

PUBLIC HOUSING IN SINGAPORE: THE USE OF ENDS-BASED REASONING IN THE QUEST FOR A WORKABLE SYSTEM

I. INTRODUCTION

Singapore's monumental achievements in public housing have astounded supporters and critics alike.¹ Law Professor W.J.M. Ricquier of the National University of Singapore has stated, "To say that [Singapore's housing] achievements have been Herculean would scarcely be an exaggeration."² Many applaud the Singapore government for transforming a tiny, overcrowded, poor, slum-ridden, third world island into a spotless haven for foreign investors within the space of twenty-five years.³ Today, 86% of Singapore's 2.93 million people reside in Housing and Development Board⁴ ("HDB") flats. Eighty-one percent of HDB residents own their flats, leaving only five percent as renters.⁵ This public housing scheme is not only impressive, but arguably necessary in an island only 646 square kilometers in size with a resident urban population density of 9200 persons per square kilometer.⁶ Given this density, if the government had not imposed high-rise living on its citizens, Singapore's land may not have been able to accommodate its population.⁷

1. See, e.g., Sara G. Zwart, *A Favorable Climate for Foreign Investment in Singapore: Recent Changes in the Companies Act Hold Directors to Strict Standards of Accountability*, 21 INT'L LAW. 357, 360 (1987) (citing housing as a prime achievement of Singapore's economic miracle); Terence P. Stewart & Margaret L.H. Png, *The Growth Triangle of Singapore, Malaysia, and Indonesia*, 23 GA. J. INT'L & COMP. L. 1, 8 (1993) (pointing out that as a result of its prioritization of public housing and economic planning, Singapore has graduated from the ranks of a developing nation).

2. W.J.M. Ricquier, *Public Housing Law in Singapore*, 8 URB. LAW & POL'Y 313, 313 (1987).

3. See, e.g., Lui Thai Ker, *Overview*, in HOUSING A NATION: 25 YEARS OF PUBLIC HOUSING IN SINGAPORE 1 (Aline K. Wong & Stephen H.K. Yeh eds., 1985). This book was published for the Housing and Development Board ("HDB"). Although it is a very useful source of factual information, some of the descriptions of the system may be biased. It appears, however, that the HDB endeavored to produce a critical analysis of its housing system. The book is meant to "give an overall picture of the multiple functions of HDB, what it has accomplished, the reasons for its achievements, the physical and social impacts, and the problems and prospects of the immediate future." Aline K. Wong & Stephen H.K. Yeh, *Editors' Preface* to HOUSING A NATION, *supra*, at vii.

4. The HDB is Singapore's more powerful equivalent of the United States Housing and Urban Development Board. The HDB was created statutorily by the Housing and Development Act, SING. STAT. ch. 129, § 13 (1985). See *infra* text accompanying notes 50-57 for a fuller discussion of the Housing and Development Act.

5. HOUS. & DEV. BD., FACTS ON PUBLIC HOUSING IN SINGAPORE 2 (July 1, 1995) [hereinafter HDB FACTS].

6. *Id.* Urban density is total population divided by total land area excluding catchment areas, military grounds, cemeteries, and agricultural land. *Id.*

7. Cf. *infra* text accompanying notes 11-21 (describing the housing situation prior to the creation of the HDB).

Despite the seemingly spectacular success in public housing, many fear that the long arm of the Singapore government will reach into all aspects of economic and social life. One commentator noted:

[T]he omnipresence of a paternalistic government indicates that [Singapore] is in danger of losing its soul. In a world where personal freedoms often give fundamental definition to one's existence, the leadership of Singapore appears bent on subordinating such freedoms in favor of its national agenda aimed at economic success.⁸

Critics view Singapore as an authoritarian nation whose government rules with a heavy hand.⁹

Because of its apparent successes, one might consider the Singapore system an attractive model upon which other countries like the United States could base new low-income housing programs. The United States should not look to Singapore's housing system as a model, however, without considering the significant social costs this apparently successful system has imposed on its citizens. To that end, this Recent Development will discuss both Singapore's undeniable housing achievements and the social and economic costs of these achievements. Part II will describe in detail the history and implementation of Singapore's public housing program. Part III will analyze the tangible achievements of the program. Finally, Part IV will explore both justifications for and criticisms of the public housing program, drawing upon theories used to analyze United States urban housing policies. In doing so, this Recent Development will juxtapose "ends-based" reasoning with "means-based" reasoning. Ends-based reasoning is a form of reasoning that morally justifies a system by the system's outcomes. Critics of systems justified by ends-based reasoning can argue either that the systems do not produce sufficient results to justify the methods used or, employing means-based reasoning, that the methods used to achieve those results were not just.¹⁰ It becomes apparent that the Singapore government has employed ends-based reasoning to justify its housing program.

