

Planning Reform in the New Century

By

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Editor

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Commentary on the Affordable Housing Presentations with a Practitioner's Perspective

Dwight H. Merriam

I just knew this was going to be a great conference when Dan Mandelker, as only Dan could, started the planning some two years ago. He asked me to take on the job of responding to Tony Downs (Chapter 12) and Professor Charles Daye (Chapter 13), two of the country's leading thinkers on affordable housing and inclusionary zoning. I agreed for three reasons. First, because it was Dan and whatever Dan asks me to do, I will always do. Second, the faculty he selected was simply outstanding. I looked forward to, and have now been rewarded by, the thoughts of an extraordinary group of people who, while not always of the same values, are committed to land-use law as an intellectual pursuit and a means to implement societal good. Third, I wanted to spend a little more time with Tony Downs and finally meet Charles Daye.

I have known Tony Downs by reputation for decades and personally for several years since becoming a Counselor of Real Estate. I have heard him speak many times, enjoying each occasion immensely. I've also heard some of his jokes before but, having forgotten the punchlines, they never fail to entertain. More importantly, Tony is such an insightful speaker and writer that I listen to every word he has to say.

Charles Daye arrived at the University of North Carolina School of Law the same year I did, in 1972. Charles came to teach at the law school and, just back

from three tours in Vietnam, I came to teach in the Navy's Reserve Officers' Training Corps program and work on my master's degree in regional planning. I learned about Charles Daye shortly after I arrived on campus but, in all the years—these 33 years—I had never met him in person. A great attraction for me in participating here today was the chance to hear him speak and to spend time with him. My expectations have been met several times over.

I have three jobs to do here: I need to summarize what our speakers have said. Then I need to tell you a little about what I know of these issues as a day-to-day practitioner in order to add my observations, to the small extent that I can, to what you have learned from their writings and talks. My final role is to pull this all together and fill in the gaps in the process of melding our speakers' two compelling perspectives.

What jumps out at me most strongly from Tony Downs' article and his talk today is that 21 percent of households have an affordable housing need or problem. It is safe to say that Tony believes that one simply can't trust local governments to solve the problem. There is not enough money; there is an absence of affordable housing, especially in affluent suburbs; housing costs vary tremendously from region to region; and gentrification is a continuing, exacerbating problem.

In very broad terms, Tony identifies two forces affecting the market. First are the structural impacts from citizen involvement in the regulatory process, particularly the use and abuse of environmental law, the homeownership bias of our federal housing policy, and the fragmented and often purely local control over land use. I don't see how we can complain much about that last point; I've made a career of riding on the back of the fragmented control of land use.

The second force that Tony sees driving the affordable housing market is what he labels "dynamic." This dynamic includes growth itself and the newly minted "smart growth initiatives," which he doesn't seem to like in the least. Overarching these two forces, and a driving dynamic in its own right, is the phenomenon of the wealthy protecting their assets. Tony points out the attempts to implement policies that have tried a two-pronged approach: increasing buying power on one hand and decreasing housing prices on the other. These attempts, Tony concludes, have never worked.

So, what to do? In the first instance, Tony believes we must try to reduce the fear that existing homeowners have of affordable housing and suggests a type of insurance against decreases in housing values. The idea, as I understand it, is this: If upper middle class, suburban homeowners could be provided with insurance that their housing prices would not decline when lower-income people move into their neighborhood, then those well-to-do (affluent) folks would embrace their new neighbors.

I'm not buying the concept. I've lived in central cities—first in New Haven and then in Hartford—from 1975 until just four years ago when I

moved to the suburbs, voting with my feet like so many others to find schooling for my two youngest children. I can tell you from my perch in the suburbs that these folks are not as concerned about protecting their property values as they are about maximizing the increase in those values.

I am pleased to report that I see few problems of race or ethnicity. It is about issues of economic class, if at all, although I know full well of the strong linkage between economic class and race/ethnicity. Even with that, I am really quite surprised and gladdened to find my suburban neighbors open to friendly relations with people from broadly diverse economic backgrounds. In our own neighborhood, with the same elementary school, there are homes ranging in value from \$125,000 to \$1.5 million. This is as good a mix as market forces may ever yield in the suburbs.

