967).

[120]*Hearings on Housing For Agricultural Workers* 25.

[121]*Id.*

[122]Of the 1,500 available low-rent family units, only 50 percent were occupied by farm labor families. *See Hearings on Housing for Agricultural Workers 122—23.*

[123]42 U.S.C. § 1421b (Supp. IV, 1965—1968).

[124]*Hearings on Housing for Agricultural Workers* 64—65.

[125]42 U.S.C. § 1421b(d)(2) (Supp. IV, 1965—1968).

[126]*Id.*

tribution under an agreement with the Department of Housing and Urban Development.[127] This program also has other advantages. It provides virtually "instant" housing, stimulates owners of substandard private property to repair and maintain that property to take advantage of the guaranteed rent, and permits federally subsidized properties to remain on local tax roles.[128] The success of this program will depend directly upon the availability of private rental housing which has been in short supply in many rural communities.[129] Despite this weakness, support from the private sector has caused several rural county housing authorities to seek technical assistance from the state in establishing lease arrangements. Not surprisingly, the private sector views low-rent housing in private accommodations as a favorable alternative to the construction of public housing.[130]

A local public housing program currently in the planning stage will help to solve the housing problem of a very small segment of the farm labor housing market. The single male migrant farmworker who has been displaced from his off-season quarters in "skidrow"[131] housing by redevelopment projects has not, in the alternative, been provided with decent housing. Although recognized for some time,[132] the problem had been ignored until only recently when the city of Stockton, California decided to seek a solution.[133] The primary deterrent to housing this particular worker is that typically incomes are so low that a profit-oriented housing project would necessarily lose money. Present plans for the Stockton project provide for sponsorship and underwriting by the local housing authority which would provide the land, and a Farmers Home Administration loan-grant which would cover the capital outlay.[134] The housing structure would have a

[127]42 U.S.C. §§ 1402(13), 1403, 1421b (d) (Supp. IV, 1965—1968).

[128]For a further discussion of the advantages of this leasing program, see U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, HOUSING FOR LOW-INCOME FAMILIES 8, 9 (1967).

[129]*See Hearings on Housing for Agricultural Workers* 98; CAL. DEP'T OF HOUSING AND COMMUNITY DEVELOPMENT, BACKGROUND PAPER FOR USE IN CONNECTION WITH HEARINGS ON HOUSING TO BE CONDUCTED THROUGHOUT CALIFORNIA ON OCTOBER 3—10, 1967, at 4 (September 28, 1967).

[130]CAL. DEP'T OF HOUSING AND COMMUNITY DEVELOPMENT, ANNUAL REPORT VI—3 (January, 1968).

[131]The term "skidrow" generally refers to the old central core sections of cities characterized by their dilapidated and deteriorated hotels and rooming houses, often the prime target of the urban renewal bulldozer.

[132]REPORT ON HOUSING 44—45.

[133]*See generally* San Joaquin County Board of Supervisors, Proceedings of Conference on Housing for Single Male Migrant Farmworkers (Stockton, Cal., May 26, 1967).

[134]The San Joaquin County Housing Authority will sponsor the project and apply for a Farmers Home Administration 50-50 loan-grant. Interview with Jack R.

total capacity of approximately 250 units. The planned cost per man would be $3 per day.[135] Educational, job-training, medical, and other services would be provided on a volunteer basis by private members of the community.[136] Similar housing projects might not provide the best possible solution to the problem but would undoubtedly help establish a base for otherwise homeless farm laborers. It must be emphasized that this housing will not meet peak seasonal demands as they now exist, but would only serve to house those single male migrant workers who make their off-season quarters in the particular communmity.[137] The project would clearly be most effective if other communities with the same problem cooperated by providing similar housing, thereby diminishing the likelihood of a large influx of these men into only a few communities which do provide housing. Under such a plan the workers would be localized and could be transported to surrounding farms for work as it becomes available.[138] It is important to note again that the migrant worker segment of the farm labor force is declining in number. This trend, if directly supported through programs of housing, re-education, and job training during the integration period, could substantially diminish the environmental problems of the otherwise forgotten single male migrant worker.[139]

C. Private Housing

Although rural non-farm housing units comprise only 12 percent of the total number of housing units available in California, these units account for 26 percent of all substandard housing in the state.[140] A survey of housing in six agricultural communities conducted by the State Division of Housing[141] disclosed that ten percent of the dwelling units had no water supply; 26 percent had no bathing facilities; and 21

Bell, Area Representative for the Dep't of Housing and Community Development, Division of Housing and Community Development, in Sacramento, Cal., November 1, 1968.

[135] *Id.* Centralizing workers into a housing structure in the city is not far different from grouping them into barracks provided by grower-employers. It would, however, have the advantage of providing off-season housing for the single male migrant worker in the location for which he has demonstrated his preference—the city.

[136] *Id.*

[137] *Id.*

[138] *Id.*

[139] Other advocates of the Stockton solution to housing the single male migrant farmworker include Abel Chacon, leader of the Sacramento Single Men Self-Help Group, Inc., and State Assemblyman Edwin L. Z'berg, who introduced House Res. 93 in the 1969 legislative session requesting a study of the problem of housing single men in the Sacramento-San Joaquin Valley. *See* The Sacramento Bee, Feb. 17, 1969, at A 1, col. 7.

[140] REPORT ON HOUSING 43.

[141] Now the Dep't of Housing and Community Development.

percent of the units had no sewage facilities.[142] The survey also showed that crowding within units was very high. Forty-nine percent of the farmworker family units sheltered in excess of 1.5 persons per room.[143] A study conducted in Fresno County, California in 1964, revealed that 61.5 percent of the 5,000 farmworkers contacted rented a house, while only 9.5 percent were either buying or owned housing.[144] Although the condition of ownership housing is generally superior to that of rental units,[145] a high percentage of both types violates state standards of health, safety, and comfort and should be eliminated through the strict enforcement of housing codes.

A strong deterrent to enforcement is the unavailability of alternative housing for displaced families at rents they can afford. Moreover, enforcement may profoundly affect not only displaced families but also the communities in which they live. For example, a small rural school district recently faced financial ruin from the loss of state funds owing to the displacement of a family whose house had been condemned. School funds were apportioned on the basis of the number of students enrolled, and the loss of the displaced family's six children decreased the allocation of state funds, thereby placing a great hardship on the school district's already overburdened budget.[146]

A survey conducted by the State Division of Housing in 1963 disclosed that the median monthly rental payment made by the farmworker family for rural slum housing averaged $33, and the median annual income was $2,207.[147] Using this 1963 ratio of rent to income, an alternative to rural slum housing based on an average annual income of $3,500 in 1969 would have to be available at approximately $60 per month or about 20 percent of the farmworker's current average monthly income. This figure is reinforced by the fact that local housing authorities take into consideration the occupant's ability to meet payments and typically charge $55 per month for the low-rent units they provide.[148] The question is, then, can the private sector driven by the profit incentive produce non-farm housing units for farm labor families?

---

[142]REPORT ON HOUSING 44.

[143]*Id.*

[144]Cal. Dep't of Employment, Socio-Economic Characteristics of Fresno County Farmworkers: A study of applications for agricultural employment filed with Fresno County farm labor offices (revised December, 1964).

[145]REPORT ON HOUSING 43.

[146]*Hearings on Farm Labor Housing before the Senate Fact Finding Comm. on Labor and Welfare, California State Legislature* 194 (February 19—20, 1964).

[147]REPORT ON HOUSING 43.

[148]*See* note 112 *supra*.