8. Thomas Michael Hird, *Public Housing in Singapore: An Analysis of Singapore's Housing and Development Board and a Discussion of the Real Meaning of Its Success 1* (1987) (unpublished manuscript, on file with the Harvard Law School Lewis Center International Law Library).

9. See C.M. TURNBULL, *A HISTORY OF SINGAPORE: 1819-1975*, at 325 (1977) (stating that "[d]emocracy was the first casualty to the independent government's success"). Also one can scarcely forget how the caning of Michael Faye made international headlines. See, e.g., *Caning in Singapore Stoking Political Fires*, *LAS VEGAS REV. J.*, Apr. 25, 1994, at 4A.

10. See *infra* notes 190-192 and accompanying text for a fuller description of ends-based and means-based reasoning.

II. HISTORY AND IMPLEMENTATION OF SINGAPORE'S PUBLIC HOUSING PROGRAM

A. Singapore's Historical Housing Problems

Singapore's housing problems arose as early as the establishment of British rule in 1819.¹¹ The economy was generally in a terrible state, and the British colonial government had "adopted a laissez-faire policy towards housing and did not consider it as part of the responsibilities of the Government" to provide public housing to the citizenry.¹² A dramatic increase in immigration from Malaysia and surrounding countries in the early twentieth century,¹³ which reached epidemic proportions in the late 1940s and early 1950s, compounded the problems.¹⁴ The Singapore government had established the Singapore Improvement Trust ("SIT") to improve housing conditions, but its programs were permanently interrupted by World War II. "By the end of the War, tens of thousands of people were living in huts made of *attap*, old wooden boxes, rusty corrugated iron sheets, and other such salvaged material. The bulk of Singapore's populace lived in congested squatter settlements with 'no sanitation, water or any elementary health facilities.'"¹⁵ Singapore's economic condition worsened in the 1960s due to the deteriorating political relationship between Singapore and Malaysia, as well as Britain's military withdrawal from the Singapore-Malaysia region.¹⁶ Internally, the country faced high rates of unemployment, labor unrest, and political instability.¹⁷ According to one study, a decade after World War II, 84% of Singapore households consisted of one room or less.¹⁸ Many of these households were "shophouses," each housing an average of thirty extended family members.¹⁹ The HDB described the living conditions at that time as follows:

Living conditions were characterised by makeshift shelters, overcrowding, appalling environmental conditions, poor maintenance and a general lack of essential services.

11. RIAZ HASSAN, *FAMILIES IN FLATS* 3 (1977).

12. Teh Cheang Wan, *Public Housing*, in *MODERN SINGAPORE* 171, 172 (Ooi Jin-Bee & Chiang Hai Ding eds., 1969).

13. HASSAN, *supra* note 11.

14. CHING-LING TAI, *HOUSING POLICY AND HIGH RISE LIVING: A STUDY OF SINGAPORE'S PUBLIC HOUSING* 43 (1989).

15. *Id.* at 44-45 (quoting PECK LENG SEOW, *NEW LIFE IN NEW HOMES* 11 (1965)).

16. Hird, *supra* note 8, at 8.

17. *Id.* at 7.

18. HASSAN, *supra* note 11, at 4 (citing a study in GOH KENG SWEE, *URBAN INCOME AND HOUSING* (1956)).

19. Shophouses are households that also serve as commercial store premises. TAI, *supra* note 14, at 46.

Electric lighting was not available in many places; people had to rely on kerosene lamps, candles and carbide lamps. Insufficient piped water often resulted in the sharing of a common tap or well among several households. A modern sanitation system was lacking. In many places, latrines haphazardly erected over drains and waste discharged directly into the water courses were the main sources of widespread environmental pollution. Several low-lying areas were prone to flooding due to insufficient major drain outlets. Most of the existing drains were of inadequate size and were either badly silted or clogged up with debris and waste, creating an environmental health hazard.²⁰

At the same time, there were widespread housing shortages and homelessness. The HDB estimated that it would have to build up to 120,000 units in its first ten years to meet the immediate housing needs of the public.²¹