My guess is that, as a practical matter, the idea of insurance would backfire. I can't imagine going to a group of neighbors in an established suburban neighborhood and saying, "We're going to develop a few units of affordable housing here for some families moving out from Hartford. They are diverse—African American, Latino, and Asian—and, while they may not have much money, we think it's the right thing to do, to have them in our town and to open our town and our schools to their families. We know you might be afraid that housing prices will go down if people move into affordable homes in your neighborhood, so we've created and we're going to give you an insurance policy that guarantees your housing price won't go down, or will increase by at least some percentage of the region's normal increase [I can't even begin to figure out how to write this formula . . .], so you should feel more comfortable with their moving in."

However, Tony also suggests something that I embrace entirely: the production of smaller, cheaper units. He talks about manufactured housing, which can include everything from a single-wide mobile home to a grand home of several thousand square feet that just happens to be manufactured offsite.

He also identifies a role for accessory apartments and I completely agree. An increasingly significant part of the housing stock in our suburbs is becoming physically, functionally, and economically obsolete—it's too big, too old, and too expensive for the families who are there, particularly the aging individuals that comprise one- and two-person households. Carving up these houses to create an additional accessory apartment can provide a great benefit to the homeowner and to the residents of the accessory unit.

I also had occasion recently to consider new-construction accessory apartments as part of a large development, intended as a strategy to provide more affordability. Though my developer client chose not to pursue that alternative, new-construction accessory apartments of 500-700 square feet for a single person or couple, whether for the young or the elderly, could be a wonderful addition to many of our more exclusive communities. It would

allow older people of limited means to stay in town in their homes, and young singles and couples to continue living in the town and community where they grew up. From the perspective of the fiscally burdened local governments, accessory apartments have a tremendous benefit. They provide a strong tax ratable without throwing large numbers of children into the school system where most of local fiscal burden is created.

Tony also has written and has talked about legalizing small houses. I was involved in that myself in the case of *Builders Service Corporation, Inc. v. Planning & Zoning Commission of the Town of East Hampton*,¹ where we established that in Connecticut, as a matter of state constitutional law, it was illegal to require nonoccupancy-based minimum floor areas. This is the extremely pernicious use of large minimum floor areas to artificially drive up housing prices and exclude people of limited and modest means.

We determined in our investigations that more than a third of Connecticut cities and towns had a minimum floor area of at least 1,000 square feet. So we found a plaintiff and a town, and then we developed a cause of action and brought a lawsuit, and eventually won. The Connecticut Supreme Court held as a matter of Connecticut constitutional law, as about a half dozen other states have also done under their own constitutions, that you cannot use minimum floor areas without reference to occupancy in order to artificially maintain high housing prices.

It would have been wonderful if the net result was a flood of new small units, but it simply hasn't happened. Builders build what will return the most profit. There is not enough money to be made in houses of 1,000 square feet or less, so the builders continue to build to the market. The market in my suburb says, "Give me at least a 2,000- or 2,500-square-foot house, certainly nothing smaller, and more often something much bigger," as we see in the McMansions appearing virtually everywhere.

My own family home, built by my house painter father and stay-at-home mother in 1940, safely and comfortably housed six children, with five at home most of the time. It had a 24-by-32-foot footprint—a classic World War II-era Cape Cod house of 768 square feet, which accommodated a later addition of a dormer with two small bedrooms and a half bath. When my father died four years ago and we sold the place, it became the victim of the "scrape off" phenomenon. That house, built with the lot for \$5,000 on 7,000 square feet of land (do the numbers: that's a density of six units to the acre!), was unceremoniously demolished and scraped off by its buyer who paid a third of million dollars so he could build a new, much bigger home, which we assume sold for around \$750,000.

I must say that my father would not have regretted that at all. Sitting at the front window of his house, looking out at the other houses in our little neighborhood as they were scraped off and replaced with McMansions, he said, "New families need new homes."