1. Self-Help Housing

Programs of self-help housing have been initiated in California to satisfy the need for low-cost ownership housing. The concept of "self-help" housing grew out of an experimental program of the American Friends Service Committee in 1961 to assist a number of farmworker families in Tulare County, California.[149] It survives today as the most effective private effort to move impoverished rural citizens into homes they can own and afford. The success of the initial project resulted in an expansion of the program into 12 states and the creation of International Self-Help Housing Associates which provides technial aid and advisory services to the various local self-help housing groups.[150] The program in California is now under the direction of a private nonprofit corporation known as Self-Help Enterprises. The corporation serves nearly 600 families in the Sacramento and San Joaquin Valleys.[151] Under this program, families desiring homes are organized into building groups which, under the direct technical supervison of Self-Help Enterprises, provide the labor for construction.[152] The unique feature of self-help housing is that through their own labor, purchasers gain an immediate equity. Funds to pay the expenses of construction supervision and project administration are provided by the Federal Office of Economic Opportunity under Title III-B of the Economic Opportunity Act.[153] Relevant provisions of the act authorize the Office of Economic Opportunity to make grants to state and local agencies and private nonprofit organizations. These then provide technical assistance and programs of training to assist seasonal farmworker families to improve their living conditions and develop skills necessary for a productive and self-sufficient life.[154] Government insured loans for land and building materials are obtained from the Farmers Home Administration at terms of five percent for 33 years.[155] Loan applicants without adequate debt repay-

---

[149]*See* R. Monagan, *supra* note 9, at 4.

[150]*Hearings on the Effect of Federal Programs on Rural America before the House Subcomm. on Rural Development of the Comm. on Agriculture* 794—97 (June—July, 1967) [hereinafter cited as *Hearings on Federal Programs*].

[151]For a discussion of their program, see SELF-HELP ENTERPRISES, A PROGRAM WITH FARM LABOR FAMILIES IN THE SAN JOAQUIN VALLEY (1968). The program has recently expanded into Yolo County, where 38 homes were under construction in November, 1968. Interview with Jack R. Bell, *supra* note 134.

[152]*See Hearings on Federal Programs 279.*

[153]42 U.S.C. §§ 2861, 2862 (Supp. IV, 1965—1968).

[154]*Id.*

[155]Loans are obtained under the Farmer's Home Administration's § 502 rural housing loan program. 42 U.S.C. §§ 1472, 1484 (1964), as amended, (Supp. IV, 1965

ment ability may use a cosigner.[156] The staff of Self-Help Enterprises assists in the preparation of the loan application, then submits the application along with construction plans to the local County Supervisor of the Farmers Home Administration for approval.[157] Generally, a $7,500 loan is granted with annual repayment arranged on a basis of ten monthly payments of principal and interest, reserving the remaining two months for the payment of property taxes and insurance.[158] For $58 per month, therefore, a family can obtain a new 1,000 square foot three bedroom home with built-in appliances and a cooler.[159] The market value of these homes has been estimated at between $10,000 and $14,000.[160]

Despite these successes and the contribution the self-help program is making toward meeting the demand for low-cost housing, it is doubtful that the program as it now exists can satisfy the general housing needs of farmworker families; to do so, home production would have to be vastly expanded. One recent private study proposed an extension of the self-help approach to the building of permanent relocatable housing components in a factory owned and operated by cooperatives comprised of farm laborers.[161] If adopted, this proposal would introduce modern prefabrication techniques into the self-help approach to housing, thus allowing for further reduction in building costs.[162]

Advantages of the self-help approach to housing have not gone unnoticed. Legislation proposing adoption of a self-help housing program was introduced in Congress in 1967 and in the California Legislature in 1968. The federal legislation was not enacted in 1967,[163] but its main provisions were incorporated into the Housing and Urban Development Act of 1968.[164] In a move to consolidate direction of the program, the Secretary of Agriculture is now authorized to

—1968). For a further discussion of program requirements, see U.S. DEP'T OF LABOR, HOUSING HANDBOOK; A GUIDE TO IMPROVED FARM WORKER HOUSING 15—18 (1967) [hereinafter cited as HOUSING HANDBOOK].

[156]HOUSING HANDBOOK 18.

[157]*Hearings on Federal Programs* 277.

[158]SELF-HELP ENTERPRISES, *supra* note 151.

[159]*Id.*

[160]*Hearings on Federal Programs* 273.

[161]HIRSHEN/VAN DER RYN, PROTOTYPE; LOW COST HOUSING AND COMMUNITY DEVELOPMENT FOR RURAL AND URBAN FRINGE AREAS (Architects and Planners, Berkeley, Cal., 1966).

[162]The cost of a home under the proposal would be $6 per square foot for a completely equipped, permanent structure. *Id.*

[163]H. R. 1284, 90th Cong., 1st. Sess. (1967).

[164]Housing and Urban Development Act of 1968, Pub. L. No. 90—448, 82 Stat. 553.

make both grants for technical and supervisory assistance, and direct loans to self-help families for land and building materials at a rate not exceeding three percent.[165] The only requirements for eligibility are that there be a reasonable assurance of loan repayment, that the amount of the loan be adequate to achieve its purpose, and that credit be unavailable from other sources.[166] These changes reflect improvements in the program suggested by groups presently supervising the construction of self-help housing[167] and make the program potentially available to a greater number of families. There has been no experience to date under the revised program by which an assessment of its success can be made. The California legislation[168] proposed the establishment of a direct state loan program financed by the sale of revenue bonds under which loans up to $10,000 could be obtained by low-income families desiring to build homes utilizing the self-help approach.[169] Sponsors of the legislation failed to overcome opposition to the establishment of a new state supported loan program, and the bill was not enacted.[170]

2. Housing Industry

The private housing industry as a whole, however, has not to date made a substantial effort to meet the housing needs of the farmworker family who must compete in the market with an income of $3,500.[171] The reason for this lack of response has been the absence in low-cost housing construction of sufficient profit to invite the attention of

---

[165]42 U.S.C. § 1490c (b)(2) (Supp. IV, 1965—1968).

[166]*Id.*

[167]Changes recommended in 1967 by Self-Help Enterprises to improve the federal program included raising the maximum population limit of rural communities eligible for Farmers Home Administration rural housing loans from an unreasonably low 5,500 persons, making direct loan funds available at an interest rate not exceeding four percent, and streamlining the process of reviewing loan applications which presently averages five months. It was submitted that these changes would permit self-help organizations to operate more effectively and to reach a more significant number of families. *See Hearings on Federal Programs* 277, 280—82.

[168][Proposed] California Home Ownership, Construction, and Rehabilitation Act of 1968, Cal. Assembly Bill 108 (1968).

[169]Under Cal. Assembly Bill 108 (1968), if enacted, low-income families (average annual income from $3,000 to $7,000) could have obtained direct loans from the state, funded by revenue bond proceeds, to construct or rehabilitate single-family dwellings and other specified residential units, with terms of up to 30 years at an interest rate not to exceed five percent. The bill authorized the issuance of up to $70 million in revenue bonds to finance the program to be administered by the Commission of Housing and Community Development.

[170]Cal. Assembly Bill 108 (1968) failed to gain sufficient support to be reported out of committee.

