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THE NONPROFIT CORPORATION AND COMMUNITY DEVELOPMENT IN BEDFORD-STUYVESANT

Congress has stated that the general welfare and security of the United States requires community development sufficient to eliminate blighted areas, and the production of decent housing for all Americans.¹ With federal assistance, nonprofit corporations have built and operated housing projects for low-income families and have assisted in the economic development of depressed areas.² The Bedford-Stuyvesant Restoration Corporation, the first nonprofit community development corporation,³ has been involved in the production and rehabilitation of low-income housing and neighborhood development in Bedford-Stuyvesant for nearly twenty years.⁴

Nonprofit corporations promote certain altruistic, moral, or social goals.⁵ Nonprofit corporations usually come into existence through the efforts of organizers who provide the initial energy and leadership necessary to form

1. See Housing Act of 1949, Pub. L. No. 81-171, 63 Stat. 413 (codified as amended at 42 U.S.C. §§1441-1490 (1980)). Congress has declared as a goal the elimination of substandard and inadequate housing and the provision of a decent home and suitable living environment for every American family. 42 U.S.C. §1441. Congress has stated that private enterprise should serve as large a part of the total need as possible, that government should provide assistance to help private enterprise construct such housing, and that government should provide assistance to eliminate slums and provide adequate housing for low-income families. *Id.*

2. H. OLECK, *NONPROFIT CORPORATIONS, ORGANIZATIONS AND ASSOCIATIONS* 75-76 (1980) (discussing nonprofit organizations building and operating low-rent housing projects); see *infra* notes 81, 88-91 and accompanying text (discussing housing programs of Bedford-Stuyvesant Restoration Corporation); *infra* notes 100-102, 108 and accompanying text (discussing economic developments of Restoration). See also B. WARD, *THE HOME OF MAN* 109 (1976): "It is important to state from the outset with the strongest possible emphasis that if a wealthy nation does leave any of its citizens in poor, unhealthy, substandard housing, the issue is one of choice, not necessity." *Id.* See *infra* note 124 (discussing greater federal housing subsidies for upper and middle-income families compared with subsidies for low-income housing).

3. See *infra* notes 26-31 (discussing various types of nonprofit community development corporations).

4. See *Bedford-Stuyvesant Development & Services Corporation, Ford Foundation Proposal* 22 (March 9, 1967) (available in Robert F. Kennedy (RFK) Papers at John F. Kennedy Library) (describing purposes of Bedford-Stuyvesant Renewal & Rehabilitation Corporation (Renewal) and Bedford-Stuyvesant Development & Services Corporation (Development)) [hereinafter cited as *Ford Foundation Proposal*].

5. See H. OLECK, *supra* note 2, at 22 (test for determining whether corporation is nonprofit involves assessing motives for forming such corporation); B. HOPKINS, *THE LAW OF TAX-EXEMPT ORGANIZATIONS* 47-51 (1977) (same); see also T. CONNORS, *THE NONPROFIT ORGANIZATION HANDBOOK*, sec. 1, 6-15 (1980) (describing principal categories of nonprofit corporations). N.Y. NOT-FOR-PROFIT CORPORATION LAW §102 (McKinney 1970 & Supp. 1984-85). New York law requires that the formation of the nonprofit corporation be for a non-pecuniary purpose. *Id.* New York law defines a non-pecuniary purpose as a purpose other than the financial profit or benefit of persons associated with the corporation. *Id.*

the nonprofit corporation.⁶ The organizers may or may not serve as incorporators or members of the corporation.⁷

State law requires every incorporated organization to state its purpose in its certificate of incorporation.⁸ The purpose of a nonprofit corporation will in part determine whether the corporation receives an exemption from federal income taxation.⁹ The stated purpose of a nonprofit corporation implies certain goals, and the corporation need not detail the rules and regulations of the corporation in its charter.¹⁰ A nonprofit corporation may describe special corporation powers in the corporation bylaws.¹¹ Most states do not require the drafting of bylaws by nonprofit corporations,¹² but such bylaws usually result in clarification of responsibilities and procedures.¹³ Generally, nonprofit corporations may buy and sell personal or real property, enter into contracts, borrow or lend money, sue or be sued, and may issue bonds for money, property, labor or services.¹⁴

6. See H. OLECK, *supra* note 2, at 201 (describing initiation of corporate formation); *id.* at 204-05 (discussing methods of incorporation); see also T. CONNORS, *supra* note 5, at sec. 2, 20-21 (discussing organizing process for nonprofit corporations).

7. H. OLECK, *supra* note 2, at 202-03. The organizer of a corporation seeks to interest others in organizing a corporation to pursue certain goals, begins the process of incorporation, and assists the formation of the projected corporation. *Id.* at 203. See L. FITCH & A. WALSH, *AGENDA FOR A CITY* 443 (1970). A community development corporation has the best chance of success through personal sponsorship, when the organizer lends his or her personal prestige to the effort. *Id.* An ideal organizer is someone who is prominent, ambitious, committed, well-connected, and willing to take risks. *Id.*

8. H. OLECK, *supra* note 2, at 216-17. As required by all states, a nonprofit corporation must specify its purpose in the corporation's certificate of incorporation. *Id.* at 217. See N.Y. NOT-FOR-PROFIT CORPORATION LAW §402(a)(2) (McKinney 1970 & Supp. 1984-85) (requiring statement of purpose of nonprofit corporation in certificate of incorporation); see also OHIO REV. CODE ANN. §1702.04(A)(3) (Baldwin 1984) (same).

9. See T. CONNORS, *supra* note 5, sec. 1, 36-37 (1980). A nonprofit corporation seeking exemption under §501(c)(3) of the Internal Revenue Code (IRC) must file Internal Revenue Service (IRS) Form 1023, which must include copies of the corporation's certificate of incorporation, constitution, articles of association, bylaws, statements of receipts and expenditures, a balance sheet for the current year and three prior years if the corporation existed previously, and any amendments to the above documents. *Id.* at sec. 1, 43-44. See *infra* notes 24-39 and accompanying text (regarding tax considerations for nonprofit corporations).

10. See H. OLECK, *supra* note 2, at 249-50, 256 (stating that nonprofit corporation's stated purposes and bylaws imply corporation's powers).

11. *Id.* at 260 (stating that bylaws should include important corporation powers); see also T. CONNORS, *supra* note 5, at sec. 2, 111-12 (describing bylaws as controlling instruments).

12. See N.Y. NOT-FOR-PROFIT CORPORATION LAW §602 (McKinney 1970 & Supp. 1984-85) (stating that bylaws "may be adopted" by nonprofit corporations); see also OHIO REV. CODE ANN. §1702.10 (Baldwin 1984) (stating that incorporators may adopt regulations governing corporation). See H. OLECK, *supra* note 2, at 398 (discussing advisability of adopting bylaws).

13. See H. OLECK, *supra* note 2, at 399 (stating that lack of bylaws may cause friction in corporate operation due to lack of procedural clarity); see also T. CONNORS, *supra* note 5, at sec. 2, 111-12 (describing bylaws as controlling instruments).

14. See N.Y. NOT-FOR-PROFIT CORPORATION LAW §202(a)(1)(16) (McKinney 1970 & Supp. 1984-85) (describing general purposes and powers of nonprofit corporations); see also OHIO REV. CODE ANN. §1702.12 (A)-(I) (same).

State statutes usually prevent nonprofit corporations from issuing shares of stock.¹⁵ Members of nonprofit corporations instead receive certificates of membership in the corporation.¹⁶ Members of the nonprofit corporation may vote on matters in a manner similar to shareholders of a profit corporation, even though the members of the nonprofit corporation do not have a direct financial interest in the corporation.¹⁷

Nonprofit corporations do not exist for the pecuniary gain of its officers or members.¹⁸ However, profit generating activities generally will not disturb nonprofit corporation status as long as the corporation uses the profits for the corporation's purpose of public betterment.¹⁹ Nonprofit corporations may also provide reasonable compensation to employees or others for services rendered.²⁰

The board of directors handles the general management of the nonprofit corporation.²¹ The bylaws of a nonprofit corporation may include the number

15. See N.Y. NOT-FOR-PROFIT CORPORATION LAW §501 (McKinney 1970 & Supp. 1984-85). A New York nonprofit corporation may not issue stock, shares, or certificates for stock or shares, but may issue nontransferable membership certificates whether or not connected with any financial contribution to the corporation. *Id.*; see OHIO REV. CODE ANN. §1702.13(B) (Baldwin 1984) (allowing nonprofit corporations to issue certificates for membership, but not certificates for shares of stock).

16. See *supra* note 15 (discussing provisions for nonprofit corporation issuance of certificates of membership).

17. See N.Y. NOT-FOR-PROFIT CORPORATION LAW §603 (McKinney 1970 & Supp. 1984-85) (providing for member voting at corporation meetings); see also OHIO REV. CODE ANN. §1702.20 (Baldwin 1984) (providing that each corporation member may vote once on each matter properly presented to the members for their vote).

18. See *Rochester Liederkranz, Inc. v. United States*, 456 F.2d 152, 156 (2d Cir. 1972) (stating that nonprofit organizations may not distribute dividends to members). See N.Y. NOT-FOR-PROFIT CORPORATION LAW §102(a)(5) (McKinney 1970 & Supp. 1984-85). The New York Not-For-Profit Corporation Law provides a two prong test to determine nonprofit status. *Id.* First, the purpose of forming the corporation must not be for pecuniary gain or profit. *Id.* Second, no part of the corporation's assets, income or profit may benefit the corporation's members, directors or officers except as otherwise permitted under the statute. *Id.* See OHIO REV. CODE ANN. §1702.01 (C) (Baldwin 1984). The Ohio Revised Code states that a nonprofit corporation may provide reasonable compensation for services rendered by employees, and that such compensation shall not constitute pecuniary gain or profit. *Id.*

19. See N.Y. NOT-FOR-PROFIT CORPORATION LAW §508 (McKinney 1970 & Supp. 1984-85). Section 508 of the New York Not-For-Profit Corporation Law states that a corporation may make an incidental profit as long as the corporation applies the profit to the purposes of the corporation, and does not distribute the profit among members, officers, or directors of the corporation. *Id.*; see OHIO REV. CODE ANN. §1702.12 (F) (Baldwin 1984). The Ohio Revised Code Annotated provides that in carrying out the lawful purposes of the nonprofit corporation, such corporation may purchase, sell, lease or transfer property, acquire control of other corporations whether nonprofit or for-profit, serve as a partner or participant in other enterprises, whether nonprofit or for-profit, or issue, sell or pledge notes or other evidence of indebtedness. See OHIO REV. CODE ANN. §1702.12 (F) (Baldwin 1984).

20. See N.Y. NOT-FOR-PROFIT CORPORATION LAW §202(a)(12) (McKinney 1970 & Supp. 1984-85) (stating that nonprofit corporations shall provide reasonable compensation for employees); see also *supra* note 18 (discussing provision for employee compensation in nonprofit corporations).