One should bear in mind, however, that a negative characterization of the conditions preceding the housing program was essential to Singapore's ends-based justification of the program. Characterizations of social situations are often merely functions of the ideological and political predispositions of those people making the characterizations. The HDB may have characterized the preexisting condition in Singapore as being so bad because it had a political agenda involving the idea that "good" housing meant cleaner, stricter, more uniform housing.²²

B. Making Housing a Political Priority

Because of the egregious housing conditions in the two decades following World War II, the government made public housing a top political priority and a central part of the government's plan to rejuvenate the economy. The People's Action Party ("PAP"), who assumed power in 1959, seized the housing issue as a political platform, viewing housing "as a crucial ingredient to immediate and lasting success."²³ The PAP knew it had to promise the people a better lifestyle to ensure its lasting political power. The previous ruling party had failed to achieve success with the SIT. The PAP capitalized on their failure and

20. Yao Chee Liew et al., *Infrastructure*, in HOUSING A NATION, *supra* note 3, at 113, 114.

21. TAI, *supra* note 14, at 46.

22. Cf. WILLIAM JULIUS WILSON, THE TRULY DISADVANTAGED 20-23 (1987); Roy L. Brooks, *The Ecology of Inequality: The Rise of the African-American Underclass*, 8 HARV. BLACKLETTER J. 1, 1-6 (1991) (observing a similar phenomenon in the United States where proponents of color blind housing policies, owing to their political dispositions, were not candid about the pathologies of the urban ghetto and expounded a less than accurate picture of the ghetto).

23. Hird, *supra* note 8, at 3.

outlined bold housing policies and goals to win the election of 1959.²⁴ It secured enough seats to dominate the Assembly that year and has continued to dominate ever since.²⁵ Prime Minister Lee Kwan Yew continued to focus on public housing, stating on the eve of his election in 1972 that he would raise the HDB's annual building target from 20,000 to 30,000 units and make Singapore into the best metropolis in the tropics.²⁶ He also stressed that he would do away with slums in the next ten years so "each of you can own your home and have your family brought up in healthy and gracious surroundings."²⁷ As one sociologist noted:

Singapore's public housing programs are envisaged as integral parts of national development policies. Consequently, public housing has not only accelerated urban development and redevelopment, and enhanced social welfare, but, with an ever increasing proportion of the population drawn into its ambit, has become a social barometer of the nation as well.²⁸

Interestingly, the fact that housing became a hot political issue seems to reinforce the idea that the description of existing housing problems may have been tainted by political bias.²⁹ The lack of objectivity as to how much change the housing policies produced undercuts the credibility of any ends-based justification of the system.³⁰

As part of making housing a national priority, both the SIT and HDB created extensive statutory plans for implementing the program. In 1958, the SIT unsuccessfully attempted to implement a "Master Plan" for residential and urban development.³¹ This plan proved unable to adjust to the changing socioeconomic conditions after the PAP gained control of the government in 1959.³² In 1967, the PAP adopted a new "Concept Plan."³³ It called for the rapid expansion of the urban

24. *Id.* at 16; Tai, *supra* note 14, at 106-07.

25. TAI, *supra* note 14, at 106-07.

26. *Id.* at 109 (citing STRAITS TIMES, Sept. 2, 1972).

27. TAI, *supra* note 14, at 109 (citing STRAITS TIMES, Dec. 23, 1976).

28. YUE-MAN YEUNG, NATIONAL DEVELOPMENT POLICY AND URBAN TRANSFORMATION IN SINGAPORE 169 (1973).

29. *See supra* note 22 and accompanying text.

30. This is because ends-based justifications presuppose that the beneficial ends are actually achieved. *See infra* note 194 and accompanying text.

31. The plan contained a set of 53 maps of the various parts of Singapore and laid out how, over the next 20 years, the land should be developed for residential and commercial use. The plan called for the clearing of unsatisfactory dwellings, construction of over 10,000 new dwellings per year, and decentralization of the densest urban areas. TAI, *supra* note 14, at 51-52.

32. *See* Teo Siew Eng, *New Towns Planning and Development in Singapore*, 8 THIRD WORLD PLAN. REV. 252, 253 (1986) (observing that "[i]t was necessary to free public development from the inflexibility of the legal restrictions of the Master Plan to meet the demand for housing and employment").