[171]*See* note 10 *supra.*

private developers and lenders.[172] The absence of potential profit cannot be attributed merely to a lack of demand, for the demand for low-cost housing in California's agricultural communities has been estimated at 6,000 to 12,000 new units annually.[173] Rather, it is a result of the failure of the industry to develop a low-cost housing unit and the problems involved in financing such housing were it available.[174] A truly low-cost housing unit must be available at a price the farm laborer is able to pay. Utilizing the most favorable but unsubsidized government financing presently available, a unit could not be marketed at a price exceeding $8,000; this price would allow for amortization of the loan as well as payment of property taxes and insurance at a cost of approximately $60 per month.[175] Should government subsidized financing be used, the home value per dollar expenditure would, of course, increase accordingly.

a. Development of a Low-Cost Unit

To encourage the development of a low-cost housing unit, the State Department of Housing and Community Development, under a $243,000 grant from the Federal Department of Housing and Urban Development, is conducting a low-income housing demonstration project in three California counties, Kern, Butte, and Tulare.[176] The purpose of the project is to develop new prototypes of low-cost housing suited to the needs of farmworkers which can be used by private industry in meeting the housing demand. To further the project the Department has invited members of the housing industry to demonstrate new techniques in low-cost home construction. To date, participating builders have constructed 29 units demonstrating a wide range of innovation in the use of building materials and methods of construction.[177] The Inland Steel Company unit, for example, features a "Steelcor System" involving panels which are assembled by attaching

---

[172]*See* CAL. DEP'T OF HOUSING AND COMMUNITY DEVELOPMENT, *supra* note 129, at 10; CAL. DEP'T OF HOUSING AND COMMUNITY DEVELOPMENT, LOW-INCOME HOUSING DEMONSTRATION PROJECT 1—5 (June, 1968).

[173]LOW COST HOUSING 5.

[174]*See* note 172 *supra*.

[175]This conclusion assumes that five percent financing is available from the Farmers Home Administration, and that property tax and insurance costs are similar to those experienced in the self-help housing program under which monthly payments typically average $58. *See* SELF-HELP ENTERPRISES, *supra* note 151.

[176]CAL. DEP'T OF HOUSING AND COMMUNITY DEVELOPMENT, LOW INCOME HOUSING DEMONSTRATION PROJECT, *supra* note 172, at 1—2.

[177]*Id.* at 1—15.

special expanded-metal mesh lathing to high-tensile wire trusses. After a framework of the panels is welded together, a cement and sand mixture is sprayed into the mesh. The firm estimates that under ideal conditions a unit can be constructed in four days.[178] Other builders have utilized such materials as aluminum, lightweight rock, and styrofoam in conjunction with various structural designs and methods of construction.[179]

Project plans provide for evaluation and testing of the units under actual living conditions over the next two years to establish the optimum features of the designs.[180] Current cost figures for the project vary from $7.50 to $10 per square foot.[181] Thus, an 800 square foot unit at $8 per square foot would cost $6,400, in addition to the cost of a building site (which is provided by the community under the project). The initial success of the project demonstrates that housing can be constructed at costs which would return the profits required to attract private investors into the market.

It is significant that construction innovations developed by the defense and aerospace industries are now being applied in research conducted for the purpose of satisfying the need for low-cost housing. A joint research project conducted by the University of Michigan and the Aerojet-General Corporation, for example, has resulted in the development of a "total building system" based on the use of a glass fiber filament winding process for the on-site construction of housing units.[182] This process involves the deposit of glass fiber filaments coated with a binding resin onto a forming surface which is later removed, leaving a module which is strong, highly resistant to wear and easily repaired.[183] Modules can be grouped into an assortment of structural designs satisfying varying space requirements.[184] The project report suggests that any long-run solution to the low-cost housing problem of this nation requires a true industrialization of building in terms of the utilization of advanced technological developments in both materials and methods of construction, rather than merely a change in handicraft methods of production in an outdated and fragmented home building industry.[185]

[178] *Id.* at 12—13.

[179] *Id.* at 6—15.

[180] *Id.* at 16.

[181] *Id.*

[182] UNIVERSITY OF MICHIGAN ARCHITECTURAL RESEARCH LABORATORY, RESEARCH ON POTENTIAL OF ADVANCED TECHNOLOGY FOR HOUSING 10—12 (1968).

[183] *Id.* at 18.

[184] *Id.* at 18—20.

[185] *See Id.* at 12—15; PRESIDENT'S COMM'N ON URBAN HOUSING, A DECENT HOME 149—205 (December 11, 1968).

b. Building Codes

A substantial barrier to the use of new and less expensive building materials and new innovations in methods of construction has been the existence of outdated building codes.[186] The codes have remained unchanged largely because different segments of the building industry, including manufacturers and sellers of building materials, contractors, and labor unions, are often in conflict over the use of new or different construction materials and techniques. Each segment reacts against innovations that pose a threat to its financial position in the industry and resists changes in, or variations from, the building codes which might otherwise benefit the consumer through a reduction in cost of the housing unit.[187] The codes can be modernized through pressure on local enforcement officials who draft the model building,[188] electrical,[189] and plumbing[190] codes which are widely adopted by cities and counties throughout California. Under present state law, however, local governments may negate advances in the model codes by imposing more restrictive construction standards without having to justify such action to the state.[191] In Sacramento, for example, the City Council recently denied the use of plastic pipe for drains and waste lines in city construction when the local plumbers union appealed an earlier decision by the City Construction Codes Board to allow such use.[192] Plastic pipe is approved by the Uniform Plumbing Code[193] and has been used in construction in Sacramento County at an estimated savings of $500 per housing unit.[194]

The problems generated by outdated building codes can be solved. Innovation in the application of new construction techniques and the use of modern building materials to meet the need for low-

---

[186]*See* UNIVERSITY OF MICHIGAN ARCHITECTURAL RESEARCH LABORATORY, *supra* note 182, at 13; PRESIDENT'S COMM'N ON URBAN HOUSING, *supra* note 185, at 28.

[187]*See* UNIVERSITY OF MICHIGAN ARCHITECTURAL RESEARCH LABORATORY, *supra* note 182, at 13.

[188]INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS, UNIFORM BUILDING CODE (1967 edition).

[189]NATIONAL FIRE PROTECTION ASS'N, NATIONAL ELECTRICAL CODE (1968 edition).

[190]INTERNATIONAL ASS'N OF PLUMBING AND MECHANICAL OFFICIALS, UNIFORM PLUMBING CODE (1967 edition).

[191]The state adopts regulations reasonably consistent with the model codes, and a city or county may entirely supercede state building regulations by enactment of local ordinances prescribing standards equal to or greater than the state. 40 OPS. CAL. ATT'Y GEN. 205 (1962).

[192]The Sacramento Bee, March 7, 1969, at A1, col. 6.

[193]*Id.*

[194]*See Id.*; The Sacramento Bee, Dec. 18, 1968, at B1, col. 4.

cost housing should not be restricted by local building code variations.[195] To provide for the uniform application of building codes throughout the state, the State Housing Law should be amended to require all local variances from the model codes, as adopted by the state, to be approved by the Department of Housing and Community Development.[196] There is no question that the state has authority to enact such an amendment inasmuch as under Article 11, Section 11 of the California Constitution, local governments may make and enforce only such regulations as do not conflict with the general laws.[197]

c. Financing

Another barrier to satisfying the farm laborer's demand for housing is the lack of home financing programs available to the truly disadvantaged but willing home purchaser. It goes almost without saying that those who have the greatest need for financing are the least able to obtain it because of their high risk to traditional lending institutions.[198] This is true even in the case of government insured loans from private mortgage lenders under conventional Federal Housing Administration programs because requirements in most instances are too stringent to permit the farm laborer to qualify. Federal Housing Administration programs are structured to serve primarily urban and rural non-farm families who can obtain financing from private lenders and who possess the potential financial capacity to repay the loan in accordance with contract terms.[199] Depending upon the availability of mortgage money, terms typically range upwards from six percent for 30 years or less,[200] thus precluding the

---

[195]The problem of building restrictions created by local building code variations has been limited to some extent with the enactment of the California Factory Built Housing Law, CAL. HEALTH & SAFETY CODE §§ 19960—97 (West Supp. 1970). Standards for factory-built dwelling units manufactured for on-site assembly are to be promulgated by the California Commission of Housing and Community Development. Once effective, these standards will prevail over local codes or regulations applicable to the manufacture of housing. CAL. HEALTH & SAFETY CODE §§ 19981, 19990 (West Supp. 1970).