21. H. OLECK, *supra* note 2, at 593 (describing board of directors management of

and qualifications of the board of directors.²² The board of directors also selects officers and managers of the corporation in accordance with the description provided in the bylaws.²³

An important advantage to using the nonprofit corporation model as a means of structuring social welfare organizations is the federal income tax exemption granted under the Internal Revenue Code (IRC).²⁴ The IRC exempts nonprofit corporations organized and operated for charitable purposes.²⁵ A charitable purpose includes providing relief for the poor, distressed, or underprivileged.²⁶ A nonprofit corporation may provide low-income housing,²⁷ purchase and renovate deteriorated housing and sell or

corporation). Directors serve as fiduciaries to the corporation. *See* *Pepper v. Litton*, 308 U.S. 295, 306 (1939). In *Pepper v. Litton*, the United States Supreme Court disallowed a judgment obtained by the controlling stockholder of a bankrupt corporation on alleged salary claims. *Id.* at 296. The Court determined that the controlling stockholder violated a fiduciary duty to the corporation through a scheme to defraud creditors. *See id.* at 296-97, 306. The *Litton* Court stated that directors and controlling stockholders of a corporation are fiduciaries. *Id.* at 306. The dealings and engagements of a director on behalf of the corporation must have the characteristics of an arms length bargain, and the director bears the burden of proving the good faith and inherent fairness of the transaction from the viewpoint of the corporation. *Id.* A director as fiduciary acts for the benefit of the corporation, and may not utilize inside information or manipulate corporate affairs for self-gain. *Id.* at 311. *See* H. OLECK, *supra* note 2, at 594-95 (discussing fiduciary status of directors).

A director's gross negligence or ordinary negligence may result in personal liability for the director, depending upon the particular state standard. *Id.* *See* N.Y. NOT-FOR-PROFIT CORPORATION LAW §720(a)(1)(A)-(B) (McKinney 1970 & Supp. 1984-85). Under the New York Not-For-Profit Corporation Law, a director of a corporation may incur personal liability for the failure to perform or neglect of management duties. *Id.* at 720(a)(1)(A); *see* OHIO REV. CODE ANN. §1702.54 (Baldwin 1984) (providing personal liability for officer, trustee or employee who makes intentionally false statement or entry on behalf of corporation).

22. *See* N.Y. NOT-FOR-PROFIT CORPORATION LAW §701 (McKinney 1970 & Supp. 1984-85) (providing for description of director qualifications in corporate bylaws); *see also* OHIO REV. CODE ANN. §1702.27 (Baldwin 1984) (same) (referring to corporate bylaws as "regulations").

23. *See* N.Y. NOT-FOR-PROFIT CORPORATION LAW §713 (McKinney 1970 & Supp. 1984-85). The board of directors may appoint or elect the president and vice presidents of the corporation, the secretary and treasurer, and other officers deemed necessary by the board or provided for in the bylaws. *Id.*; *see* OHIO REV. CODE ANN. §1702.34 (A) (Baldwin 1984) (providing for trustee election of officers unless otherwise stipulated in bylaws).

24. *See* I.R.C. §501(c)(3) (1984). Section 501(c)(3) of the Internal Revenue Code (IRC) exempts from federal income taxation any corporation organized and operated for religious, charitable, scientific, public safety, literary, or educational purposes, provided that corporate earnings do not inure to the benefit of any private shareholder or individual. *Id.*

25. *Id.*; *see* B. HOPKINS, *supra* note 5, at 47 (discussing federal income tax exemption under IRC §501(c)(3)).

26. Treas. Reg. §1.501(c)(3)-1(d)(2) (1984). The term "charitable" as used in IRC §501(c)(3) includes relief of the poor and distressed or of the underprivileged, promotion of social welfare, and combatting community deterioration. *Id.*

27. *See* Rev. Rul. 70-585, 1970-2 C.B. 115 (providing exemption for nonprofit housing organizations created to aid low and moderate income families).

lease the buildings to low-income families,²⁸ provide financial assistance for the improvement of economic conditions in a depressed area,²⁹ and assist the poor in finding employment.³⁰ A nonprofit corporation may provide housing for low-income families and still maintain a federal income tax exemption under the IRC.³¹ All of the above activities constitute charitable purposes according to the Internal Revenue Service (IRS).³² After a nonprofit corporation has received tax-exempt status under section 501(c) of the IRC, donors³³ may deduct contributions to the corporation.³⁴

Other tax advantages exist for a nonprofit corporation involved in renovation and redevelopment of poverty areas.³⁵ An IRS Revenue Ruling allows investors to receive tax-free interest on obligations issued by a nonprofit corporation.³⁶ This in effect allows the corporation to borrow money at lower interest rates through providing tax-free interest to investors on nonprofit corporation bonds.³⁷ Nonprofit corporations have utilized this

28. *Id.*; see Rev. Rul. 68-17, 1968-1 C.B. 247 (providing exemption for nonprofit organization that conducts model demonstration housing program for low-income families).

29. See Rev. Rul. 74-587, 1974-2 C.B. 162 (providing exemption for nonprofit organization that extends financial assistance to businesses in economically depressed areas).

30. See Rev. Rul. 73-128, 1973-1 C.B. 222 (providing exemption for nonprofit organization that conducts vocational training and guidance for unskilled and under-employed).

31. See Rev. Rul. 70-585, 1970-2 C.B. 115. In Revenue Ruling 70-585, the Internal Revenue Service (IRS) stated that an organization formed to promote renewal and rehabilitated housing for low or moderate income families retains an exemption from federal income taxes under §501(c)(3) of the IRC. *Id.* at 115-16. The IRS said that because the organization's activities address community deterioration through upgrading the neighborhood housing stock, the IRS regards the provision of housing by such organizations as a charitable purpose within the meaning of §501(c)(3) of the IRC. *Id.* at 116.

32. See *supra* notes 26-30 (discussing various tax-exempt charitable purposes).

33. See T. CONNORS, *supra* note 5, at sec. 4, 106-07 (regarding classes of donors to nonprofit corporations). A donor makes a financial contribution to a nonprofit corporation. *Id.* A donor differs from a member of a nonprofit corporation in that a member participates in the affairs of the corporation through membership meetings which resemble shareholder meetings. See *id.* at sec. 3, 49-51 (describing responsibilities of members); see also *supra* note 17 (discussing member voice in nonprofit corporation affairs).

34. See I.R.C. §170(c)(2)(D). The IRC defines "charitable contribution" as including a contribution made to a corporation exempt from federal income taxation under §501(c)(3). *Id.* A donor may deduct such a charitable contribution from federal taxes in accordance with the IRC. *Id.* at §170(a)(1).

35. See *infra* notes 36-41 and accompanying text (discussing Revenue Ruling 63-20 and subventions).

36. See Rev. Rul. 63-20, 1963-1 C.B. 24. Revenue Ruling 63-20 creates five requirements for a corporation to qualify for tax free bonds. *Id.* The nonprofit corporation must engage in activities that are essentially public in nature, the corporation must not be organized for profit, corporate income must not inure to any private person, the State must have a beneficial interest in the corporation, and the State must approve the corporation. *Id.*

37. *Id.* See generally Note, *Using Not-For-Profit Corporations for Tax-Exempt Financing: Revenue Ruling 63-20 Revisited*, 31 DEPAUL L. REV. 538 (1982).

particular tax exemption as a means of financing low-income housing,³⁸ and housing for the elderly.³⁹

The New York Not-For-Profit Corporation Law suggests a similar means of raising revenue.⁴⁰ A nonprofit corporation may accept "subventions"⁴¹ from members or nonmembers and issue certificates for the subventions.⁴² A subvention resembles a contribution in that a subvention does not create a debt of the corporation and may constitute a subsidy of indefinite duration.⁴³ Holders of subvention certificates may receive fixed or contingent periodic payments from the corporate assets equal to a percentage of the original amount or value of the subvention.⁴⁴

To combat the problems of the urban poor and blighted areas, Senator Robert Kennedy in 1966 suggested the formation of nonprofit community development corporations (CDCs) which would utilize both the public and private sectors.⁴⁵ Kennedy described the problems of urban ghetto areas as

38. See Private Letter Ruling 8116088 (Jan. 23, 1981) (regarding Revenue Ruling 63-20 financing for low-income housing); see also Private Letter Ruling 8012112 (Dec. 31, 1979) (same).

39. See Private Letter Ruling 8102048 (Oct. 16, 1980) (regarding Revenue Ruling 63-20 financing for senior citizen housing); see also Private Letter Ruling 8004053 (Oct. 30, 1979) (same).

40. See N.Y. NOT-FOR-PROFIT CORPORATION LAW §504(b) (McKinney 1970 & Supp. 1984-85); see also *infra* note 41 (discussing subventions).

41. N.Y. NOT-FOR-PROFIT CORPORATION LAW §504(b) (McKinney 1970 & Supp. 1984-85). A subvention consists of money or other tangible or intangible property received by the corporation or spent on behalf of the corporation. *Id.* The corporation may receive subventions from members or nonmembers and may issue certificates in exchange for the subventions. *Id.* at §504(a). The corporation shall provide holders of subvention certificates with fixed or contingent payments out of the corporate assets so long as the maximum interest rate does not exceed two-thirds of the maximum interest rate authorized pursuant to the New York General Obligations Law §5-501. *Id.* at §504(d); see N.Y. GENERAL OBLIGATIONS LAW §5-501 (McKinney 1970 & Supp. 1984-85). The rights of creditors of the corporation at all times have priority over the rights of holders of subvention certificates. N.Y. NOT-FOR-PROFIT CORPORATION LAW §504(c) (McKinney 1970 & Supp. 1984-85).

42. N.Y. NOT-FOR-PROFIT CORPORATION LAW §504(a) (McKinney 1970 & Supp. 1984-85).

43. See *supra* note 41 (describing subvention as contribution of money or other tangible or intangible property).

44. See N.Y. NOT-FOR-PROFIT CORPORATION LAW §504(d) (describing provision for payment to holders of subvention certificates); see also *supra* note 41 (discussing subventions).

45. See R. GOLDMAN, PERFORMANCE IN BLACK AND WHITE, AN APPRAISAL OF THE DEVELOPMENT AND RECORD OF THE BEDFORD-STUYVESANT RESTORATION AND DEVELOPMENT & SERVICES CORPORATIONS 22-24 (1969) (available in Burke Marshall Papers at the John F. Kennedy Library). The Goldman report states that Robert Kennedy envisioned the partnership of the public and private sectors as one in which government would provide the initial funding and resources, and the corporate leaders would provide the management expertise and guidance necessary to attract new jobs to depressed urban areas. *Id.*; see Interview with Adam Walinsky, Legislative Assistant and Counsel to Sen. Robert F. Kennedy, 1964-68, in New York City (Feb. 1, 1985) (on file at the Washington and Lee Law Review) [hereinafter cited as Interview with Adam Walinsky]. The urban riots of the 1960s expressed the frustrations of the civil rights movement, and the failure of certain government programs. See *supra* Interview with Adam Walinsky. After the Watts riot in 1965, Walinsky and Kennedy discussed possible remedies to

among the most pressing problems in the United States.⁴⁶ Urban violence and rioting, such as had occurred in Watts in 1965, stemmed from deeply rooted social and economic problems, according to Kennedy.⁴⁷ Kennedy said that the problems included poverty, unemployment, welfare dependency, substandard housing, unequal education, and inadequate health care.⁴⁸ Government welfare and housing programs ignored the unemployment and social disorganization that caused people to seek public assistance in the first place, Kennedy stated.⁴⁹ Kennedy noted that such government programs often harm

flawed government poverty programs. *Id.* Walinsky stated that a private, nonprofit corporation utilizing the private sector could avoid the unresponsiveness of formal, governmental bureaucracy. *Id.*

46. See 113 CONG. REC. 1204 (1967) (statement of Sen. Clark, reprinting speech of Sen. R. Kennedy). On August 15, 1966, speaking on the federal role in urban affairs before the Subcommittee on Executive Reorganization of the Committee on Government Operations of the U.S. Senate, Sen. Robert Kennedy listed unemployment as the central problem in inner cities:

In an age of increasing complaints about the welfare state, it is well to remember that less than 25 percent of those living in poverty receive public assistance. We earn our living, support our families, purchase the comforts and ease of life with work. To be without it is to be less than a man—less than a citizen. . . . Making sure men have jobs . . . does not mean in the long run higher taxes or welfare costs; indeed it means far less, and lessened costs of crime and crime prevention as well.