However, I submit that there aren't any house painters with six children and stay-at-home wives who are buying new houses in suburban Boston where I grew up because they don't have the money or the borrowing power to afford a \$750,000 home or even the rundown place that was scraped off. It is those people, like my working-class parents, who we need to think about and accommodate because, in the end, as I will comment on shortly, the ultimate way to a democratic and egalitarian society is to provide equal physical—and I emphasize *physical*—access to the resources available in the suburbs and elsewhere.

Finally, Tony suggests concerted political action by powerful groups. This is a hard proposition with which to disagree. The plain fact remains, however, that those families who would move to the well-to-do suburbs are virtually disenfranchised. They don't live there. They have no constituency there and there is no one out there in the well-to-do suburbs who will stand up and speak for them. No, instead we need to think about a political infrastructure that will create constituencies for those who are disenfranchised.

Tony goes on to present eight points to consider as part of an inclusionary zoning remedy:

1. Housing goals;
2. Planning procedures;
3. State review of local plans;
4. State review of local regulatory rules;
5. State review of affordable housing targets;
6. Financial incentives;
7. Support of developer suits; and
8. Statewide mandatory programs.

I have been to the well of inclusionary zoning and what is there is at best brackish. In 1984, I coedited with my friends David Brower and Philip Tegeler a book entitled *Inclusionary Zoning Moves Downtown*,² which we wrote with a grant from the American Planning Association, to honor the life of Paul Davidoff, who was dying of cancer at the time. We were blessed with his presence and participation in the workshop, all of which ended up in the book we produced, just as this book will include our workshop, articles, and edited commentary.

The "bottom line" for inclusionary zoning is that mandatory programs are largely unworkable. They are too risky; there is fear among developers of marketing failures; there is way too much delay in the process; and there are several sides with competing interests, including local government, the developer, housing advocacy groups, and neighborhood opposition. Most often with these competing interests, the result is lawsuit piled on top of lawsuit—a dog pile of litigation that is tremendously wasteful of our societal resources.

What strikes me as troubling with most of these suggestions by Tony Downs—no, I'll say with all of these, even the incentivized inclusionary zon-

ing programs—is that they only benefit the middle class and lower middle class. They seldom—and never in my experience—ever reach the truly poor because they can't. There are not enough internal subsidies built in or available through density bonuses and the like in mandatory and voluntary inclusionary zoning programs to generate housing that is cheap enough for the working poor.

We are deluding ourselves if we think that we are reaching the full range of economic classes in mandatory or incentivized inclusionary zoning programs. The only way the working poor and truly poor can ever be accommodated is with direct public subsidies and public construction of housing, which fortunately can be (though regrettably seldom is) constructed on a scattered-site basis throughout the suburbs. The portability of housing assistance payment contracts under Section 8 provides some help in this area but nowhere near enough.

Professor Charles Daye has a profoundly different perspective. He starts out by saying that he is growing cynical and wonders whether there really is a housing problem. Rather than turn to the statistics and the numbers as Tony does, Professor Daye disassembles the housing problem into five component parts. He says that housing is:

1. Shelter;
2. A home that provides safety and status;
3. Part of a neighborhood that provides physical access to important cultural resources such as schools;
4. An economic investment; and
5. A source of capital.

What a wonderful way to think about housing: to take it apart into its components and build a model up from that!

Professor Daye makes four main points, all of which deeply resonate with me. As I said at the outset, I knew this was going to be a worthwhile event, but I never realized how much so and how enlightening and stimulating these two speakers would be.

Professor Daye says first that housing plays a central role in social justice. As I hear him, physical access to housing resources is critical, and that was my experience as a child of a working-class family growing up in an affluent suburb. I never would have had access to great public schools and to the cultural and social experiences that encouraged and prepared me to move up. He is right on the mark.

We can only overcome racial, ethnic, and economic exclusion and break the tragic cycle of poverty by physically opening up communities everywhere so that all people and all families can have equal physical access to these resources, tangible and intangible. In short, without saying so directly, Professor Daye suggests that we enable African American, Latino, and Asian moderate- and low-income flight, just as we enabled white flight from the central

cities to the suburbs a half a century ago. Let these people vote with their feet to attain the physical, social, and economic environments within which they want to live, and within which they want to raise their families.