[196]Specifically, CAL. HEALTH & SAFETY CODE § 17951 (West 1964) should be so amended.

[197]"Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary and other regulations as are not in conflict with general laws." CAL. CONST. art. 11 § 11 (West 1954).

[198]CAL. DEP'T OF HOUSING AND COMMUNITY DEVELOPMENT, GOVERNOR'S CONFERENCE ON PLANNING FOR HOUSING AND HOME OWNERSHIP 100 (summary proceedings of the conference held Jan. 31—Feb. 1, 1968).

[199]*See* HOUSING HANDBOOK 23.

[200]*See Id.* at 24.

farm laborer from obtaining such a loan in most instances because of his income level and employment insecurity.

The program of home financing with terms most favorable to the farm laborer is the rural housing loan program of the Farmers Home Administration under which construction of self-help housing is presently financed.[201] Government insured loan funds are available at the rate of five percent for 33 years to low- or moderate-income residents of rural communities with populations not exceeding 5,500. Borrowers without adequate debt repayment ability may use a cosigner.[202] Direct loans by the Farmers Home Administration are also authorized under this program.[203] Prior to March, 1967, direct loans at terms of four percent for 33 years were being made to borrowers under the self-help program, but owing to a shortage of funds, direct loans at the four percent rate have since been unavailable.[204] An increase from four to five percent interest generates an additional $50 per year in payments on a $7,000 loan.[205] The importance of a low interest rate loan to a worker with an income of $3,500 is therefore readily apparent. The California State Director of the Farmers Home Administration estimates a present volume of 4,200 rural housing loan accounts in the three-state area of California, Nevada and Hawaii.[206] Although significant, this effort does not represent a large commitment to housing the farmworker in California, since he represents only one segment of the rural residents in California to which such loans are made which collectively required an estimated 211,000 new housing units by 1960.[207]

Inadequate federal programs suggest a state solution. It has been argued that the state should accept some responsibility for financing low-cost housing by establishing a loan program financed through the sale of revenue bonds. Through this program the state would be empowered to make direct low-interest loans to low-income families unable to obtain other financing.[208] To meet the problem of home financing squarely, such a loan program should be broad in scope, that is, available to all low-income, high-risk mortgagors. A state program could be managed by expanding the operations of the Department of Housing and Community Development to include the

---

[201] *See Id.* at 18.

[202] 42 U.S.C. §§ 1472(a), 1490 (1964), *as amended*, (Supp. IV, 1965—1968).

[203] 42 U.S.C. §§ 1487—88 (Supp. IV, 1965—1968).

[204] *See Hearings on Federal Programs* 275, 784—85.

[205] *Id.*

[206] Letter from Douglas W. Young, State Director, U.S. Dep't of Agriculture, Farmers Home Administration, to the *U.C.D. Law Review*, December 9, 1969.

[207] *See* REPORT ON HOUSING 7.

[208] *Id.* at 57—59.

area of financing home construction.[209] A more economical method would be to extend the existing Cal-Vet program[210] to persons other than veterans. The Cal-Vet program is the largest state financed home loan program in the nation. State bond authorizations for this program exceeded $2 billion by 1963.[211] Given the necessary license, financial aid under the Cal-Vet program could be made available to the agricultural worker and other low-income groups excluded from the private market because of their poor credit.

d. New Federal Subsidy Programs

Recently enacted federal legislation could have a broad impact on future plans to satisfy the farm laborer's housing needs. The Housing and Urban Development Act of 1968[212] authorizes a three-year housing program designed to provide more than 1.7 million units of new and rehabilitated housing for low-income families throughout America.[213] The act is designed to substantially increase the production of housing for low-and moderate-income families by placing great emphasis on participation by private enterprise in both the financing and production of housing.[214] Included are new provisions for programs of renewal, community planning, and mass transportation in urban areas.[215] New programs which offer the greatest potential for satisfying the demand for housing in rural areas, however, are the new home ownership and rental assistance programs authorized by Titles I and II of the act.[216]

The home ownership program provides for a federal subsidy to decrease the interest cost to a mortgagor holding a government

---

[209]A state financed home purchase program to assist financially disadvantaged persons was introduced in the 1969 legislative session, but failed to pass. Financial assistance under the program would have been available to families with incomes not exceeding $4,800 who had been California residents for two years, at loan terms not exceeding six percent interest for up to 40 years. Cal. Assembly Bill 762 (1969).

[210]CAL. MIL. & VET. CODE §§ 984—87.25 (West 1955), *as amended*, (West Supp. 1970). For a description of the program, see REPORT ON HOUSING 28—32; GOVERNOR'S ADVISORY COMM'N ON HOUSING PROBLEMS, APPENDIX TO THE REPORT ON HOUSING IN CALIFORNIA 423—30 (1963).

[211]REPORT ON HOUSING 28.

[212]Housing and Urban Development Act of 1968, Pub. L. No. 90—448, 82 Stat. 476.

[213]CONG. QUARTERLY ALMANAC 313 (1968).

[214]For a good statement of the act's purpose, see 2 U.S. CODE CONG. AND ADM. NEWS 2873—74 (1968).

[215]*See* CONG. QUARTERLY ALMANAC 316—18 (1968).

[216]Pub. L. No. 90—448, tit. I, 82 Stat. 477; Pub. L. No. 90—448, tit. II, 82 Stat. 498.

insured loan. The subsidy would amount to the difference between 20 percent of a family's income and the monthly mortgage payment, including taxes, interest and insurance.[217] For example, a family with an annual income of $3,600, and holding a typical government insured loan for $10,000, could receive a subsidy of $22.84. This subsidy is the difference between 20 percent of the monthly income ($60) and the monthly payment due on the mortgage ($82.84).[218] The subsidy could decrease the monthly payments of principal and interest to the level the purchaser would be paying had the loan been made at the rate of one percent.[219] Families with incomes of $3,000 to $6,500 are eligible, and loan preference is given to the lowest income families for whom home ownership is practicable.[220]

It would be premature at this writing to attempt making a cogent argument for or against the new interest-subsidized home purchase program based on its demonstrated effectiveness. By way of a comment, however, there have been no home purchases authorized in the California counties of Sacramento, Yolo, or Solano under the program as administered in rural communities by the Farmers Home Administration.[221] In contrast, the purchase of 425 existing and several hundred new homes has been authorized under the program as administered in urban areas of the 21 county territory served by the Sacramento office of the Federal Housing Administration.[222] This would seem to indicate a scarcity of mortgage funds in rural areas as opposed to a failure of the program to serve the needs of the rural home purchaser. If in conjunction with this program, government insured loans are made more accessible to the high-risk mortgagor, very favorable financing arrangements could be utilized by the farm labor family in search of ownership housing.

The rental assistance program will not foster home ownership; rather it is designed to make apartments available at lower than market rent to low-income families.[223] Tenants are aided indirectly under this program by a federal subsidy of the mortgage cost incurred by private non-profit, limited dividend, and cooperative organizations in the construction or rehabilitation of rental housing.[224] The subsidy

---

[217] 12 U.S.C. § 1715z(c)(1) (Supp. IV, 1965—1968).

[218] 2 U.S. CODE CONG. AND ADM. NEWS 2880 (1968).