Id. at 1205.

47. *Id.* at 1204-05. Kennedy stated that rioting in cities such as Watts constituted the product and the symptom of the problems of urban poor and minorities in particular. *Id.* See *Report of the National Advisory Commission on Civil Disorders 20* (1968) (discussing causes and potential cures for urban decay and violence) [hereinafter cited as *Report on Civil Disorders*]. On the evening of August 11, 1965, a policeman arrested a black man in Watts for speeding. *Id.* A crowd gathered, and another officer struck a bystander with a nightstick. *Id.* During the next 24 hours rock-throwing and looting in Watts began, and 30 hours after the initial incident with police, rioters started extensive firebombing and window smashing. *Id.* Hundreds of women and children from five housing projects in Watts also took part in the rioting. *Id.* The National Guard arrived in Watts and made heavy use of firearms in response to sniper fire. *Id.* The National Guard finally restored order after four days of rioting. *Id.* The rioting left 34 killed, hundreds injured, about 4,000 arrested, and \$35 million in property damage. *Id.* The National Advisory Commission on Civil Disorders estimated that 43 disorders and riots occurred in American cities in 1966. *Id.* at 21. In 1967, civil disorder and rioting spread to 150 cities. *Id.* at 172.

48. See 113 CONG. REC. 1204 (1967) (statement of Sen. Clark, reprinting speech of Sen. Robert Kennedy) (describing urban problems of low-income minorities); see also *Report on Civil Disorders*, *supra* note 47, at 127 (describing conditions in ghetto areas in mid-1960s). In 1966, 11.9% of the nation's whites and 40.6% of its minorities fell below the poverty income level. *Report on Civil Disorders*, *supra* note 47, at 127. Nonwhite mothers faced mortality rates four times as high as for white mothers. *Id.* at 136. In 1966, nearly two-thirds of all nonwhite families in central cities lived in substandard housing. *Id.* at 13.

49. 112 CONG. REC. 1874 (1966) (reprint of Sen. Robert Kennedy's address to Borough President's Conference of Community Leaders, January 21, 1966). Kennedy stated in part:

We terminate welfare payments when the wage-earner head of a large family gets even a poor paying job, sometimes at a lower level of income than that provided by his welfare payments; we evict the dweller in a low-rent public-housing project who

the larger purpose of making low-income families less dependent on government.⁵⁰ Welfare allows families to subsist, but does not encourage employment, Kennedy stated.⁵¹ According to Kennedy, such government programs often become bogged down in bureaucracy and lack flexibility.⁵² Kennedy said that CDCs would provide a more responsive alternative to governmental social programs because CDCs could solve community problems on a local, community level, with input and assistance from community residents.⁵³

On December 10, 1966, Senator Robert Kennedy, speaking before an audience of public officials and community residents in Brooklyn, announced the formation of the Bedford-Stuyvesant Renewal and Rehabilitation Corporation, and the Bedford-Stuyvesant Development and Services Corporation.⁵⁴ Kennedy helped organize the structure, management, personnel, and financing for the two CDCs in the Bedford-Stuyvesant area.⁵⁵ Senator Kennedy's staff designed the nonprofit corporations to restore and revitalize the

succeeds in raising his income above the level permitted for that housing. . . . Instead of providing real incentives to self-help efforts, we in effect deter them by the equivalent of 100% taxation on the additional income the poor may earn.

Id.

50. 113 CONG. REC. 1204-05 (1967) (reprint of Sen. Robert Kennedy's statement of August 15, 1966, before Subcommittee on Executive Reorganization). Kennedy did not call for the curtailment of welfare programs, but stated that such programs alone do not solve the problem of helping the unemployed to gain employment. *See id.*

51. *Id.*

52. *See* R. KENNEDY, TO SEEK A NEWER WORLD 31, 39 (1967) (discussing governmental requirements which constrain social programs). Government programs such as welfare create restrictive and bureaucratic requirements that may result in inadequate income supplementation while discouraging employment. *Id.* at 31. Total reliance on federal bureaucracy to solve social problems places such programs at the risk of budget cuts and partisan politics. *Id.* at 39. *See Benno C. Schmidt*, recorded interview by Roberta Greene, July 17, 1969, 3, JFK Library Oral History Program (available at the JFK Library). Benno Schmidt, an original director of Development, quoted Robert Kennedy as saying that Congress could not legislate federal-level solutions for urban problems which would succeed in every American city. *Id.* Kennedy told Schmidt that problems and needs in urban areas differed from community to community, and that community organizations therefore could best identify the needs and solutions to problems unique to the community. *Id.* *See* R. KENNEDY, *supra*, at 44 (describing formation of CDCs that reflect community needs and wishes).

53. *See* 113 CONG. REC. 1210 (1967) (statement of Sen. Robert Kennedy discussing benefits of CDCs for Bedford-Stuyvesant); *see also* R. GOLDMAN, *supra* note 45, at 11 (discussing emergence of Bedford-Stuyvesant community development ideas in 1965-66 among Kennedy Senate staff). *See Benno C. Schmidt*, *supra* note 52, at 3 (discussing formation and goals of Bedford-Stuyvesant nonprofit corporations). Sen. Robert Kennedy wanted to attack a broad range of needs in Bedford-Stuyvesant such as housing, health care, sanitation, crime, recreation, education, and unemployment through the nonprofit corporation model. *Id.* *See supra* note 45 (discussing private sector participation in nonprofit corporations).

54. *See* Bedford-Stuyvesant Community Development Program Announcement (Dec. 10, 1966) (available in RFK Papers at the John F. Kennedy Library); *see also* N.Y. Times, Dec. 11, 1966 at 1, col. 1 (city ed.).

55. *See Benno C. Schmidt*, *supra* note 52, at 42 (describing Robert Kennedy's involvement in forming Development and Renewal); *see also* R. KENNEDY, *supra* note 52, at 48-52 (describing

vast 653 block ghetto area of Bedford-Stuyvesant.⁵⁶ The formation of the corporations created high expectations, and a weekly news magazine described the project as a concentration of powerful public and private external forces committed to turning a "living wasteland into a booming commercial-residential complex."⁵⁷

In 1967, Senator Kennedy's staff prepared a proposal requesting funding from the Ford Foundation which described the Bedford-Stuyvesant project as the first time American business leaders assumed responsibility for improving ghetto areas.⁵⁸ As originally outlined in the proposal, the two

formation and goals of Renewal and Development). See R. GOLDMAN, *supra* note 45, at 22-23 (discussing Robert Kennedy's role in enlisting top corporate executives to serve as directors of Development). In 1966, Robert Kennedy personally approached Andre Meyer, C. Douglas Dillon, David Lilienthal, George S. Moore, James F. Oates, Jr., Thomas Watson, Jr., J.M. Kaplan, Benno C. Schmidt, and Roswell L. Gilpatric to enlist their support for the Bedford-Stuyvesant development. *Id.* These men, together with Senators Jacob Javits and Robert Kennedy, served as the first board of Development. *Id.* at 23.

56. See *Ford Foundation Proposal*, *supra* note 4, at 22-23 (describing purposes of Bedford-Stuyvesant Renewal & Rehabilitation Corporation (Renewal) and Bedford-Stuyvesant Development & Services Corporation (Development)); see also *To Save a Slum*, 48 Newsweek (Nov. 20, 1967) (same). See R. GOLDMAN, *supra* note 45 at 12. Sen. Kennedy envisioned a program attacking all of Bedford-Stuyvesant's ills while at the same time focusing on promoting jobs and economic development. *Id.* The community development corporation would address these needs, through involving the local community, government, foundations and private business in the effort. *Id.*

57. See *To Save a Slum*, 48 Newsweek (Nov. 20, 1967) (discussing goals of nonprofit Bedford-Stuyvesant corporations); see also *Ford Foundation Proposal*, *supra* note 4, at 25-26. Regarding expectations for the Bedford-Stuyvesant nonprofit corporations, the Ford Foundation Proposal stated that at the end of the first eighteen months, considerable numbers of those unemployed would have jobs, a renovation corporation would have succeeded in sponsoring rebuilding on a major scale, stimulating substantial business activity and revitalizing blocks of housing, and the corporation would have purchased a local newspaper and radio station. See *Ford Foundation Proposal*, *supra* note 4, at 25-26. A consultant to the Bedford-Stuyvesant effort estimated that to achieve the original goals of the project, involving a near-complete transformation of the community, would have required annual funding of \$500 million. See Letter from Louis J. Walinsky (economic development consultant) to Thomas M.C. Johnston (aide to Senator Robert Kennedy) (Oct. 28, 1966) (available in Thomas M.C. Johnston Papers at the JFK Library) (discussing feasibility of Bedford-Stuyvesant redevelopment plans). Total yearly funding for Restoration, both public and private, has averaged \$6.4 million per year. H. WARD, *Bedford-Stuyvesant Restoration Corporation*, THE JOURNAL OF THE INSTITUTE FOR SOCIOECONOMIC STUDIES, vol. 5, no. 4, 49 (1980). As of December 31, 1968, about two years after the launching of the Bedford-Stuyvesant development effort, twenty-seven business projects representing the investment of \$3,850,000 had begun. R. GOLDMAN, *supra* note 45, at 53. But the high cost of launching new black entrepreneurs coupled with the reluctance of private industry to locate in a ghetto area resulted in the realization of less than the goals outlined in the Ford Foundation Proposal. See *id.* at 61.

58. See *Ford Foundation Proposal*, *supra* note 4, at 1 (stating that free enterprise system holds "seeds of success" in addressing urban ghetto problems); see also R. KENNEDY, *supra* note 52, at 38-39. Regarding the role of the private sector in Bedford-Stuyvesant, Kennedy stated that the private sector working with community development corporations could provide the jobs and industry essential to revitalizing depressed urban areas. See R. KENNEDY, *supra* note 52, at 38.

corporations would reflect the community interests of Bedford-Stuyvesant, provide the technical experience and management expertise needed to oversee the redevelopment of the area, and avoid the bureaucratic characteristics of government programs.⁵⁹ The board of directors of the Bedford-Stuyvesant Renewal and Rehabilitation Corporation (Renewal) consisted of community leaders from the Bedford-Stuyvesant area, and all were members of minority groups.⁶⁰ The responsibilities of the Renewal corporation included drafting plans for housing, health clinics, recreational facilities and commercial developments.⁶¹ The Bedford-Stuyvesant Development and Services Corporation (Development) provided the redevelopment project with corporate and business expertise.⁶² The responsibilities of Development included the utilization of private sector contacts to promote industrial development and to assist in securing of nongovernmental funding.⁶³ The Development directors

59. See *Ford Foundation Proposal*, *supra* note 4, at 20, 22 (describing responsibilities of Development & Services Corporation). The Ford Foundation Proposal stated that nonprofit corporations would avoid bureaucratic tendencies through employing a minimum number of staff. *Id.* at 20. The corporations would seek guidance from consultants in areas such as architecture, economics, education, and health. *Id.* at 24. The corporations would provide an opportunity for members of the community to work with corporate leaders. See R. GOLDMAN, *supra* note 45, at 31 (discussing proposal to bring rich and poor together for purposes of community development).