33. *Id.* at 253-54.

center and the creation of high-density residential areas surrounding the urban center. The Concept Plan was also known as the "ring plan" because it envisaged a ring of residential areas surrounding a central commercial district, connected by a Mass Rapid Transit.³⁴ The plan called for commercial development, an airport transportation link, and construction of residential structures to accommodate a population of 3.7 million by the year 2030.³⁵

C. The Enabling Legislation

One of Singapore's initial steps in implementing its housing program was to enact legislation granting the government broad takings power, allowing the government extreme control over the use of private property, and severely restricting private property rights. The government obtained the power to implement its bold housing policies pursuant to two specific legislative acts: The Land Acquisition Act³⁶ and the Housing and Development Act.³⁷ Enacted in 1967, the Land Acquisition Act gave the government broad takings power. Prior to 1965, Singapore was a constituent of Malaysia,³⁸ whose constitution contained a takings clause similar to the takings clause of the fifth amendment to the United States Constitution.³⁹ After its independence from Malaysia, Singapore declared this takings provision inoperable⁴⁰ and summarily rejected subsequent recommendations to reenact it.⁴¹ By doing so the government signalled its readiness to take an active part in the redevelopment and renewal of existing privately owned

34. *Id.*

35. *Id.*; see also TAI, *supra* note 14, at 53. Singapore's current population is 2.93 million. HDB FACTS, *supra* note 5, at 2. Singapore had a population of 1.7 million in 1961 and 2.01 million in 1970. Ong Wee Hock, *The Economics of Growth and Survival*, SINGAPORE: NAT'L TRADES UNION CONGRESS 1, 8 (1978). In 1965, Singapore began to implement strict population control policies. Hird, *supra* note 8, at 37; see also *infra* text accompanying notes 147-153 for a more detailed description of these policies. From 1967 to 1984, Singapore's population increased at an average annual rate of 1.7%. The population in 1984 was 2.5 million. Ker, *supra* note 3, at 35. Since then it has apparently continued to increase at a similar, if not slightly higher rate. HDB FACTS, *supra* note 5, at 2 (author used current population statistics to estimate rate of growth from 1984 to 1996).

36. Land Acquisition Act, SING. STAT. ch. 152 (1985).

37. Housing and Development Act, SING. STAT. ch. 129 (1985).

38. Singapore was a constituent of Malaysia from 1963 to 1965. Ricquier, *supra* note 2, at 316.

39. Ricquier, *supra* note 2, at 316. Article 13 of Malaysia's Constitution stated: "No person shall be deprived of property save in accordance with law. No law shall provide for the compulsory acquisition of property without adequate compensation." Ricquier, *supra* note 2, at 316. The fifth amendment to the United States Constitution states: "[N]or shall private property be taken for public use without just compensation." U.S. CONST. amend. V.

40. Section 6 of the Republic of Singapore Independence Act of 1965 provided: "Article 13 shall cease to have effect." *Id.* at 316.

41. *Id.* at 316-17.

land. This is another example of the ends-based analysis employed by the Singapore government. Unlike the United States government, who was concerned with the procedural dangers of government takings,⁴² the Singapore government was willing to subordinate procedural protections in order to implement bold housing policies.⁴³

The Land Acquisition Act gave the government extremely broad power to acquire and redevelop privately owned land. Its stated purpose was "to provide for the acquisition of land for public and certain other specified purposes, the assessment of compensation to be made on account of such acquisition and for purposes connected therewith."⁴⁴ Section 3 of the Land Acquisition Act allowed workers to enter land and "do all . . . acts necessary" to determine whether the land could be used by the government⁴⁵ "[w]henever it appear[ed] to the President that land in any locality [was] likely to be needed."⁴⁶ It, however, required the government to give notice to owners before acquiring their land and provided for an appeals process.⁴⁷ The Land Acquisition Act also provided for the following method of determining compensation for acquired land:

In determining the amount of compensation to be awarded for land acquired under this Act, the Board shall . . . take consideration of the following matters and no others:

- (a) the market value as at 30th November 1973, or the market value as at the date of the publication of the notification under section 3 (1) . . . whichever is the lowest;
- (b) any increase in the value of any other land of the person interested likely to accrue from the use to which the land acquired will be put;
- (c) the damage, if any, sustained by the person interested at the time of the Collector's taking possession of the land by reason of severing that land from his other land.⁴⁸

42. See *supra* note 38.

43. This is evidenced by the broad scope of powers granted to the HDB by the Land Acquisition Act and the Housing and Development Act. See *infra* notes 44–57 and accompanying text.