Professor Daye's statement of the central role that housing plays in social justice makes me think that there is a need for direct government action, and not incentive programs or even the mandatory percentages of inclusionary zoning, which fail to reach the lowest economic stratum. No, instead there is a compelling role for government, perhaps something like the former Urban Development Corporation in New York, to make sure that housing for all economic classes, and for all races and ethnic groups, will be available everywhere. The key to success, I think, has to do with a scattered-site strategy, involving perhaps the acquisition and, as necessary, the conservation of older homes.

If we are to preserve and expand the stock of affordable housing, it must be in accordance with the "plan" but modified from our usual practice. The plan should be both top down and bottom up—state plans with a housing element should inform substate regional and local plans, and local plans should move up in the other direction and inform the substate regional and statewide plans. Communities should have an obligation to see that housing is provided for and, where they fail to do it, we should not be reluctant to use the power of government, because government and planning work best when there is market failure, and when they come in and make sure that the housing is built.

Professor Daye's second major point is that there are positive externalities, real and measurable benefits, from solving the race, class, and housing problems. He points out that the private optimum level of consumption/production often differs from the social optimum. His key point is that we can capitalize on the externalities of solving these problems as a society. Although he overmodestly eschews the expertise of an economist, he certainly seems to hit the mark here. The plain fact is that ameliorating the race, class, and housing problems, which are so damaging to our society, will have multigenerational benefits as we break the cycle of poverty and allow the most disadvantaged to move up and contribute to society.

Third, Professor Daye addresses the ownership and investment advantages of providing homes for all classes, races, and ethnic groups everywhere. This is self-evident but bears stating directly. The late Paul Davidoff once told me how much he truly believed in the theory of "trickle down" and how he had wished that, instead of fighting only for affordable housing in the suburbs, he had simply fought for more housing, to loosen up the market and allow people to move throughout the economic range of housing.

Regrettably, some of the perverse economics of our suburbs have resulted in "trickle up" or gentrification, ensuring that lower-income classes and racial and ethnic minorities are displaced. Crude regulatory techniques like housing

preservation ordinances are little more than the Dutch boy's thumb in the dike, are bound to fail in the end, and are unable to resist overpowering market forces. Instead, we must work to solve the supply side; to design and build more housing that is functionally, physically, and economically suitable for families of modest and limited means.

As a corollary to his point of housing for all, everywhere, Professor Daye observes that healthy regions will help all. I guess we would call this the theory that a "rising tide raises all ships." It is true. If we do it right—and, in doing so, do the right thing—we all benefit. The enormous fiscal drain in the central cities, where the subsidies and money must come from federal and state government and indirectly from the wealthy in the suburbs, can be abated if housing opportunities improve; those who have the desire, the motivation, and the capability to succeed have the support and facility to do so by having direct, physical access to the resources of all of our communities.

Professor Daye ends with a discussion of the race, class, and housing dilemma and a social efficiency analysis. His approach encourages me to put his principles in context, just as I tried to do with those of Tony Downs, from the perspective of a practitioner who has a good understanding about what works and what doesn't, albeit limited by the fetters of being a lawyer for hire.

First, we must admit and acknowledge directly that expectations have changed. Fifty years ago, the normal aspiration for a typical suburban household, at least in my experience, was that the family would have one car, one black-and-white television set, no central air conditioning, one telephone, no computer, one bathtub (with a shower and a curtain that always seemed to channel water onto the floor), no electric dishwasher, no garbage disposal, and no clothes dryer. I remember my mother bringing in the sheets frozen hard from the clothesline in the backyard, and nothing that you can get from a box beats the sweet smell of air-dried sheets. It's not just that we expect to have clothes dryers, either. The restrictive covenants on the lot where we built our new house prohibit drying clothes outside!