60. See *To Save a Slum*, 48 Newsweek (Nov. 20, 1967) (discussing makeup of Renewal and Development corporate boards); see also *Ford Foundation Proposal*, *supra* note 4, at 22. Regarding the solicitation of ideas regarding redevelopment in Bedford-Stuyvesant, the Renewal board of directors were primarily responsible for the planning and organizing process within the community. See *Ford Foundation Proposal*, *supra* note 4, at 22. Renewal's other responsibilities included coordination and administration of government-supported programs for community development. *Id.* at 22-23. The Ford Foundation Proposal outlined the responsibilities of the officers of Renewal. *Id.* at 23. The President carried out policies established by the board. *Id.* The Executive Director coordinated and managed the corporation. *Id.* The Director for Program Coordination acted as liaison with the Development and Services Corporation, unions, and government agencies. *Id.* The Director for Planning drafted community plans for housing, and commercial and industrial development. *Id.* at 24.

61. See *Ford Foundation Proposal*, *supra* note 4, at 14 (describing goals of Renewal); see also *supra* note 60 (discussing responsibilities of Renewal).

62. See *Ford Foundation Proposal*, *supra* note 4, at 15. Development would provide managerial, financial, and administrative advice. *Id.* The Ford Foundation Proposal outlined the responsibilities for the officers of Development. *Id.* at 21. The President carried out the policies established by the board. *Id.* The Vice President/Executive Director coordinated and managed the corporation, and acted as liaison with Renewal, the financial and business communities, and state, local and federal authorities. *Id.* The directors of economic, physical, educational and social programs developed short-range and long-range programs in their area of expertise. *Id.* Today, for purposes of efficiency, Development has no full time staff, although its Board of Directors remains active and meets jointly with the Restoration board. See *Arthur Andersen & Co., Bedford-Stuyvesant Restoration Corporation Combined Financial Statements as of June 30, 1982 and 1981, Together with Auditors' Reports 1* (1982) (discussing responsibilities of Development and Restoration).

63. See R. KENNEDY, *supra* note 52, at 50 (discussing private sector role in Bedford-Stuyvesant).

consisted of distinguished members of the business and financial world, and did not include any members of minority groups.⁶⁴

The separate boards of directors caused some initial problems.⁶⁵ The community leaders in the Renewal corporation became divided between those who tended to defer to the business leaders in the Development corporation, and those who resented or disagreed with the participation of the corporation chiefs.⁶⁶ The board of directors of the Development corporation became known as the "white board" and the directors of the Renewal corporation were described as the "black board".⁶⁷ Dissension within the Renewal corporation reached the point where the board's chairman, Civil Court Judge Thomas Jones, formed the Bedford-Stuyvesant Restoration Corporation to take the place of the Renewal corporation.⁶⁸ The Restoration corporation

64. *Id.* See R. GOLDMAN, *supra* note 45, at 22-24 (discussing involvement of business leaders in Development).

65. See R. GOLDMAN, *supra* note 45, at 116-18. Development retained control over funding and expenditures. *Id.* at 117. Renewal's initial subordination to Development's financial control of both corporations helped defeat the idea of partnership between Development and Renewal. See *id.* at 117-18. See *Thomas J. Watson, Jr.*, recorded interview by Roberta Greene, Jan. 6, 1970, 12, JFK Library Oral History Program (available at JFK Library). Thomas Watson, Jr., served as an original director of Development, and acknowledged the tension between Development and Renewal:

I think it's hard to have the two boards, and yet, vitally necessary. You really can't get the horsepower to get things done without an influential, mainly white board. At the same time, if you try to do the things in the area which you wanted to with only that white board, there would be conflict. So the second board, I thought, was a brilliant idea. But the fact that there are two boards brings about some conflict.

Id.

66. See W. VANDEN HEUVEL & M. GWIRTZMAN, *ON HIS OWN-RFK*, 92 (1970) (discussing friction on corporate boards between "captains of industry" on Development board, and "militant separatists" on Renewal board); see also R. GOLDMAN, *supra* note 45, at 116 (discussing relationship of Renewal and Development).

67. *To Save a Slum*, Newsweek 48 (Nov. 20, 1967) (discussing polarization of Bedford-Stuyvesant corporate boards along racial lines); see Westinghouse Learning Corporation, *Evaluation of Bedford-Stuyvesant Restoration Corporation* 3 (1969) (available in Burke Marshall Papers at JFK Library) (describing all-white Development board of directors as paternalistic); see also R. GOLDMAN, *supra* note 45, at 116. Goldman described the differences between Development and Renewal:

One was the epitome of power, achievement and status; the other was starved for all three. One was the repository of the best managerial and professional talent in the country, the other was woefully short of both. One conceived of community participation in terms of a stockholders meeting, ratifying decisions involving hundreds of millions of dollars; the other saw it as a way to organize one block of ghetto dwellers in support of a paint and fix-up job on their decaying houses.

R. GOLDMAN, *supra* note 45 at 116.

68. See N.Y. Times, Dec. 27, 1967 at 27, col. 7 (city ed.) (discussing events of first year for Bedford Stuyvesant nonprofit corporations); see also R. GOLDMAN, *supra* note 45, at 32-34 (discussing tensions within Renewal board that led to dissolution of Renewal & Rehabilitation corporation). The chairman of Renewal, Civil Court Judge Thomas Jones, sought to diminish tensions within the Renewal board and proposed expanding board membership to include a

sought to achieve a broader membership than the Renewal corporation and a better working relationship with the Development corporation.⁶⁹

Regarding funding for the Bedford-Stuyvesant development effort, Senator Robert Kennedy said that funds initially should come from governmental sources and private foundations.⁷⁰ Kennedy also stated that such community development corporations eventually would need and receive no greater subsidy than that ordinarily available to nonprofit corporations.⁷¹ However, while speaking on the floor of the Senate in support of amendments to the Economic Opportunity Act of 1964,⁷² Senator Robert Kennedy stressed that the federal government must provide the financial commitment necessary to combat the problems of the urban poor.⁷³ In 1967, Congress amended the Economic Opportunity Act to provide funding through the Department of Housing and Urban Development for Special Impact Programs (SIP) to assist depressed communities.⁷⁴

As a means of assisting CDCs, Senator Robert Kennedy, speaking on the floor of the Senate on July 12, 1967, introduced the Urban Employment Opportunities Development Act.⁷⁵ The bill provided tax credits for private

wide range of community leaders. R. GOLDMAN, *supra* note 45, at 32. The Renewal leadership defeated Jones' proposal. *Id.* at 33.

69. See N.Y. Times, Dec. 27, 1967 at 27, col. 7 (city ed.); see also *supra* note 56 (discussing formation of Restoration).

70. See R. KENNEDY, *supra* note 52, at 52 (discussing formation of community development corporations (CDCs)).

71. *Id.* Regarding long-term funding sources for CDCs, Kennedy stated that CDCs could become self-sustaining through rentals from housing and real estate development projects. *Id.* See *infra* note 136 (describing Restoration's operations as generating enough money to sustain programs, but not administrative costs).

72. See 42 U.S.C. §§2701-2995 (1976) (repealed 1981). The Economic Opportunity Act sought to eliminate poverty by providing education, training, and the opportunity to work through the efforts of government and the resources of the private sector. *Id.* at § 2701.

73. See 112 CONG. REC. 24,794 (1966) (statement of Sen. Robert Kennedy). Kennedy stated in part:

These are difficult times, it is said. We have a war in Vietnam, it is said. We have a threat of inflation, interest rates are too high, the stock market is tumbling. We must not spend too much. . . . But the statistics do show, if we needed such evidence, that we simply cannot allow our youth to languish in poverty unfit to serve the country, unable to help themselves or their families, certain to be a burden on society for the rest of their days. . . .

Id.

74. 42 U.S.C. §2982 (1976) (repealed 1981). See Act of Dec. 23, 1967, Pub. L. No. 90-222, 1967 U.S. CODE CONG. & AD. NEWS (81 Stat.) 743. The 1967 amendments to the Economic Opportunity Act of 1964 included Part D of Title I involving Special Impact Programs. *Id.* at 763. Part D authorized financial assistance from the Department of Housing and Urban Development (HUD) for economic and business development programs, job training programs, and community development activities. *Id.* at 764. The providing of financial assistance by HUD required the projects to promote resident ownership of local businesses, and participation in project execution by local businessmen. *Id.*

75. 113 CONG. REC. 18,443 (1967) (statement of Sen. Robert Kennedy introducing Urban Employment Opportunities Act).

sector investment in plant construction and machinery in urban poverty areas, deductions for wages paid to previously unemployed individuals, and federal assistance in training new workers.⁷⁶ On the following day, Kennedy introduced the Urban Housing Development Act of 1967.⁷⁷ The housing bill provided tax incentives for private sector construction of low-rent housing.⁷⁸ Kennedy's Senate staff drafted the bills to complement CDC efforts to encourage the private sector to provide jobs and housing in urban poverty areas.⁷⁹ The Senate Finance Committee did not approve either bill, in part because of opposition from President Lyndon Johnson.⁸⁰

Even without the low-income housing legislation sponsored by Senator Robert Kennedy, the Bedford-Stuyvesant Restoration Corporation has focused considerable attention and resources on restoring and creating housing for low-income families.⁸¹ Restoration has provided housing through the work of its limited-profit and nonprofit subsidiaries.⁸² The Federal government subsidizes the low-rent housing projects through low-interest loans and mortgage insurance to private developers, through rent supplements under

76. *Id.* Regarding the Urban Employment Opportunities Act, Sen. Robert Kennedy stated that the bill would attempt to remedy "the greatest failure in our existing poverty efforts: the failure to involve and rely on the private enterprise system. . . ." *Id.* Regarding the provision of tax credits to induce the private sector to invest in urban poverty areas, Kennedy stated, "I've learned you can't rely on altruism or morality. People just aren't built that way." See J. NEWFIELD, ROBERT F. KENNEDY: A MEMOIR 106 (1969).

77. 113 CONG. REC. 18,822 (1967) (statement of Sen. Robert Kennedy introducing Urban Housing Development Act of 1967).

78. *Id.* The Urban Housing Development Act of 1967 would have provided for construction or rehabilitation of 300,000 to 400,000 low-rent housing units, and capped the initial cost to the federal government at \$50 million. *Id.* at 18,826.