44. Land Acquisition Act, SING. STAT. ch. 152, preamble (1985).

45. Chapter 152, § 3(1)(c).

46. Chapter 152, § 5(1)(a), (b) & (c).

47. Chapter 152, §§ 8–12, 19–31.

48. Chapter 152, § 33(1)(a), (b) & (c). Section 33(1) further states that the HDB may consider:

- (d) the damage, if any, sustained by the person interested at the time of the Collector's taking possession of the land by reason of the acquisition injuriously affecting his other property, whether movable or immovable, in any other manner;
- (e) if, in consequence of the acquisition, he is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to that change; and
- (f) if, in consequence of the acquisition, any reissue of title is necessary, the fees or costs relating to survey, issue and registration of title, stamp duty and such other costs or

Interestingly, this provision placed an *upper* limit on compensation for acquired land. Subsequent provisions reduced the amount even further. Section 33 of the Land Acquisition Act set forth detailed descriptions of situations in which the government could pay less than market value for land, including, for example, cases where the land had been affected by a natural disaster or where land value had been increased by necessity of building roads, drains, gas lines, and other utilities on that land. In addition, apparently the fair market value provision of the statute was merely a guideline that the HDB could *consider* in assessing compensation. It appears that the legislature intended to leave the question of compensation only cursorily answered and to look to judicial entities to define the limits on government takings.⁴⁹

The Housing and Development Act invested the government with further authority to implement the housing program.⁵⁰ Most significantly, the Housing and Development Act created the HDB and invested it with extensive power to create and implement housing policies. Part III of the Housing and Development Act detailed the HDB's responsibilities to acquire, clear, develop, and manage lands necessary for housing development.⁵¹ It also established other HDB

fees

which may reasonably be incurred.

49. The government stated its intention to "leave open the door for litigation and ultimately for adjudication by the Courts as to what is or is not to be adequate compensation." 25 SINGAPORE PARLIAMENTARY DEB. 1053-54 (1966). It is not apparent, however, whether courts ever did clearly define the limits of compensation.

50. Section 13 of the Housing and Development Act provides:

Subject as hereinafter provided, it shall be the function and duty of the Board-

- (a) to prepare and execute proposals, plans and projects for-
 - (i) the erection, conversion, improvement and extension of any building for sale, lease, rental or other purpose;
 - (ii) the clearance and redevelopment of slum and urban areas;
 - (iii) the development or redevelopment of areas designated by the Minister;
 - (iv) the development of rural or agricultural areas for the resettlement of persons displaced by operations of the Board or other resettlement projects approved by the Minister;
- (b) to manage all lands, houses and buildings or other property vested in or belonging to the Board;
- (c) to carry out all investigations and the surveys necessary for the performance of the functions and duties of the Board;
- (d) to provide loans, with the approval of the Minister, to enable persons to purchase-
 - (i) any developed land; or
 - (ii) any other land belonging to the Board for which planning permission to develop has been obtained under the Planning Act, or any part thereof upon a mortgage of that land;
- (e) to do all such other matters and things as are necessary for the exercise or performance of all or any of the functions and duties of the board.

Housing and Development Act, SING. STAT. ch. 129, § 13 (1985).

51. Chapter 129, § 13(a)-(e).

duties, defined HDB member eligibility and election requirements, and detailed financing procedures.⁵²

The Housing and Development Act severely restricted the rights generally associated with private ownership of property. Section 46(1) of the Housing and Development Act allowed the HDB, "with the approval of the Minister, [to] sell any developed land or part thereof."⁵³ Section 47 absolutely prohibited private ownership of HDB flats for appreciation or rental income. A person could not purchase a flat if she or her spouse "[was] the owner of any other flat, house, building or land or ha[d] an estate or interest therein; or . . . ha[d] at any time within 30 months immediately prior to the date of making an application . . . sold any flat, house, building or land of which [s]he was the owner" ⁵⁴

In addition, the Housing and Development Act required owners to obtain prior consent from the HDB before transferring any property interest.⁵⁵ It also invested the HDB with extensive eviction powers. Section 56 permitted the HDB, in a variety of situations, to acquire any flat compulsorily. For example, the HDB could reacquire a flat whenever: The owner had a legal interest in any other flat, house, building, or land; the flat was being used for any purpose other than provided by the lease; the owner permitted any person other than an authorized occupier to reside in the flat; the owner failed to perform any condition in the lease;⁵⁶ the owner made a misrepresentation of a material fact, "whether innocently or otherwise," relating to the purchase of the flat; the owner underletted or parted with possession

52. Section 66 of the Housing and Development Act states:

- (1) The Board may, from time to time, for the purposes of this Act, raise loans from the Government
- (2) The Board shall pay interest on such loans at such rate and at such times, and shall make such provisions for the mode and time or times of repayment of principal
- (3) The Board may, where the approval of the Minister has been obtained to borrow money under subsection (1), raise the money by-
 - (a) mortgage;
 - (b) charge, whether legal or equitable, on any property vested in the Board or on any revenue receivable by the Board under this or any other Act; or
 - (c) the creation and issue of debenture stock.