[219] 12 U.S.C. § 1715z(c)(2) (Supp. IV, 1965—1968).

[220] CONG. QUARTERLY ALMANAC 313 (1968); 12 U.S.C. § 1715z(h)(2) (Supp. IV, 1965—1968).

[221] Interview with Margaret Scott, Regional Director's Office, U.S. Dep't of Agriculture, Farmers Home Administration, in Sacramento, Cal., Oct. 13, 1969.

[222] The Sacramento Bee, Oct. 12, 1969, at C1, col. 1.

[223] *See* 12 U.S.C. § 1715z—1(a) (Supp. IV, 1965—1968).

[224] 12 U.S.C. § 1715z—1(b) (Supp. IV, 1965—1968).

amounts to the difference between the market rate mortgage and the amount that is required on a mortgage bearing an interest rate of one percent.[225] Interest savings to the sponsor are passed on to tenants in the form of lower rent,[226] with the profit to limited dividend entities being scrutinized and strictly regulated by the Federal Housing Administration.[227] Tenant income eligibility requirements for this program are the same as those under the home ownership plan.[228] Benefits to the tenant in terms of decreasing his monthly expenditure for housing compare favorably with benefits to the purchaser under the home ownership program.[229] The rental assistance program was developed to help non-profit, limited dividend, and cooperative sponsors obtain necessary financing in the private mortgage market for low-rent and cooperative housing for low-income groups.[230] Federal subsidization should have the further effect of creating a guaranteed market for the housing because of its low-cost to renters. Whether this program will contribute to meeting the housing needs of the farmworker will depend upon the response of private organizations in rural communities and the availability of federal funds. In October of 1969, five projects under the rental assistance program had reached the construction stage in Northern California.[231] All such projects were in urban or suburban communities which, because of their close proximity to agricultural areas, carry the potential at least of benefiting the farm labor family.

In addition to the rental assistance program, the 1968 Act authorizes a new plan to encourage greater participation by private industry in the construction of rental housing. Title IX provides for the creation of a private corporation to act as general partner in a "national housing partnership" to which other corporations will be invited as limited partners.[232] The national partnership would in turn invest in local partnerships, up to a maximum of 25 percent participation in each, with local investors putting up the remaining 75 percent or more to finance low-rent housing projects in their communities.[233] The purpose of the national partnership is to encourage greater par-

---

[225] 12 U.S.C. § 1715z—1(c) (Supp. IV, 1965—1968).

[226] CONG. QUARTERLY ALMANAC 313 (1968).

[227] Interview with R. O. Fiellen, Chief Underwriter's Office, U.S. Dep't of Housing and Urban Development, Federal Housing Administration, in Sacramento, Cal., Oct. 13, 1969.

[228] CONG. QUARTERLY ALMANAC 313 (1968).

[229] *See* 2 U.S. CODE CONG. AND ADM. NEWS 2895 (1968).

[230] 2 U.S. CODE CONG. AND ADM. NEWS 2893—95 (1968).

[231] Interview with R. O. Fiellen, *supra* note 227.

[232] 42 U.S.C. §§ 3931—40 (Supp. IV, 1965—1968).

[233] Wall Street Journal, Feb. 5, 1969, at 18, col. 2.

ticipation by private industry in providing low-income housing.[234] It is estimated that an original investment in the national partnership of $50 million would generate $1.9 billion of construction financing.[235] Although one can only speculate on this program's potential for success at this early date, it should be very attractive to investors because of the guaranteed rental market resulting from the mortgage interest subsidy and because of the rapid tax depreciation of construction costs available on a capital investment of only ten percent.[236]

There is an additional federal program, the rent supplement program authorized by the Housing and Urban Development Act of 1965,[237] which could be utilized to complement the recently enacted rental assistance and national housing partnership programs discussed above, and thereby encourage even greater participation by the private sector in providing new low-rent housing. Under the rent supplement program, the tenant family pays 25 percent of its income toward rent, while the federal government pays directly to the landlord the difference between the established fair rental of the dwelling unit and the tenant's contribution.[238] To be eligible, a family must have a low income (one below the maximum limits established for admission to public housing in the area) and be a member of one of several designated groups, including occupants of substandard housing.[239] A 100 unit apartment building in the city of Redding is the only project presently operating under the rent supplement program in Northern California.[240] Although this project was not constructed under the rental assistance and national housing partnership programs, no proscription against utilizing all three programs in a single project would appear to exist.[241]

III. BUILDING CODES AND THEIR ENFORCEMENT

A. Federal Regulations

Under the American constitutional system, the power to provide for the health, safety, and general welfare of the people has been left to

---

[234]42 U.S.C. § 3931 (Supp. IV, 1965—1968).

[235]Wall Street Journal, *supra* note 233.

[236]*See Id.*

[237]Housing and Urban Development Act of 1965, Pub. L. No. 89—117 § 101, 79 Stat. 451 (1965).

[238]12 U.S.C. § 1701s(a), (d) (Supp. IV, 1965—1968).

[239]12 U.S.C. § 1701s(c) (Supp. IV, 1965—1968).

[240]Interview with R. O. Fiellen, *supra* note 227.

[241]R. O. Fiellen, a Federal Housing Administration official involved with administration of these programs, concurred in this conclusion. Interview with R. O. Fiellen, *supra* note 227.

the states.[242] The police power has always belonged to the states and was not surrendered to the federal government or directly restricted by the United States Constitution.[243] Regulating the construction of buildings with the aim of safeguarding the health of their occupants is a proper exercise of the states' legislative police power.[244] Within this context, federal agencies can exercise control over state housing conditions in two ways: under the power of Congress to regulate interstate and foreign commerce[245] and through the imposition of rules and regulations contained in voluntary federal programs.

By virtue of the power to regulate interstate commerce, the United States Department of Labor[246] requires that California growers desiring to use facilities of the state employment security system for the interstate recruitment of agricultural workers must provide housing which meets the minimum acceptable standard set forth in regulations of the Secretary of Labor.[247] Inspection of employee housing by state employment service personnel, or other state or local health, or housing agencies is a prerequisite to receiving interstate agricultural worker recruitment assistance.[248] This assistance, once a valuable asset in the harvest of seasonal crops, provides for the processing of grower requests for labor to other states with a surplus of workers through the Bureau of Employment Security.[249]

Housing which satisfies California's employee housing regulations would in most instances meet the standards set forth in Department of Labor regulations. An exception is the minimum air space requirement per person which in California is 340 cubic feet[250] as compared to the 400 cubic feet required under federal regulations.[251] Fewer employees could be housed in the same structure under federal regulations than under California law. The housing regulations of the Department of Labor have very little effect upon the conditions of agricultural employee housing in the state, however, for only 503 workers were recruited through the interstate system in 1967.[252] Although calls for increased federal control over agricultural

---

[242]Slaughter-House Cases, 83 U.S. (16 Wall) 36 (1872).

[243]Phillips v. City of Mobile, 208 U.S. 472 (1908).

[244]Del Fanta v. Sherman, 107 Cal. App. 746, 290 P. 1087 (1930).

[245]U.S. CONST. art. 1, § 8.

[246] The U.S. Dep't of Labor will be hereinafter referred to as the Department of Labor.

[247]U.S. DEP'T OF LABOR HOUSING REGULATIONS 1.

[248]*Id.* at 2.

[249]*See Id.* at 1—3.

[250]8 CAL. ADM. CODE § 16223 (1968).

[251]U.S. DEP'T OF LABOR HOUSING REGULATIONS 5.