79. See J. NEWFIELD, *supra* note 76, at 106 (describing Sen. Robert Kennedy's housing and employment bills as complementing Bedford-Stuyvesant project). Concerning the drafting of Sen. Kennedy's legislation, Kennedy's Senate staff interviewed nearly one-hundred economists, businessmen, and government officials between January and July of 1967. *Id.*

80. See N.Y. Times, Sept. 15, 1967 at 1, col. 7 (city ed.) (discussing Johnson Administration's opposition to Sen. Robert Kennedy's plan for urban poverty area rehabilitation); see also J. NEWFIELD, *supra* note 76 at 107-08 (same). President Lyndon Johnson did not want political rival Robert Kennedy to receive credit for an original plan to combat urban poverty. See J. NEWFIELD, *supra* note 76, at 107-08. At the time of Robert Kennedy's assassination during his campaign for the presidency in 1968, he was preparing to reintroduce the housing and employment bills in the Senate. *Id.* at 106.

81. See *Bedford-Stuyvesant Restoration Corporation, Restoration of Confidence 2* (1981) [hereinafter cited as *Restoration of Confidence*] (discussing Restoration's housing programs). Restoration has produced 1,400 units of new and rehabilitated housing. *Id.* Restoration has renovated 4,200 homes on 150 blocks. *Id.* The corporation additionally has provided more than \$40 million in mortgage financing to approximately 1,500 homeowners. *Id.*

82. See *Bedford-Stuyvesant Restoration Corporation, Corporate Organization of Affiliates and Subsidiaries of Restoration* (on file at the Washington and Lee Law Review); *infra* notes 88-91 (discussing Restoration subsidiaries involved in providing housing).

sections 202,⁸³ 221,⁸⁴ and 236⁸⁵ of the National Housing Act,⁸⁶ and under section 8 as amended by the Housing and Community Development Act of 1974.⁸⁷

Restoration has used the section 202 program to provide 150 new apartments and a senior citizen center for the elderly.⁸⁸ The section 221 program has helped finance more than 250 new or rehabilitated apartments in Bedford-Stuyvesant.⁸⁹ Restoration and its subsidiaries have produced more

83. See 12 U.S.C. 1701q (1982) ("section 202" refers to National Housing Act section, not to U.S.C. section). Through the section 202 program, HUD makes long-term direct loans to sponsors of housing for the elderly and the handicapped. *Id.* at §1701q(a)(3). The section 202 program originally provided loans at a three percent interest rate. See G. STERNLIEB & J. HUGHES, *Housing the Poor in a Postshelter Society*, *The Annals of the American Academy of Political and Social Science* 122 (Jan. 1983). In 1983, Congress amended the section 202 program to allow interest rates on loans to range up to 9.25 per centum per annum. See also 12 U.S.C.A. §1701q(a)(3) (West & 1984 Supp.).

84. See 12 U.S.C. §1715 I (1982). Under the section 221 program, the federal government provides subsidized, below-market interest rate mortgage insurance to assist private industry in developing rental housing for low and moderate income families, and displaced families. *Id.* at §1715 I(a)-(d). Eligible mortgagors include private nonprofit corporations or associations and limited dividend corporations. *Id.* at §1715(d). In effect, the section 221 program provided subsidies that reduced rents by about 20 percent below those in a comparable unsubsidized apartment. See M. MCFARLAND, *FEDERAL GOVERNMENT AND URBAN POLICIES* 135 (1978) (discussing section 221 program).

85. See 12 U.S.C. §1715z (1982). Under the section 236 program, HUD makes mortgage interest reduction payments to the lender on behalf of the owner of qualified multifamily housing. *Id.* at §1715z(a)(1). The section 236 program provides rental subsidies to families with incomes slightly above the public housing income ceiling in a given locality. See M. MCFARLAND, *supra* note 84, at 138. Such families fall in the income gap between eligibility for public housing, and the economic sufficiency necessary for entry into the private rental market. *Id.*

86. United States Housing Act of 1937, Pub. L. No. 750412, 50 Stat. 888 (1937) (codified as amended at 42 U.S.C. §1437 (1980)).

87. See 42 U.S.C. §1437f (1980) (as amended by the Housing and Community Development Act of 1974, Pub. L. No. 93-383, 88 Stat. 633, 662 (1974)). The section 8 program provides rental assistance to low-income families living in new or rehabilitated housing that meets HUD standards. See *id.* at §1437f(a)-(c). Under section 8, local housing authorities or nonprofit corporations process HUD housing assistance payment applications. *Id.* at §1437f(b)(1). HUD pays the owners of the housing the difference between the contract rent established by agreement with HUD, and the payment made by the family. See G. STERNLIEB & J. HUGHES, *supra* note 83, at 121. The family pays between 15 and 25 percent of its income in rent, depending on the amount of income and family size. *Id.*

88. See *Bedford-Stuyvesant Restoration Corporation, Housing Outline* (on file at the Washington and Lee Law Review) [hereinafter cited as *Housing Outline*]. The Greene Avenue Housing Development Fund Corporation, a nonprofit, non-stock corporation and subsidiary of Restoration, owns the Greene Avenue Senior Citizens Center Complex. *Id.* HUD provided the \$6,208,300 mortgage through the section 202 program. *Id.* Annual operating subsidies include approximately \$843,400 in section 8 rental assistance payments. *Id.*

89. See *Housing Outline, supra* note 88. HUD provided the \$1,462,100 mortgage through the section 221 program for the "site A" project consisting of 52 new apartments owned by the BSR Housing Development Fund Company, Inc., a nonprofit, non-stock corporation and subsidiary of Restoration. *Id.* Annual operating subsidies for site A include approximately \$100,000 in section 8 rental assistance. *Id.*

than 400 new apartments through the section 236 program.⁹⁰ The section 8 program has provided rental assistance payments for many of the housing units that Restoration constructed or rehabilitated.⁹¹

In addition to providing financial assistance to low income families in need of adequate housing, Restoration has provided development loans to businesses.⁹² The development loans not only directly assisted local business, but also provided the necessary support to allow the businesses to secure additional funds from private lending sources.⁹³ Between 1969 and 1980, Restoration provided 8.5 million dollars to 125 businesses.⁹⁴ During the same time period, the assisted businesses also received 12.8 million dollars in financing from private sources.⁹⁵ Restoration's development loans have resulted in the creation or retention of a minimum of 250 jobs in Bedford-Stuyvesant.⁹⁶ Federal SIP funding, abolished by Congress in 1981,⁹⁷ provided most of the financing necessary for the development loans.⁹⁸

The Bedford-Stuyvesant NSA I (Neighborhood Strategy Area) Redevelopment Company, an affiliate of Restoration, rehabilitated and owns 132 apartments through the section 221 program. *Id.* NSA I receives \$1,035,000 in annual rental assistance payments under the section 221 and section 8 programs. *Id.* The Bedford-Stuyvesant NSA II Redevelopment Company, an affiliate of Restoration, rehabilitated and owns 75 apartments through the section 221 program. *Id.* The section 8 program provides NSA II with approximately \$800,000 in annual rental assistance payments. *Id.* Both the NSA I and NSA II Redevelopment Companies are New York limited partnerships formed pursuant to the New York Private Housing Finance Law. *Id.* See N.Y. PRIVATE HOUSING FINANCE LAW §§ 10-37 (McKinney 1976 & Supp. 1984-85) (regarding limited profit housing companies).

90. The Restore Housing Development Fund Corporation, a nonprofit, non-stock corporation and subsidiary of Restoration, owns the "site 66" project, providing 138 apartments. See *Housing Outline*, *supra* note 88. HUD provided the \$4,500,000 mortgage through the section 236 program, and annual operating subsidies for site 66 include approximately \$200,000 in Section 8 rental assistance payments. *Id.*

91. See *supra* notes 88-90 (discussing housing projects utilizing federal funding under Section 8). See also *Housing Outline*, *supra* note 88. HUD provides approximately \$842,200 in annual section 8 rental assistance for the Albany Avenue Rehabilitation project, approximately \$896,000 in annual rental assistance for the Fulton Street South project, and approximately \$750,000 in annual Section 8 rental assistance for the Bedford-Stuyvesant Scatter Site project. *Id.* The three projects provide a total of 293 apartments. *Id.* Subsidiaries of Restoration own all three projects. *Id.*

92. See *Restoration of Confidence*, *supra* note 81, at 2 (discussing Restoration's business development activities); see also *B. Hopkins*, *supra* note 5, at 81 (discussing tax-exempt local economic development corporations). See *infra* notes 94-98 and accompanying text (discussing Restoration's business development loans).

93. See *Restoration of Confidence*, *supra* note 81, at 2 (discussing Restoration's business development activities).

94. *Id.*

95. *Id.*

96. *Id.* at 4.

97. See *infra* notes 132, 137 (discussing repeal of SIP funding).

98. See *Arthur Andersen & Co., Bedford-Stuyvesant Restoration Corporation and Development & Services Corporation Combined Financial Statements as of June 30, 1982 and 1981, Together with Auditors' Reports 4-5* (1982). Cuts in federal SIP funding reduced Restoration's

Restoration has sought greater self-sufficiency through equity investments in businesses.⁹⁹ An important example of Restoration investment is the Restoration Plaza Commercial Center.¹⁰⁰ Restoration began developing the Plaza in 1972 without lease commitments or permanent financing.¹⁰¹ Today, the Plaza provides 186,000 square feet of retail and office space for which there is a waiting list of business tenants.¹⁰² The Plaza includes open air recreation and dining areas, a privately contributed ice-skating rink, and serves as headquarters for Restoration.¹⁰³ Among other investments, Restoration has invested in a local supermarket,¹⁰⁴ a manufacturing company,¹⁰⁵ and a bank.¹⁰⁶ Not all of Restoration's investments have translated into business success.¹⁰⁷ But Restoration's equity investments in businesses have

development loans from \$100,000 in 1981 to \$6,130 in 1982. *Id.* at 4. Between the inception of Restoration's development loan program in 1969 and 1982, the amount of development loans provided by Restoration totalled \$8,598,707, and repayments of principal have totalled \$3,408,302. *Id.* at 5.

99. See *infra* notes 100-106 (discussing Restoration's business investments).

100. See *infra* notes 101, 102 103 and accompanying text (discussing Restoration Plaza).

101. See *Restoration of Confidence*, *supra* note 81, at 7 (discussing initiation of Restoration Plaza project). Private financing provided the development funding for Restoration Plaza, with a partial guarantee from the Ford Foundation. *Id.* In 1980, the Plaza obtained permanent financing from the New York Life Insurance Company, with a partial guarantee from the U.S. Economic Development Administration. *Id.*

102. *Id.* at 2-3 (describing layout of Restoration Plaza).