We have watched the size of houses steadily increase so that the one I was brought up in, which was a standard for the time, is about the area of the master bedroom suite for a McMansion. We, as a society, are profoundly more footloose. Magnet schools draw our children away from their neighborhoods (not a bad thing in many cases) and the Internet and other communications technologies have shrunk our world to a fraction of its size. In short, these expectations and the ability for people from all classes to see what others have, right from their own living rooms on their televisions, have caused many to want and demand more, to be satisfied with less, and to be more frustrated by exclusionary regulation and development.

One overarching principle is that we must approach this problem incrementally and practically, recognizing the political realities. Tony Downs wants

dramatic action and so do I, but it is unlikely to happen. Here are some of my own thoughts on an agenda for action.

We must break the cycle of poverty. It will take time. It will require the creation of constituencies. Government action will be necessary. Regulation alone will not even come close to solving this problem.

Following the model of the Urban Development Corporation, states should have a statewide affordable housing authority that can develop, own, and operate affordable housing, particularly on a scattered-site basis. These authorities should be able to delegate their power to certified development agencies and individuals, just as many states now delegate certain environmental responsibilities to certified environmental professionals—private practitioners who work for the public good and are managed through a state process.

The name of the game today is joint ventures and public-private partnerships. Rather than simply giving developers the crude and bludgeoning club of overriding local zoning by state statute, which does have some real advantages, why not allow the state to team up with developers and identify sites, shape projects, and then provide those private developers with the authority to override local zoning where necessary?

Regrettably, some of our affordable housing regulatory override programs in this country have been grossly misused by a small minority of the development community to leverage their way into development approvals that they never should receive, affordable housing component or not. Having public-private partnerships and state-level certification of a project before handing over the club of the zoning override would result in better designed, more effective developments.

Next, these programs must be adequately funded. The two-tier property tax system in Vermont—although I don't like it myself because I pay a premium on my taxes for my house there in order to support the education system in poor towns—has done an effective job of shifting wealth. Ironically, the taxes I pay as a resident of one of the so-called "gold towns" (Ludlow) goes to one of the poorest towns of the state (Glover) where my family lived for generations. Should wealthy, exclusionary municipalities assume a greater burden in funding affordable housing programs? I think so.

We need regional tax-base sharing so that local governments don't fight over tax rates. We need a progressive income tax at the state level with the wealthiest paying the cost of government intervention and production of affordable housing in the most exclusionary towns. We need the largest consumers of land and materials—and here I target the McMansions—to be taxed at higher levels to fund the cost of affordable housing. In many communities, we may need to consider the legality and political acceptability of impact fees to build housing either directly or through a housing trust fund.

I don't believe that we have come anywhere close to fully realizing the potential of housing trust funds. I had a project recently where I thought that

our developer client, and the host community, could benefit by contributions to a housing trust fund, which could then be used for the acquisition of older homes elsewhere in town, and the imposition of rental and resale restrictions to preserve that housing stock.

It is enormously expensive and inefficient to build new, affordable housing, but there is good, used housing stock that is sold at somewhat of a discount as people move out (again, I do embrace the theory of trickling down). We need to capitalize on that by stopping the scrape-off of these older houses that are torn down to allow McMansions to be built, preserving those homes as affordable housing alternatives when needy households enter the marketplace.

My experience as a practitioner is that there is no monistic or single-minded regulatory approach that will work, nor is there any financing or programmatic or planning "silver bullet." Instead, we must always orchestrate techniques. Here are just a few that we might use, some in small measure and some in large measure:

- Rent subsidies
- Mortgage subsidies
- Shared equity
- Nonamortizing mortgages
- Leased land
- No-down-payment loans
- Maintenance assistance
- Weatherization and energy programs
- Housing trust funds

I think we need to focus especially on the elderly. I say this as somebody within shooting distance of age 60. The elderly are generally house-rich and cash-poor. We should enable older Americans to help us fashion a solution for younger, upwardly mobile families. What if we negotiated with these older people for resale controls on their homes and shared-equity arrangements in return for reduced or eliminated tax payments and reverse annuity mortgages that would put money into their pockets? They could remain in their homes in the suburbs and they would be able to do so with money and security. Their homes would be preserved as part of the affordable housing stock. This can be applied on a scattered-site basis.