[252]CAL. DEP'T OF EMPLOYMENT, *supra* note 8, at 14. This is in contrast to 3,505 workers recruited in 1965. CAL. DEP'T OF EMPLOYMENT, *supra* note 22, at 21.

employee housing conditions have been made,[253] they would not seem to warrant serious consideration in light of the trend toward stabilization of the farm labor force and the resulting decrease in use of employer-provided housing.

The other instance in which a federal agency could choose to exert control over farm labor housing conditions arises in those cases in which housing is financed with a direct or federally insured loan. Federal financing programs generally require that housing comply with all applicable state and local laws governing construction and sanitation.[254] Presumably, then, if violations exist which are not corrected, the favorable government financing may be withdrawn.[255] Enforcement of state and local laws against non-conforming housing would precede this action, however, unless jurisdictional enforcement agencies were not performing their duty. Thus, responsibility for the regulation of housing has been left to the states which have a direct interest in such regulation to the end of providing for the public convenience and public good of their citizens.[256]

B. California State and Local Codes

Two laws provide the basic framework for regulation of farm labor housing conditions in California: the Employee Housing Act[257] and the State Housing Law.[258] The former regulates labor camps; the latter apartment houses, hotels, and all other permanent dwellings throughout the state.

1. Regulation of Employee Housing

All private employee housing, labor camps, and labor supply camps, which house five or more employees, come within the purview

---

[253]*See* Comment, *Housing of Migrant Agricultural Workers,* 46 TEX. L. REV. 933, 940—42 (1968).

[254]See, for example, the housing standards that must be met under the programs of financing available from the Farmers Home Administration. HOUSING HANDBOOK, *supra* note 155, at 16.

[255]This remedy has been suggested to enforce housing codes against substandard housing. *See* Lorenz, *The Application of Cost-Utility Analysis to the Practice of Law: A Special Case Study of the California Farmworkers,* 15 KAN. L. REV. 409, 425—26 (1967).

[256]For a discussion of increased federal regulation of local public housing, see PRESIDENT'S COMM'N ON URBAN HOUSING, *supra* note 185, at 28—29.

[257]Employee Housing Act, CAL. LABOR CODE §§ 2610—46 (West Supp. 1970).

[258]State Housing Law, CAL. HEALTH & SAFETY CODE §§ 17910—95 (West 1964), *as amended,* (West Supp. 1970).

of the Employee Housing Act.[259] Attempts have been made to amend the act to bring within its provisions smaller labor camps housing three or more employees.[260] Because the act refers specifically to the number of "employees" which may be housed, labor camps can remain unregulated despite their deteriorated and overcrowded condition. For example, if each of four employees had five dependents, 24 people could occupy employee housing without such housing coming within provisions of the act.

Regulation of the construction and maintenance of temporary buildings in labor camps is within the exclusive jurisdiction of the California Department of Housing and Community Development, Division of Building and Housing Standards.[261] Permanent buildings, in contrast, can be regulated both by the state and by local officials pursuant to local ordinances which prescribe minimum standards equal to or greater than those enforced by the Division.[262] Consequently, two sets of standards are applied, one by the state and one by local jurisdictions, often in the same camp. The uncertainty regarding the applicable regulation makes compliance by growers more difficult.[263] Uncertainty is further heightened because employee housing must comply with regulations of the Department of Labor in those cases in which employees are hired through the interstate recruitment program, should state regulations be less stringent.[264]

Officers and agents of the Division may enter and inspect camps for compliance with the act,[265] and are authorized to serve any process or notice.[266] They are no longer authorized to make arrests as they

---

[259]CAL. LABOR CODE §§ 2615—17 (West Supp. 1970).

[260]Interview with Arthur E. Dreyer, Assistant Housing Standards Coordinator, Cal. Dep't of Housing and Community Development, Division of Building and Housing Standards, in Sacramento, Cal., November 1, 1968.

[261]*See* CAL. LABOR CODE §§ 2611, 2625, 2640 (West Supp. 1970). The Cal. Dep't of Housing and Community Development, Division of Building and Housing Standards will be hereinafter referred to as the Division.

[262]CAL. LABOR CODE § 2611 (West Supp. 1970). In the event of a conflict in standards, the more stringent provisions control. 30 OPS. CAL. ATT'Y GEN. 16 (1957).

[263]Interview with Francis McNeil, *supra* note 40.

[264]*See* text accompanying notes 247—49 *supra*. The potential for confusion in the application of regulations against employee housing goes further. Housing constructed before enactment of the Employee Housing Act in 1965 is subject to provisions of the former Labor Camp Act, Cal. Stat. 1937, ch. 90, § 2410, at 254 (repealed 1965). Regulations adopted pursuant to the Employee Housing Act (8 CAL. ADM. CODE §§ 16217—45 (1968)) are sufficient, if enforced, to insure safe, adequate, comfortable living conditions for farm laborers utilizing employee housing. The need for enforcing other regulations against such housing is therefore not readily apparent.

[265]CAL. LABOR CODE § 2640 (West Supp. 1970).

[266]CAL. LABOR CODE § 2641 (West Supp. 1970).

were under the prior Labor Camp Act.[267] A force of only 63 Division representatives[268] is responsible for the inspection of approximately 4,800 labor camps[269] situated throughout the state, as well as enforcement of the Earthquake Protection Law,[270] the Mobilehomes and Mobilehome Parks Law,[271] and the State Housing Law in certain counties without an enforcement agency.[272] The frequency of inspection of employee housing, therefore, is much lower than is necessary to enforce compliance with the act.[273] For this reason employee housing units are often inspected by local county health department officials in conjunction with their responsibility under state law for the inspection of water, sewage, and food service facilities in labor camps.[274]

Division procedures for enforcement of the act provide that after an inspection is made, a letter is sent to the grower listing violations and stating the period of time required for correction.[275] If the period expires without the corrections having been made, the grower is sent a letter to show cause why prosecution should not be initiated. The "in terrorem" nature of show-cause letters results in compliance in most cases.[276] Violations of the act, if not remedied, render the labor camp a public nuisance as a matter of law,[277] subjecting it to an abatement action brought by the district attorney of the county in which the nuisance exists.[278] Persons violating or causing others to violate any provision of the act are guilty of a misdemeanor, punishable by a fine of up to $200 or imprisonment for not more than 60 days or both.[279] The abatement procedure is the method of enforcement used most often when correspondence fails to gain compliance. Criminal penalties are imposed only in exceptional instances.[280]

---

[267]CAL. LABOR CODE § 2424 (West Supp. 1970).

[268]Interview with Arthur E. Dreyer, *supra* note 260.

[269]Interview with Lillian McCracken, *supra* note 36.

[270]Earthquake Protection Law, CAL. HEALTH & SAFETY CODE §§ 19100—70 (1964), *as amended*, (West Supp. 1970).

[271]Mobilehomes and Mobilehome Parks Law, CAL. HEALTH & SAFETY CODE §§ 18000—700 (1964), *as amended*, (West Supp. 1970).

[272]*See* text accompanying notes 300—02 *infra*.

[273]Letter from Douglas Taylor, *supra* note 39.

[274]*Id.*; See CAL. LABOR CODE § 2626 (West Supp. 1970) for inspection responsibilities specifically reserved to local jurisdictions.

[275]Interview with Francis McNeil, *supra* note 40.

[276]*Id.; See* report prepared for consideration of the National Comm'n on Urban Problems, F. GRAD, LEGAL REMEDIES FOR HOUSING CODE VIOLATIONS 15—16 (Research Rep't. No. 14, 1968).

[277]CAL. LABOR CODE § 2645 (West Supp. 1970).

[278]*Id.*; 49 OPS. CAL. ATT'Y GEN. 121 (1967).

[279]CAL. LABOR CODE § 2646 (West Supp. 1970).