103. *Id.*

104. See *Arthur Andersen & Co., Bedford-Stuyvesant Restoration Corporation and Development & Services Corporation Combined Financial Statements as of June 30, 1982 and 1981, Together with Auditors' Reports* 9 (1982) (describing Restoration's investment in affiliates); see also *Bedford Stuyvesant Restoration Corporation, Summary of Achievements* 3 (1983-84). In 1977, Restoration purchased a two-thirds interest in the Restoration Supermarket Corporation, which owns a Pathmark Supermarket in Bedford-Stuyvesant. See *Bedford-Stuyvesant Restoration Corporation, Summary of Achievements* 3 (1983-84). In 1984, the Pathmark Supermarket, a joint venture between the Restoration Supermarket Corporation and the Supermarkets General Corporation, ended its fifth year of operation with gross sales of \$22 million. *Id.* The supermarket provides employment for 180 community residents. *Id.*

105. See *Arthur Andersen & Co., Bedford-Stuyvesant Restoration Corporation and Development & Services Corporation Combined Financial Statements as of June 30, 1982 and 1981, Together with Auditors' Reports* 9 (1982). Restoration purchased for \$214,175 12,030 shares of common stock of the General Clutch Corporation (GCC), which operates a plant in Bedford-Stuyvesant. *Id.* GCC develops and manufactures spring clutch devices used in copying machines. *Id.*

106. See *Arthur Andersen & Co., Bedford-Stuyvesant Restoration Corporation and Development & Services Corporation Combined Financial Statements for June 30, 1981 and 1980, Together with Auditors' Reports* 8 (1981). In 1975, Restoration purchased for \$250,000 10,000 shares of preferred stock of the Freedom National Bank of New York (FNB). *Id.* FNB, a minority-owned bank, has branch offices in Bedford-Stuyvesant. *Id.* In 1982, Restoration sold the 10,000 shares of preferred stock for \$610,500 and realized a gain of \$360,500. *Id.*

107. See *Arthur Andersen & Co., Bedford-Stuyvesant Restoration Corporation and Development & Services Corporation Combined Financial Statements for June 30, 1977 and 1976, Together with Auditors' Reports* 2 (1977). Bedford-Stuyvesant Treats, Inc., a 100 percent owned subsidiary of Restoration, had held a Baskin-Robbins Ice Cream franchise. *Id.* In 1980, Bedford-

helped provide a minimum of 329 private sector jobs¹⁰⁸ and have encouraged outside investors to supply an additional 2.4 million dollars in equity for the businesses.¹⁰⁹

Restoration also provides technical assistance in the areas of management, marketing, and financial packaging to local businesses or businesses considering locating in the Bedford-Stuyvesant area.¹¹⁰ The federal government's Urban Development Action Grant (UDAG) program has assisted Restoration in securing financing for technical assistance.¹¹¹ With the support of UDAG, Restoration's technical assistance activities have resulted in the creation or retention of 969 jobs in Bedford-Stuyvesant, and the additional investment in businesses of 20 million dollars from non-Restoration sources.¹¹²

To further alleviate the problems of the community, Restoration provides services in the areas of job training, health, and the arts to the Bedford-Stuyvesant area through the corporation's community development programs.¹¹³ Restoration provides employment assistance through a Job Testing, Assessment, and Placement (TAP) center,¹¹⁴ an Adult Pre-Vocational Edu-

Stuyvesant Treats, Inc. ceased operation and Restoration sold its assets. *See Arthur Andersen & Co., Bedford-Stuyvesant Restoration Corporation and Development & Services Corporation Combined Financial Statements for June 30, 1980 and 1979, Together with Auditors' Reports* 8 (1980). In 1979, the Design Works of Bedford-Stuyvesant, Inc., a 69 percent owned subsidiary of Restoration ceased operations. *Id.* Restoration liquidated the assets of Design Works. *Id.*

108. *See Restoration of Confidence, supra* note 81, at 3 (discussing Restoration's subsidiaries).

109. *Id.* at 2, 4.

110. *Id.* at 3.

111. *Id.* at 4; *see United States Department of Housing and Urban Development, The President's Urban National Policy Report 1984*, 30 (1984) (referred to hereinafter as *President's Urban Policy Report*). According to the Department of Housing and Urban Development (HUD), Urban Development Action Grants (UDAG) stimulate economic growth and create jobs in economically depressed areas through working in concert with private investment and development. *Id.*

112. *See Restoration of Confidence, supra* note 81, at 3-4. Restoration assisted the Ohm Acoustics Corporation in obtaining a \$900,000 UDAG loan for the purpose of plant expansion. *Id.* at 4. The UDAG grant, together with \$3 million in private investment, allowed the retention of 100 local jobs and created 120 new jobs. *Id.* Technical assistance provided to the IBM Corporation resulted in the construction of a \$13 million IBM plant in Bedford-Stuyvesant, and the creation of 400 new jobs. *Id.* at 3-4.

113. *See Bedford-Stuyvesant Restoration Corporation, Summary of Achievements* 6 (1982-83) (discussing Restoration's community development programs); *see also Restoration of Confidence, supra* note 81, at 10 (same). Restoration's community development programs have paid particular attention to young people. *See Restoration of Confidence, supra* note 81, at 10. Persons 19 years old and younger comprise 43 percent of the Bedford-Stuyvesant population. *Id.* In 1981, teenage unemployment in Bedford-Stuyvesant stood at 50 percent, and the high school dropout rate ranged as high as 60 percent. *Id.* *See infra* notes 116-17 (discussing results of Restoration's community development programs).

114. *See Bedford-Stuyvesant Restoration Corporation, Summary of Achievements* 5 (1983-84). The New York City Department of Employment (DOE) selected Restoration to sponsor a Job Testing, Assessment, and Placement (TAP) center in Bedford-Stuyvesant. *Id.* The DOE awarded Restoration's TAP center a \$749,526 contract for the period beginning July, 1984,

cation Program,¹¹⁵ a Summer Youth Employment Program,¹¹⁶ the Youth Worker Program,¹¹⁷ and an After School Program for school children.¹¹⁸ In 1978, Restoration opened the Bedford-Stuyvesant Family Health Center, which provides essential health and medical services to Bedford-Stuyvesant residents including many who cannot afford to pay for health care.¹¹⁹ Restoration also oversees operation of the Billie Holiday Theater, a nonprofit subsidiary,¹²⁰ and the Art and Culture Center,¹²¹ both located in Bedford-Stuyvesant.

The New York State Legislature has recognized that upgrading substandard housing and modernizing standards of urban life cannot be accomplished through the ordinary operations of private enterprise.¹²² The private sector often has failed to meet the housing needs of the poor.¹²³ The Reagan Administration has on the one hand pledged to assist low-income families

through June, 1985. *Id.* The TAP program focuses on placement in unsubsidized, private sector jobs. *Id.*

115. *Id.* In 1983, the New York State Department of State provided Restoration with \$70,000 to operate an Adult Pre-Vocational Education Program designed to provide remedial assistance to low-income persons in reading, math, English, and clerical skills. *Id.* Over 100 adults had received remedial assistance by the close of the five month program. *Id.* at 6.

116. *Id.* at 6. Restoration's Summer Youth Employment Program, through funding provided by DOE, placed over 450 youths aged 14 to 21 in various jobs during the summer of 1983. *Id.* The job sites included Restoration, Kings County Hospital, the New York City Transit Police, and local nonprofit agencies. *Id.*

117. *Id.* In 1983, Restoration's Youth Worker Program, through a grant of \$73,875 from the New York State Division for Youth, provided part-time work experience to 15 in-school students, aged 16 to 18 in 1983. *Id.* The Youth Worker Program serves students either characterized as at risk of dropping out of school, or with criminal records. *Id.*

118. *Id.* Restoration's After School Program, through a grant of \$38,166 from the New York City Youth Board, provided academic, recreational, cultural, and health education activities to 445 youths aged 8 to 21, between January, and June 30, 1984. *Id.*

119. *Id.* at 7. During 1983-84, Restoration's Family Health Center (FHC) provided health care to low-income persons in part through a \$90,000 grant from the U.S. Department of Health and Human Services (HHS), and a \$155,000 grant from the New York State Department of Health. *Id.* The FHC lost its primary source of funding from HHS in 1982 due to federal budget cuts. *Id.* Since 1982, the FHC has launched an intensive marketing effort to increase patient utilization, and has continued to seek public and private funding. *Id.*

120. *Restoration of Confidence, supra* note 81, at 12. The Billie Holiday Theatre (BHT), a nonprofit subsidiary of Restoration, opened in 1972. *Id.* The BHT usually presents four major productions per year. *Id.* The BHT also provides training in theater arts to children and adults. *Id.* at 13.

121. *Id.* at 13. Restoration's Art and Culture Center conducts art exhibition programs in visual arts and dance. *Id.* The Center includes a children's art gallery featuring the artwork of children from local schools. *Id.*

122. *See* N.Y. PRIVATE HOUSING FINANCE LAW § 101 (McKinney 1976 & Supp. 1984-85) (describing purpose of Redevelopment Companies Law).

123. *See* M. McFARLAND, *supra* note 84, at 125-26. The private sector provides housing for the poor through a filtering or trickle-down process. *Id.* at 126. According to McFarland, the filtering process has been "a disaster" because the process does not provide acceptable housing for the poor. *Id.*; *see* M. DANIELSON & J. DOIG, NEW YORK, THE POLITICS OF URBAN

and the elderly in securing decent housing through federal programs,¹²⁴ and on the other hand has substantially cut funding for some of the housing programs and proposed elimination of others.¹²⁵ In 1985, four-fifths of the poor in need of public housing assistance will not receive any such assistance.¹²⁶ Federal subsidies to provide decent housing for low-income families

REGIONAL DEVELOPMENT 259 (1982). City housing programs require active governmental involvement before private builders undertake the construction of low or middle income housing. See M. DANIELSON & J. DOIG, *supra* at 259. In 1980, practically all apartment construction in New York City depended upon the provision by the city or federal government of tax abatement, mortgage assistance, and other subsidies. *Id.* But see G. STERNLIEB & J. HUGHES, *supra* note 83, at 110 (discussing housing opportunities for poor). Sternlieb and Hughes stated that the filtering process of providing housing for low-income families has had considerable success. *Id.* However, they agree that the filtering process has harsh implications for the needy when government programs that provide rent supplements do not also include support for public or private construction of new housing units. *Id.* at 120. See B. WARD, *supra* note 2, at 124 (discussing renovation of depressed urban communities). If only commercial and private sector interests dictate the operation of inner city renovation, the process will result in the ousting of the poor from their homes. *Id.* The ousted poor, elderly, and infirm then will contribute directly to overcrowding of other housing areas, a concentration of low-income residents in those areas, and ultimately, to increased homelessness. *Id.*

124. See *President's Urban Policy Report*, *supra* note 111, at 58-61. The Reagan Administration stated that low-income families will continue to receive housing assistance through the section 8 program, a voucher program that guarantees payment to the landlord for a portion of the rent, rental rehabilitation subsidies, and Housing Development grants for the construction of new units. *Id.* at 59-61. In addition, the Reagan Administration recognized that the private sector may not produce enough housing units to meet the needs of the elderly and handicapped. *Id.* But see *infra* note 125 (discussing proposed budget cuts).

125. See NOLAN, *Reexamining Federal Housing Programs in a Time of Fiscal Austerity: The Trend Toward Block Grants and Housing Allowances*, 14 URB. LAW. 249 (1982). The Reagan Administration and Congress acted in 1981 to reduce federal spending for housing by nearly 50 percent. *Id.* See also Housing and Community Development Amendments of 1981, Pub. L. No. 97-35, §§ 300-371, 95 Stat. 389 (1981). The legislation signed in 1981 by President Reagan appropriated \$18.08 billion for 156,250 units of assisted housing. *Id.* In 1980, President Carter signed legislation providing \$30.87 billion for 280,000 housing units. See Pub. L. No. 96-526, 94 Stat. 3044 (1980). In the 1986 federal budget, the Reagan Administration has proposed cutting subsidies for repairing public housing by \$675 million, reducing the number of vouchers to assist in rental payments from 100,000 to 3,500, eliminating section 202 grants that provide new housing for the elderly and the handicapped, eliminating \$300 million worth of housing rehabilitation grants for at least two years, eliminating \$315 million of section 236 rental subsidies, and eliminating programs that provide \$240 million in low interest loans to homeowners and cities. See Wash. Post, Jan. 30, 1985 at 1, col. 2.