Elderly homeowners are an ideal group to work with to create new accessory apartments that will provide them with a source of income, security, and assistance in day-to-day tasks (e.g., mowing the lawn, raking the leaves, cleaning the gutters, and, for those of us up north, shoveling the inevitable snow). What a great opportunity to provide housing for young singles, young couples, empty nesters, and retirees while taking care of the older people in our suburbs who will inevitably age in place!

Only about 5 percent of the elderly, who have the financial resources and who can make potential use of assisted living, ever move into assisted living

facilities. Why? Because they would prefer to age in place, just as my father did until he died at 93, taking in two or three men by renting rooms in his house, all in violation of local zoning. It enabled him to stay on in the house he had lived in for more than 60 years. Why shouldn't we legalize that, instead of making our elderly become willful violators of the zoning laws? I once heard that there were more illegal accessory apartments on Long Island than legal ones. I believe it.

I sometimes think of how great it would have been to have my father's house preserved as a small, affordable unit in the now-pricey suburb where I grew up and, in doing so, to have funded my father's retirement by reducing his taxes and providing a reverse mortgage.

As Martin Luther said, "It matters whose ox is gored." It is the empty nesters and retirees who are getting pushed out of their ever-more exclusive suburban communities by rapidly escalating housing prices and real estate taxes. These people are part of the housing constituency that must be addressed.

In talking about the empty nesters and retirees, I must add a comment on an omission by our speakers, probably because it was outside the intended reach of their writings. Common interest communities have a much greater exclusionary effect through their covenants and restrictions than all the zoning regulations one might muster. As private agreements, they go much farther than public regulation in walling out those deemed undesirable. We need to take a long, hard look at how much exclusion we will allow by private agreement and assess just how pervasive and pernicious these exclusions really are.

My experience is that accessory apartments and duplexed homes will be resisted. People who have achieved the status of single-family, detached ownership don't like the idea of "two-family" homes in their neighborhoods. I have a strong preference for small, scattered-site efforts to overcome this natural resistance to intensifying existing housing and neighborhoods. Distancing and separation requirements might help.

I would like to try auctioning resale restrictions. What would happen if you put an advertisement in the newspaper that said everyone who has a house with a market value of \$100,000 or less, and who is willing to restrict the resale or rental of that house to some affordable limits, would be given a payment based on what they were willing to take in exchange for that restriction. Why, maybe we can even get these on eBay!

There are many people who are, as I said, house-rich and cash-poor. I suspect that a large number of them would jump at the chance to get \$5,000 or \$10,000 in cash in return for a restriction on resale or rental, knowing that the next time their house is sold will probably be after they are dead and buried.

Local governments and developers ought to consider buying existing homes at market, encumbering them with resale and rental restrictions, and then reselling them. You could buy an existing house at \$100,000, place an encumbrance on it, and then sell it for \$90,000 or \$95,000. For \$5,000 to

\$10,000, you have permanently preserved an older, more affordable house from expansion, conversion, or scrape-off and McMansionization.

We need to get new legal tools into our bag. As I said, I like the idea of creating a statewide authority and delegating some of the responsibilities to certified affordable housing developers. That requires legislation.

On the purely technical, legal front, there is a lot we could do to shift the burden of proof from the housing advocate to the municipality. We could abandon the American rule in favor of the English rule by making the recalcitrant local government pay the affordable housing developers when an affordable housing developer wins its case. Affordable housing developers ought to get head-of-the-line privileges and have their applications processed ahead of others.

In the end, my experience has been that more often than not (but not always), the one with the greatest staying power wins. If a private developer is a certified affordable housing developer with a state-approved plan, then maybe that developer ought to have state financial support in order to keep up the battle with the hold-out municipalities. Maybe the state's attorney general could provide representation.

I'm not entirely comfortable with this idea of bolstering staying power because I represent developers, municipalities, neighborhood opposition groups, and projects with affordable housing elements. However, with the most difficult legal issues, I suspect there would be a lot less litigation if the losing party had to pay the winning party's legal fees in whole or in part from the beginning or after some point in the proceedings.