[280]*See generally* F. GRAD, *supra* note 276, at 24—33.

A deficiency of the present enforcement process is that it can easily take longer than the harvest season,[281] thus offering no benefit to employees currently housed. An alternative method of enforcement which might encourage quick grower compliance would be to empower inspectors with the authority to issue on-the-spot citations for violations. These citations could accompany a notice to appear, much like traffic tickets, and carry substantial fines.[282] Prosecution of violators presents a further impediment to the effectiveness of the act. Local district attorneys, sensitive to public opinion, might be reluctant to prosecute local growers.[283] A civil remedy available to the tenant-employee should be developed. An economic sanction in the form of a fine, fully collectible in a civil action, (and possibly proportional to the gravity of the violation), might provide such a remedy. If the fines were also cumulative, the offender would be prompted to make repairs quickly.[284]

2. Regulation of Rural Non-Farm Housing

The State Housing Law enacted in 1961 is the second law which affects the condition of farm labor housing. This law followed directly the repeal of the State Housing Act[285] which had been amended 15 times since its enactment in 1923. The State Housing Law provides for the adoption of rules and regulations governing housing conditions by the Department of Housing and Community Development.[286] By substituting rules and regulations for the previous statutory law, the Legislature provided for greater flexibility in maintaining a set of performance standards which can be adapted to changing methods and materials used by the construction industry. The State Housing Law and regulations promulgated pursuant thereto apply as a minimum standard applicable to the use and maintenance of all apartment houses, hotels, and other permanent dwellings, not in labor camps, throughout the state.[287] Regulations under the act relating to the erection and construction of buildings, apply only to buildings upon which

---

[281]Environmental Health Programs for Farmworkers: Jurisdiction versus Responsibility, a paper presented by Richard S. Holdstock to the Farmworkers Environmental Health Training Conference, Monterey County, Cal., Health Dep't, Sept. 19, 1968.

[282]*Id.*

[283]*See* F. GRAD, *supra* note 276, at 31.

[284]*See* Gribetz and Grad, *Housing Code Enforcement: Sanctions and Remedies*, 66 CAL. L. REV. 1254, 1281—84 (1966).

[285]Cal. Stat. 1923, ch. 386, § 1, at 782 (repealed 1961).

[286]CAL. HEALTH & SAFETY CODE § 17921 (West Supp. 1970).

[287]CAL. HEALTH & SAFETY CODE §§ 17912, 17950 (West Supp. 1970).

construction was commenced since its enactment in 1961.[288] Construction and erection provisions of the former act were left applicable to buildings constructed or already under construction in 1961.[289] Regulations adopted by the Department of Housing and Community Development must be reasonably consistent with recognized and accepted standards contained in the Uniform Housing Code, the Uniform Building Code, the Uniform Plumbing Code, the Uniform Mechanical Code, and the National Electrical Code.[290] The Department has adopted these uniform codes, but it is empowered to approve alternative standards if it finds that the proposed design is satisfactory and that the material, appliance, or device is at least equivalent in terms of quality, strength, and safety to that required under the uniform codes.[291]

Cities and counties may enact ordinances or regulations imposing restrictions equal to or greater than those imposed under the State Housing Law. The building department of a city or county may authorize the use of alternative materials, devices, appliances, installation, arrangements, or methods of construction, if such alternatives are at least equivalent to the requirements of the law.[292] This authorization is consistent with Article 11 of the California Constitution which delegates to local governments the power to make and enforce police, sanitary, and other regulations not in conflict with state laws.[293] Article 11, enacted in 1879, empowered local governments to adopt building ordinances applicable to local housing conditions at a time when general laws on the subject were non-existent, since the first law of any significance to regulate California housing conditions at the state level was not enacted until 1909.[294] Legislative attention to housing conditions has intensified since that time, however, and the comprehensive nature of the present State Housing Law suggests that local ordinances establishing different standards are no longer required and may only serve to detract from uniform enforcement of the law.

Persons objecting to the way in which a state building regulation is applied may request a hearing before a city or county appeals board. If the appeals board determines that local conditions render application of the regulation unreasonable, the regulation is not

[288]CAL. HEALTH & SAFETY CODE § 17911—12 (West Supp. 1970).
[289]CAL. HEALTH & SAFETY CODE § 17913 (West Supp. 1970).
[290]CAL. HEALTH & SAFETY CODE § 17922 (West Supp. 1970).
[291]CAL. HEALTH & SAFETY CODE § 17923 (West 1964).
[292]CAL. HEALTH & SAFETY CODE § 17951 (West 1964); City of Bakersfield v. Miller, 64 Cal. 2d 93, 100—01, 410 P.2d 393, 398, 48 Cal. Rptr. 889, 894 (1966).
[293]CAL. CONST. art. 11 § 11 (West 1954).
[294]Tenement House Act, Cal. Stat. 1909, ch. 625, § 1, at 948 (repealed 1923).

applied, and such determinations, together with reasons therefore, must be forwarded to the Division of Building and Housing Standards.[295] The local appeals board may grant exemptions from regulations adopted by the Division even though no local enforcement exists.[296] Persons alleging that the application or enforcement of a state regulation is erroneous or unlawful may appeal directly to the Commission of Housing and Community Development.[297]

Responsibility for enforcement of the State Housing Law is delegated to local city or county enforcement agencies.[298] Health and Safety Code provisions require the board of supervisors of each county to adopt building ordinances to protect the public health in unincorporated areas of the county and provide for payment of all expenses incurred in their enforcement.[299] The Division may provide enforcement assistance where no local building inspection department exists and when the county contracts with the Division to pay the cost incurred.[300] Since Division enforcement assistance is presently provided only in the counties of Alpine, Mariposa, Sierra, Trinity, and Tuolumne,[301] no agricultural counties are affected. In other counties, the Division will enforce building regulations only in the absense of local enforcement.[302]

Building code violations are subject to a civil action instituted by the enforcement agency to prevent, restrain, correct, or abate the violation or nuisance.[303] Persons who violate the codes are guilty of a misdemeanor, punishable by a fine of up to $500 or imprisonment not exceeding six months or both.[304] Civil and criminal remedies, because they require proceedings before a court, can provide only a very slow process for code enforcement.[305] An alternative remedy which may be used by local enforcement officials, is an administrative abatement procedure authorized by regulations adopted pursuant to the State Housing Law.[306] This procedure provides that when a structure is

[295]CAL. HEALTH & SAFETY CODE § 17925 (West 1964).

[296]41 OPS. CAL. ATT'Y GEN. 182 (1963).

[297]CAL. HEALTH & SAFETY CODE § 17930 (West Supp. 1970).

[298]CAL. HEALTH & SAFETY CODE §§ 17960—61, 17964 (West Supp. 1970)

[299]CAL. HEALTH & SAFETY CODE §§ 450, 452 (West 1955), *as amended*, (West Supp. 1970).

[300]CAL. HEALTH & SAFETY CODE §§ 17965—66 (West 1964).

[301]CAL. DEP'T OF HOUSING AND COMMUNITY DEVELOPMENT, *supra* note 130, at V—6.

[302]CAL. HEALTH & SAFETY CODE § 17952 (West Supp. 1970).

[303]CAL. HEALTH & SAFETY CODE § 17980 (West 1964).

[304]CAL. HEALTH & SAFETY CODE § 17995 (West 1964).

[305]Interview with David McMurtry, Asst. City Attorney of Sacramento, in Sacramento, Cal., April 25, 1969; *See* F. GRAD, *supra* note 276, at 31.