126. See Wash. Post, April 2, 1985 at A3, col. 1 (discussing federal subsidies for housing). Regarding the distribution of federal housing assistance, the National League of Cities has stated in a report that in 1981, one-quarter of all households had incomes below \$10,000, but those households received only one-eighth of federal housing assistance. *Id.* Lower to middle income families, representing 27 percent of all families, received only 7 percent of all assistance. *Id.* At the other end of the income scale, the 7 percent of all families with incomes above \$50,000 received one-quarter of all the assistance, and the 20 percent of households with incomes between \$30,000 and \$50,000 received 43 percent of all federal housing assistance. *Id.* See *infra* note 128 (discussing greater federal housing subsidies for middle and upper income families than for lower income families).

have diminished,¹²⁷ while much larger indirect federal housing subsidies for upper income families in the form of income tax deductions remain in place.¹²⁸ The future of federal participation in constructing low-income housing, and consequently the ability of Restoration and other community development corporations to provide such housing in the future, is in doubt.¹²⁹

Even with the assistance of federal and state benefits, nonprofit corporations involved in community development face a challenge of remaining solvent.¹³⁰ In recent years the federal government has supplied 51.9 percent of the total expenditures of social welfare and community development corporations.¹³¹ However, in 1981, Congress repealed the legislation that

127. See *supra* note 125 (discussing proposed federal budget cuts in housing assistance).

128. See Wash. Post, April 2, 1985 at A3, col. 1 (discussing federal housing subsidies). According to a study by the National League of Cities, middle and upper income homeowners receive nearly four times the federal subsidy for housing as do low-income families. *Id.* The report states that homeowners will receive \$41.4 billion in 1985 through federal income tax deductions for mortgage interest, property taxes, and other home ownership costs. *Id.* In 1985, the federal government will spend \$10.6 billion on housing programs for low-income families. *Id.* The National League of Cities' report states that the poor spend a much larger portion of their income for housing than do middle and upper income families, and that the federal government should direct housing assistance toward those without the means to secure decent housing. *Id.* See S. MAISEL & S. ROULAC, REAL ESTATE INVESTMENT AND FINANCE 234-35 (1976). In 1975, the federal government spent approximately \$15 billion on housing subsidies. *Id.* at 234. About \$3 billion provided for low-income family housing expenditures. *Id.* at 235. Middle and upper income families received \$11 billion to \$13 billion in subsidies through tax exemptions for mortgage interest and property taxes paid. *Id.* at 234-35. Consequently, over 70 percent of federal housing subsidies in 1975 benefitted higher income families—about four times as much federal subsidy for higher income families than for lower income and poor families. See *id.*; see also M. MCFARLAND, *supra* note 84, at 151 (stating that more than half of federal subsidies for mortgage interest and property taxes go to families in upper 10 percent income bracket).

129. See Interview with Tony Sanders, Consultant to the Bedford-Stuyvesant Restoration Corporation, in Brooklyn (Feb. 1, 1985) (on file at the Washington and Lee Law Review) [hereinafter cited as Interview with Tony Sanders]. Sanders stated that the cuts in federal programs for low-income housing likely will result in little or no new housing directly produced for low-income tenants by Restoration. *Id.* Sanders stated that the market or "trickle down theory of housing" is more efficient than government programs, but does not result in the construction of housing for low-income families. *Id.* Under present federal policies, abandoned buildings in Bedford-Stuyvesant likely will remain abandoned. *Id.* See M. DANIELSON & J. DOIG, *supra* note 123, at 259 (discussing necessity of government assistance to enable construction of low-income housing).

130. See Interview with Juanita Lawson, Director of Corporate Development with the Bedford-Stuyvesant Restoration Corporation, in Brooklyn (Feb. 1, 1985) (on file at the Washington and Lee Law Review) [hereinafter cited as Interview with Juanita Lawson]. The actions of the Reagan administration and Congress since 1981 have substantially reduced federal funding for community development corporations such as the Bedford-Stuyvesant Restoration Corporation. *Id.*; see *infra* note 137 (discussing decrease in federal funding to Restoration). The reduction in federal funding has placed increased demand on corporations and foundations for contributions and grants, and has made such contributions and grants more difficult to obtain because of increased competition for the grants. See *supra* Interview with Juanita Lawson.

131. See J. PALMER & I. SAWHILL, THE REAGAN EXPERIMENT 233 (1982). Federal government

provided SIP funding.¹³² In addition, the Reagan Administration has proposed the elimination of the UDAG program which assists CDCs in providing technical assistance to business.¹³³ According to the Reagan Administration, the federal government undermined nonprofit organizations by inducing excessive dependence on the federal government.¹³⁴ The Reagan Administration stated that federal budget reductions for urban programs would encourage cities to seek assistance from the private sector, and claimed credit for reversing a fifty year trend of providing federal assistance for urban development.¹³⁵

In the last 19 years, Restoration has generated significant revenues apart from federal funding, but not enough for self-sufficiency.¹³⁶ Federal funding through the SIP program provided the single largest yearly contribution to the Bedford-Stuyvesant Restoration Corporation until the repeal of the SIP program in 1981.¹³⁷ The federal funding reductions for community development corporations implemented by the Reagan Administration and Congress

support as a share of total nonprofit revenues in 1981 accounted for 51.9 percent of revenues for social welfare and community development organizations, 39.2 percent of revenues for health organizations, 26.4 percent of revenues for education and research organizations, and 17.6 percent of revenues for art and culture organizations. *Id.*

132. See 42 U.S.C. § 2982 (1976) (repealed by Economic Recovery Act of 1981, Pub. L. No. 97-35, Title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519).

133. See Wash. Post, Jan. 30, 1985, at 1, col. 2 (discussing cuts in federal housing programs). President Reagan's proposed 1986 federal budget would cut the entire \$440 million HUD requested for UDAG. *Id.*

134. See Office of Management and Budget, Budget of the United States Government, Fiscal Year 1983, part 5, 104 (1982). The Office of Management and Budget stated that federal support of private, nonprofit institutions induced excessive dependence by such institutions on the federal government. *Id.*

135. *President's Urban Policy Report*, *supra* note 111, at 1 (discussing federal role in urban development). The President's Urban Policy Report indicates that states should fill the funding void left by the federal budget cuts in urban programs, and should assume the partnership role with cities vacated by the federal government. See *id.* The Report stresses general economic recovery as the primary solution for urban problems. See *id.* at 2

136. See Interview with Juanita Lawson, *supra* note 130. The Bedford-Stuyvesant Restoration Corporation receives about 29 percent of all yearly revenues from public sources. *Id.* Lawson stated that the various programs of Restoration can survive on their own through internally generated revenue, but Restoration does not generate enough non-public funding to cover costs of the corporation's administrative staff. *Id.* See *infra* note 141 (discussing specific sources of funding for Restoration).

137. See Arthur Andersen & Co., *Bedford-Stuyvesant Restoration Corporation and Development & Services Corporation Combined Financial Statements for June 30, 1982 and 1981, Together with Auditors' Reports* 3 (1982). Between July 1, 1969 and December 31, 1981, Special Impact Program (SIP) funding provided \$70,726,647 to the Bedford-Stuyvesant corporations. *Id.* In 1978, SIP funding to Restoration totalled \$6,536,523. See Arthur Andersen & Co., *Bedford-Stuyvesant Restoration Corporation and Development & Services Corporation Combined Financial Statements for June 30, 1978 and 1977, Together with Auditors' Reports* (1978). In 1981, SIP funding declined slightly to \$5,336,853. See Arthur Andersen & Co., *Bedford-Stuyvesant Restoration Corporation and Development & Services Corporation Combined Financial Statements for June 30, 1982 and 1981, Together with Auditors' Reports* (1982). In 1981, Congress repealed the legislation that provided SIP funding. *Id.* In 1983, federal funding

have resulted in diminished resources and effectiveness for Restoration.¹³⁸ At present, Restoration resembles a "one-man holding operation" overseeing projects already in place, but unable to pursue plans for new low-income housing or economic development.¹³⁹ In response to the deep cuts in federal assistance, Restoration has made dramatic reductions in staff and intensified fundraising efforts.¹⁴⁰ Restoration receives funding from a variety of sources, including rental income, contributions and grants, and contract revenues.¹⁴¹ Restoration's fundraising activities have met with considerable success,¹⁴² but the revenues generated by the activities have not matched the reductions in federal assistance.¹⁴³

The nonprofit model in the form of the Bedford-Stuyvesant Restoration Corporation has had mixed success in solving the economic and social problems of Bedford-Stuyvesant in an efficient manner.¹⁴⁴ A single corporation instead of the dual Development and Renewal model for Bedford-Stuyvesant might have avoided the initial conflicts and turmoil that led to

to Restoration for Special Impact Programs dropped to \$20,000. See Bedford-Stuyvesant Preliminary Statement of liability and Fund Balances (1983) (on file at the Washington and Lee Law Review).

138. See Interview with Tony Sanders, *supra* note 129 (discussing effect of federal funding cuts on Restoration). According to Sanders, federal funding cuts have resulted in cuts in personnel and have discouraged future development plans at Restoration. *Id.*

139. *Id.*; see *supra* note 129 (discussing effect of federal funding cuts on Restoration).

140. See Arthur Andersen & Co., *Bedford-Stuyvesant Restoration Corporation and Development & services Corporation Combined Financial Statements as of June 30, 1982 and 1981, Together with Auditors' Reports* 4 (1982). During 1981 and 1982 Restoration undertook a multi-phased reorganization including a reduction in staff, restructuring of certain programs, and intensification of fundraising efforts. *Id.* Contributions and grants to Restoration increased from \$1,670,298 in 1982 to \$2,516,950 in 1983. See Bedford-Stuyvesant Preliminary Statements of Liability and Fund Balances (1983) (on file at the Washington and Lee Law Review).