There are indeed big issues remaining. Present programs provide a housing benefit for a very narrow stratum (i.e., those capable of paying the rent or getting a mortgage) but at the same time not making too much money. This narrow band of lower-middle-income households receives a considerable advantage; that's fine, but in the end it is to the detriment of the even lower-income classes and those who really need the housing. A significant problem is that those who first qualify to buy often advance economically but continue to occupy the affordable units to the exclusion of those who are needier.

As a retired Navy Captain who spent 30 years as a surface warfare officer, solving the affordable housing problem makes me think of the famous story of Lord Nelson. Lord Nelson was probably the greatest naval tactician of all times. During the 1794 battle at Calvi in Corsica, he lost the sight in his right eye. Years later, Lord Nelson retired, but he was brought out of retirement to fight the Armed Neutrality in the Baltic Sea in 1801. Under the command of Admiral Parker, he sailed his ship into Copenhagen harbor and engaged the enemy. Nelson's ship, *Elephant*, was ahead of Parker's. Admiral Parker, believing Lord Nelson would soon be overwhelmed, hoisted the recall signal ordering Nelson to retreat. An aide told Lord Nelson of the recall signal and handed him his long glass. Lord Nelson put the long glass up to his right eye

and said, "I see no signal." He then went on to win one of the most important victories in his long career.

There are so many problems and so much danger, yet there is so much to be gained by aggressive action on the affordable housing problem. I challenge all of us to turn a blind eye to the risks in proceeding aggressively and expansively with a variety of innovative approaches and techniques because, in the end, we might . . . we just might . . . win a brilliant battle.

POSTSCRIPT

Two months after our conference and after I had finished up revisions to my commentary, I sat in my youngest son's fourth-grade class in our suburban town (10 miles from Hartford) and listened to the children read essays on a wide variety of subjects.

Destinee Santiago, age 10, of Hartford, who attends our local elementary school under a limited program that brings children out from Hartford, wrote the following essay. It is stunning in its directness, insight, and simplicity. It brings to the ground what Tony Downs and Professor Daye are saying, and it moves me to pick up yet another lance and charge at this windmill once again. If we could just help one or two or three more children like Destinee, we will have accomplished something good and useful for individuals like her, for society in general, and for generations to come.

Hartford Kids Should Get To Go Other Schools

Do you live in Hartford? Do you want to go to another school or does you parent or parents want to move to another school? Do you live too far away? Well I think Hartford kids should get to go to other schools because schools in the suburbs are safer, have a better education, and have parents that help a lot.

Schools like Latimer Lane in the suburbs are safer then Hartford schools. There are fewer bullies and more teachers around. In Latimer Lane, there are only two floors so you can see every one on the first floor. The teachers and other people who work at Latimer Lane School know you by name because there are fewer children to keep track of.

Another reason why Hartford kids should get to go to different schools is because they get a better education. The teachers do not stress the children about CMT'S.³ The children that go to great schools like Latimer Lane can concentrate more on learning. The teachers give one on one attention and are expected to do their best! The schools have many fund raisers to help the homeless too. Latimer Lane has great ideas like birthday clubs, Scholastic News, and the list the teachers make for books they suggest for that grade.

Last but not least, parents at Latimer Lane School are very helpful. The parents help the after school program, fundraisers, and volunteer in classes. Many parents put in a lot of time because they want to, not because they have to. Parents also help with projects. They also bake and show up for hay rides, survivor, and other activities.

No matter where you live or where you or your parents want to send you, you should be able to go to different schools.

Destinee Santiago, age 10

DWIGHT H. MERRIAM NOTES

1. 208 Conn. 267, 545 A.2d 530 (1988).
2. Dwight Merriam, David J. Brower, and Philip D. Tegeler (eds.), *Inclusionary Zoning Moves Downtown* (Chicago: American Planning Association, 1985).
3. "CMT" stands for Connecticut Mastery Test (in furtherance of federal legislation, "No Child Left Behind").