[306]8 CAL. ADM. CODE § 17014 (1963).

determined by the enforcement agency to be in such a condition of disrepair as to be unfit for human habitation, the agency must notify the owner that he has 30 days in which to institute proceedings to correct or abate the conditions rendering the structure unfit.[307] If corrective action is not taken, the agency will direct the owner to appear before the governing board of the enforcement agency at a stated time to show cause why the structure should not be condemned as a public nuisance.[308] If at the conclusion of this hearing the structure is declared to be a nuisance, the owner is instructed that he will have 30 days after posting of this resolution on the premises involved, to repair, raze or remove the structure.[309] If upon expiration of this 30-day period the owner has not abated the nuisance, been granted an extension, or challenged the order in the proper court, the enforcement agency may raze or remove the structure with costs of such action becoming a lien upon the property.[310] The constitutionality of this procedure has been questioned and upheld on the ground that a citizen has no constitutionally protected right to maintain a public nuisance.[311]

While statistics are unavailable with respect to enforcement of codes applicable to rural non-farm dwellings, one need look only to the degraded housing conditions which continue to exist[312] in certain communities to conclude that enforcement has not been as strict as the law requires. One must also consider the disruptive effect on both the rural community and the family involved that housing code enforcement can have, where no alternative to the substandard housing is available. This is a dilemma constantly confronting local enforcement officials whose responsibility it is to condemn such housing.[313]

IV. CONCLUSION

The problem of housing the farm laborer is but one segment of a larger problem facing this nation today—the problem of providing a

[307]8 CAL. ADM. CODE § 17014.1 (1963).
[308]8 CAL. ADM. CODE § 17014.4 (1963).
[309]8 CAL. ADM. CODE § 17014.5 (1963).
[310]8 CAL. ADM. CODE § 17014.6—14.9 (1963).
[311]City of Bakersfield v. Miller, 64 Cal. 2d 93, 96, 410 P.2d 393, 395, 48 Cal. Rptr. 889, 891 (1966).
[312]*See* text accompanying notes 140—45 *supra.*
[313]Interview with Francis McNeil, *supra* note 40.

decent living environment for the millions of "rural poor" who have been left behind in a mass exodus to the cities by rural residents in search of greater employment opportunity and better living conditions. By 1960, rural out-migration had reached three million persons annually.[314] One consequence of this population shift has been the application of both government and private resources to satisfying the demands of urban residents, forgetting to a large extent the problems of their rural counterparts.

> Until now, housing renewal and rehabilitation aid has been confined to larger urban concentrations, communities which have much more to draw on in terms not only of economic resources but in terms of resources of political and technical skill. The small rural town, its economy supported to a large degree by the low wages and seasonal employment of the agricultural worker, is without such resources.[315]

Housing conditions in rural America, then, are due largely to discrimination and neglect; rural poor simply cannot provide adequate housing for themselves out of their meager earnings, and they have not shared equitably in programs aimed at improving housing conditions. Only when agricultural workers are given an equal opportunity to benefit from available resources and the freedom to live and work where they choose will the reasons for migration be ended and the quality of rural areas be raised.

No individual effort to house the farmworker can satisfy the demand. The solution lies in formulating a plan of action employing an appropriate combination of all available federal, state, local, and private resources. With the exception of the Cal-Vet program, California's participation in housing has been largely regulatory. The primary governmental responsibilities in housing have fallen upon local and federal authorities. Without interposing themselves between local and federal governments and disrupting established programs, states should focus on problem areas in housing where economically and socially disadvantaged population groups are not being adequately served by local and federal programs, and attempt to supplement these programs. A progressive housing program should be addressed to extricating the farm laborer from a context in which he is considered a second-class citizen without the protections of social legislation afforded laborers in other industries. The emphasis should be placed on providing the means by which the farmworker can own a home and thereby enjoy the benefits which would follow from the

[314] *Hearings on Federal Programs* 2.

[315] GOVERNOR'S ADVISORY COMM'N ON HOUSING PROBLEMS, *supra* note 210, at 699.

establishment of a permanent residence. That this view is not widely adopted by those currently providing the farm laborer with housing is shown in a recent California survey. Nearly 78 percent of the growers, grower associations, and local housing authorities contacted favored an emphasis on rental rather than ownership housing for farmworkers.[316] In contrast, this same group felt that there was a definite trend toward permanency in employment of the farm labor force.[317] Why rental housing should be favored over ownership housing in the face of a recognized trend toward permanency in the farm labor force, can perhaps only be explained by the predominately rental orientation of farmworker housing at present, accompanied by a failure to recognize the long-run economic and social desirability of incorporating the farmworker into the mainstream of our labor force.

In a broad program to improve agricultural worker living conditions, housing codes must be strictly enforced against deficient employee housing and rural slums. Enforcement of the codes cannot provide new housing; it has a more limited goal. It would be a mistake, however, to overlook code enforcement because of this limitation and focus solely on the construction of new housing. The razing of dilapidated structures, and the enforcement of minimal standards of healthful living must be joined with new construction in any program to improve housing conditions of the agricultural worker on a large scale. Within this context, new code enforcement techniques such as the labor camp citation and the civil remedy for private enforcement of housing standards should be adopted with a view to shifting the emphasis in code enforcement penalties from punishment of the guilty land owner to quick repair of the deficient housing. To streamline existing enforcement machinery, the division of responsibility which exists between state and local agencies for the enforcement of housing and sanitation standards governing employee housing should be eliminated. Complete authority for such enforcement should be vested in a single state agency to provide for inspection efficiency, and good relations with growers. To support this plan additional manpower should be provided the Division of Building and Housing Standards.

Housing programs should reflect the trend towards stabilization in the farm labor force. Although provision must be made for the existing migrant farmworker in terms of housing units near farm production centers, the main thrust of both public and private efforts to house the farmworker should be in the direction of providing decent ownership and rental housing in communities which are in

[316] LOW COST HOUSING 31.
[317] *Id.* at 14.

close proximity to agricultural areas. Increased emphasis should be placed on home ownership, with a consequent priority on the development of new low-cost housing and conforming building codes, with a view to inviting the private housing industry to satisfy the housing demands of the agricultural worker and other low-income families. A stated objective of the California Department of Housing and Community Development is to "continue to update, clarify, and make flexible laws regulating housing construction and migrant labor housing in order to stay abreast of technological and economic change."[318] This objective would seem to be thwarted by the continued existence of a regulation procedure which permits the adoption and enforcement of local building standards which exceed requirements of the state code and increase the costs of home construction. Attention should be directed at improving the procedure by amending the State Housing Law to require local governments to justify any variations in local building codes from state standards.

The funding of existing programs and the development of new programs to finance the large scale construction of low-cost ownership as well as rental housing for low-income families is an urgent need if decent private housing for these families is to be a reality. Credit standards imposed on loan applicants under federal programs should be relaxed to the maximum extent possible in an effort to reach all low-income families capable of home ownership. Where housing needs are not being satisfied through the utilization of federal programs, the state in its responsibility for providing for the safety and welfare of its citizens should move forward with new programs to fill the void. In this regard, serious consideration should be given to establishing a state home financing program for families with incomes so low as to disqualify them from existing programs.

Responsibility for providing new housing for the declining migrant segment of the farm labor force is properly vested in a governmental agency or agencies. These workers, because of their characteristic transiency, cannot be considered as part of any market for low-cost ownership housing, but must be provided for through low-rent public housing projects during their period of integration into the non-transient farm labor force. Only in this way can an alternative be provided to rural slum, or dilapidated labor camp housing left from the Bracero era, which must otherwise be used to house them during peak harvest periods.

Robert P. Mallory

[318] CAL. DEP'T OF HOUSING AND COMMUNITY DEVELOPMENT, *supra* note 130, at I—2.