141. See Interview with Juanita Lawson, *supra* note 130 (discussing Restoration funding sources); see also *Restoration of Confidence*, *supra* note 81, Figure B (showing funding sources for Restoration). Restoration receives about 29 percent of all revenues from public funding, 23 percent from mortgage and loan income, 10 percent from contributions and grants, seven percent from rental income, four percent from outside equity, and the rest from interest or other earned income. *Id.*

142. See *supra* note 140 (showing increase in contributions and grants to Restoration between 1982 and 1983).

143. See *supra* note 137 (discussing federal support for Restoration).

144. See Interview with Adam Walinsky, *supra* note 45. The exodus from Bedford-Stuyvesant of the black middle-class has hindered Restoration's redevelopment effort. *Id.* A community development corporation depends on drawing talent from the local community, and in the last twenty years a significant percentage of the talent pool—the black middle-class—moved to the suburbs. *Id.* See Interview with Tony Sanders, *supra* note 129. Nonprofit corporations can suffer from the same inflexible, bureaucratic, and inefficient flaws that hinder government. *Id.* Nonprofit corporations may lack the efficiency of the private sector because of less concern about "the bottom line." *Id.* See 113 CONG. REC. 1210 (1967) (statement of Sen. Clark, reprinting speeches of Sen. R. Kennedy). At ceremonies in Brooklyn in 1966, marking the beginning of the Bedford-Stuyvesant redevelopment effort, Sen. Robert Kennedy stated:

the dissolution of Renewal and the subsequent formation of Restoration.¹⁴⁵ One nonprofit corporation with a single board of directors would have improved communication between community leaders and business leaders.¹⁴⁶ A more efficient corporate model might have merged the two corporations, allowing community leaders to maintain a voting majority on the board of directors, or utilizing the business leaders as part of an advisory board.¹⁴⁷ Today, while technically Restoration and Development exist as separate corporations, the two corporate boards meet jointly, share the same support staff, and resemble the workings of a single corporation.¹⁴⁸

A private, nonprofit corporation, utilizing the private sector, can avoid the unresponsiveness of formal, government bureaucracy.¹⁴⁹ Senator Robert Kennedy stated that previous efforts concerning community-based improvement had "frittered away" federal grants because of a lack of managerial skill.¹⁵⁰ Nonprofit corporations, staffed in part by leaders of private industry, can solve the problem of managerial incompetence.¹⁵¹ According to Senator Kennedy, the answer to the problems of the urban poor should not involve a massive extension of government welfare services or a profusion of guidance counselors and psychiatrists.¹⁵² Government should help the urban poor to

Bedford-Stuyvesant is on its way. That way, as I will stress again and again, is not easy. It is complex and complicated and fraught with difficulty. Ahead of us are not weeks or months of work, no quick or easy triumphs—but long years of painful effort, with many setbacks; with constant temptation to relax, to give up, to stop trying. . . . The regeneration of the Bedford-Stuyvesant community must rest therefore, not only on community action—but also on the acquisition and investment of substantial resources in this area.

Id.

145. See R. GOLDMAN, *supra* note 45, at 13 (discussing bringing rich and poor together for community development).

146. See *id.*

147. See *id.* at 116-118 (discussing relationship between Renewal and Development boards).

148. Telephone interview with Franklin A. Thomas, President of the Ford Foundation, and former Executive Director of the Bedford-Stuyvesant Restoration Corporation (April 19, 1984) (discussing cooperation and joint meetings between Restoration and Development).

149. See Interview with Adam Walinsky, *supra* note 45 (discussing benefits of private, nonprofit corporation versus government programs); see also notes 144-49 and accompanying text (same).

150. See N.Y. Times, Dec. 11, 1966, at 1, col. 1 (city ed.) (discussing announcement of Bedford-Stuyvesant redevelopment effort). Regarding the management of nonprofit corporations, Sen. Robert Kennedy stated that the participation of business leaders in the Bedford-Stuyvesant effort would help translate the talent and desires of the local community into the power to command resources and realize the community's goals. *Id.*

151. *Id.*

152. 112 CONG. REC. 1874 (1966) (reprint of Sen. Robert Kennedy's address to Borough President's Conference of Community Leaders, January 21, 1966). Regarding the role of government in addressing urban poverty, Sen. Robert Kennedy stated that there are not enough social workers and psychiatrists in the country to help all the broken families and disadvantaged children on a case-by-case basis. *Id.* Government should not only sustain the poverty stricken, but should help them gain employment. *Id.*

escape dependency through promoting jobs and employment.¹⁵³ Community development must begin with a focus on economic improvement, and the urban poor themselves must assume certain responsibilities in rebuilding their communities.¹⁵⁴ CDCs provide the urban poor with the opportunity to share in the redevelopment of their communities through participation in CDC affairs.¹⁵⁵

Regarding self-sufficiency and the future of community development corporations, Restoration has not convincingly demonstrated the ability to go forward with new programs and projects without federal support.¹⁵⁶ But Senator Robert Kennedy's complete plan for addressing urban poverty through providing tax incentives for private sector participation in combination with the efforts of SIP-funded CDCs has never been tested.¹⁵⁷ The current interest in enterprise zones¹⁵⁸ simply represents a rediscovery of the legislation proposed by Robert Kennedy in 1967.¹⁵⁹ Kennedy's solution,

153. *Id.*

154. *See* R. KENNEDY, *supra* note 52, at 37 (discussing need for leadership from within community in order address local urban poverty).

155. *See* R. GOLDMAN, *supra* note 45, at 48-51 (discussing effect of community participation in reshaping original goals of Restoration). Regarding Restoration's housing rehabilitation and employment programs, Goldman stated that the Bedford-Stuyvesant community had made a strong impact on the development of those programs. *Id.*

156. *See supra* note 129 (discussing Restoration's limitations due to federal budget cuts); *see also* R. GOLDMAN *supra* note 45, at 130 (discussing CDC need for federal funding). The involvement of the private sector helps generate matching funds and maximizes the efficient use of federal money, but does not replace the overall need for federal support. *See* R. GOLDMAN, *supra* note 45, at 130. The federal government should provide funding, but not bureaucracy, to community development corporations. *See id.* at 131.

157. *See supra* notes 75-80 and accompanying text (discussing tax incentive legislation proposed by Sen. Robert Kennedy and rejected by Senate).

158. *See* 128 CONG. REC. S2636 (daily ed. March 2, 1982) (President Reagan's message to Congress accompanying proposed Enterprise Zone Tax Act of 1982). An enterprise zone consists of a specific geographic area where the government encourages private sector economic development through a reduction in taxes and regulations. *Id.* The tax incentives the government provides theoretically serve to attract industry to depressed urban areas. *See id.*

159. *See id.* Regarding the idea of enterprise zones as providing tax incentives for the private sector to invest in urban poverty areas, President Reagan stated that the zones provide an entirely fresh approach, and a "bold, new concept." *Id.*; *but see* 113 CONG. REC. 18,443 (1967). On July 12, 1967, on the floor of the United States Senate, Senator Robert Kennedy introduced the Urban Employment Opportunities Development Act, S.2088. 113 CONG. REC. 18,443 (1967). Kennedy stated that the creation of jobs in poverty areas by private enterprise provided a better solution to poverty than government anti-poverty programs. *Id.* Kennedy stated that the federal government had to provide incentives for private investment in poverty areas:

The specific purpose of this bill is to stimulate investment—the creation of new jobs and income—in poverty areas. The entire program is to be carried out, not by Government agencies, but by private enterprise. The federal government provides only a system of tax incentives, carefully designed to enable private enterprise to make its investments and carry out its operations in the urban poverty areas. . . .

Because it operates through the existing private enterprise system, the bill does

however, did not end with the provision of tax credits.¹⁶⁰ Enterprise zones only address part of the problem.¹⁶¹ The problems and needs of urban areas differ from community to community, and the revitalization of an area should involve community input and participation through the structure of a CDC.¹⁶² Enterprise zones would assist but not replace the flexibility of CDCs.¹⁶³ To ensure flexibility and effectiveness, CDCs require federal support, such as SIP funding, which the CDC may spend at its discretion on the particular development needs of the community.¹⁶⁴

With federal support, Restoration has had success in providing new and rehabilitated housing, stimulating business development and jobs, and promoting health and education for the less fortunate in the community.¹⁶⁵ The

not require the creation of new Government departments or agencies. It creates no new systems of welfare handouts. It requires no great new outflows of Government spending.

Id.

See infra note 160 (discussing tax incentives as not enough to provide overall renewal of urban poverty areas); *see also supra* notes 75-80 and accompanying text (discussing tax incentive legislation proposed by Sen. Robert Kennedy and rejected by Senate).

160. *See* Interview with Adam Walinsky, *supra* note 45. Walinsky stated that enterprise zones alone do not address the wide variety of ills facing a community such as Bedford-Stuyvesant. *Id.* Even when the federal government provides tax incentives, businesses do not have to respond. *Id.* Community development corporations remain the best solution to solving community development problems, according to Walinsky. *Id.* Enterprise zones would assist but not replace community development corporations because CDCs address not only business and economic development, but also essential community needs in the areas of housing, health, and education. *Id.* Proposed enterprise zone legislation has acknowledged the dependence for success upon the involvement of private neighborhood associations, the ability of local government to provide increased services for industry, and the capability of community organizations to provide job training and technical or financial assistance. *See* Enterprise Zone Tax Act of 1982, H.R. 6009, § 101(a), 97th Cong., 2d Sess. (1982).

161. *See supra* note 160.

162. *See Benno C. Schmidt*, *supra* note 52, at 3 (discussing opportunity for community input through CDCs); *see also* R. KENNEDY, *supra* note 52, at 37 (same).

163. *See supra* notes 158-160 (discussing limitations of enterprise zones as compared with CDCs).

164. *See* L. FITCH & A. WALSH, *AGENDA FOR A CITY* 446 (1970) (discussing relationship of federal funding to Bedford-Stuyvesant redevelopment effort). Federal funding through the Special Impact Program provided nonprofit CDCs with flexibility to meet local needs because the federal government did not earmark the funds for particular programs, and thus allowed CDCs to respond to unique community needs and problems. *Id.* Fitch and Walsh stated that the success of the Bedford-Stuyvesant development effort depends in large part on the continuation of the federal SIP program. *Id.* Congress approved the Reagan Administration's proposal to eliminate funding for SIP in 1981. *See supra* note 137 (discussing repeal of SIP and effect on Restoration funding); *see also* R. GOLDMAN, *supra* note 45, at 132-33 (discussing necessity of federal funding for Restoration).

165. *See* Interview with Tony Sanders, *supra* note 129. Restoration has created and rehabilitated housing that otherwise would not exist. *See supra* notes 88-91 (discussing Restoration's housing projects); *supra* notes 101-106, 112, 114-16 (discussing Restoration's business investments and assistance); *supra* notes 117-21 (discussing Restoration's health, education and cultural programs).

efforts of Restoration have improved Bedford-Stuyvesant.¹⁶⁶ Continued success for Restoration and nonprofit community development corporations depends on the avoidance of bureaucracy, a commitment of strong community leadership, and renewed federal support for the goal of transforming blighted areas into decent, liveable neighborhoods.

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166. See *supra* note 165 (regarding achievements of Restoration); see also Interview with Tony Sanders, *supra* note 129. Because a community development corporation addresses diverse community needs, quantifying the success of such corporations is not easy. See Interview with Tony Sanders, *supra* note 129. The various programs Congress passed in the 1960s to support such corporations and to combat poverty and urban blight generally have fallen into disfavor, and Congress has repealed or limited many such programs. *Id.*

While providing no sure guide for measuring the success of CDCs and federal programs to combat poverty, statistics on poverty may indicate certain trends. See J. PALMER & I. SAWHILL, *supra* note 131 at 465, table 16-4 (showing poverty level in America). In 1960, 22.4 percent of the total population of America fell below the poverty income level. *Id.* By 1970, the number had diminished to 12.6 percent, and by 1979 the number had declined slightly to 11.6 percent. *Id.* In 1983, after major cuts in federal social programs in 1981 and 1982, the number of Americans living in poverty increased to 15.2 percent. See *New Poverty Count Stirs Political Pot*, U.S. NEWS & WORLD REP. 8 (Aug. 13, 1984).