Chapter 129, § 66(1)-(3).

53. Chapter 129, § 46(1).

54. Chapter 129, § 47.

55. Chapter 129, §§ 49-52.

56. Lease provisions can be very broad and easily breached. For example, one standard covenant states that the lessee must promise

not to do any act in the flat or common areas of the building or use or suffer or permit the [same] to be used for any purpose which may be illegal or immoral or which may cause a nuisance, annoyance or disturbance to the owners, lessees or occupiers of the other flats comprised in the building or in the neighborhood.

Ricquier, *supra* note 2, at 321.

without obtaining prior consent from the HDB; or the flat was not being occupied by the minimum number of persons.⁵⁷

D. Financing the Programs

The HDB financed the housing system through a combination of low-rate government loans, government subsidies, and revenues raised from HDB operations.⁵⁸ From 1960 to 1994, the HDB's total capital expenditure increased from \$10 million to \$6.6 billion,⁵⁹ and total revenue expenditure increased from \$15 to \$1.8 billion.⁶⁰ Between 1992 and 1994, the HDB operated on a net deficit consisting of a housing operations deficit offset by a surplus from non-housing operations.⁶¹ In 1994, housing operations produced a deficit of \$737 million while non-housing operations produced a surplus of \$510 million.⁶²

The HDB financed its budgeted capital expenditure through two different kinds of government loans: The housing development loan, a 60-year loan at 7.75% interest, used to finance HDB development programs and operations;⁶³ and the mortgage financing loan, a 10-year loan at 6% interest, used to finance mortgage loans given by the HDB to purchasers of flats.⁶⁴ From 1975 to 1994, government loans to the

57. Other situations in which the HDB could reacquire a flat included: The HDB felt the owner had ceased to occupy the flat; the owner had ceased to be a citizen of Singapore; the owner did not pay rent for three months; the owner or any occupier had been convicted of an offense related to destroying any property bought or leased from the HDB; or the owner or any occupier had been convicted of an offense relating to immigration, that is, giving food, shelter, or assisting any illegal alien. Housing and Development Act, SING. STAT. ch. 129, § 56(1)(a)-(n) (1985).

58. Ker, *supra* note 3, at 6. HDB operating revenue consists of the sale of flats, rental of flats, mortgages, rental of commercial properties, rental of industrial properties, sale of commercial properties, rental of land, car parks, markets and hawker centers, and other miscellaneous revenue. HDB FACTS, *supra* note 5, at 4.

59. Ker, *supra* note 3, at 6; *see also* HDB FACTS, *supra* note 5, at 4. Dollar amounts refer to Singapore dollars. Years refer to fiscal years. For example, "1994" refers to fiscal year 1994-95. Capital expenditure is the expenditure of money raised from government loans and subsidies. *Id.*

60. *Id.* Operating expenditure is the expenditure of money raised from HDB operations. *Id.*

61. The net deficit for 1992, 1993, and 1994 was \$292 million, \$129 million, and \$227 million, respectively. HDB FACTS, *supra* note 5, at 4. Housing operations include the sale of flats, rental of flats, mortgage financing upgrading of flats, improvements to sold flats, lease administration, and other activities supporting the building of communities. Non-housing operations include the rental of commercial properties, rental of industrial properties, sale of commercial properties, rental of land, carparks, markets and hawker centers, and miscellaneous operations. *Id.*

62. *Id.*

63. Loke Kum Cheng et al., *Resource Planning, in HOUSING A NATION*, *supra* note 3, at 30, 34. In 1994, the HDB borrowed \$2.1 billion worth of housing development loans and owed \$8.5 billion on outstanding housing development loans. HDB FACTS, *supra* note 5, at 4-5.

64. Cheng, *supra* note 63, at 34. In 1994, the HDB borrowed \$4.8 billion worth of mortgage financing loans and owed \$17.7 billion on outstanding mortgage financing loans. That year, the HDB granted \$6.1 billion worth of mortgage loans to flat purchasers. HDB FACTS, *supra* note 5, at 4.

HDB represented between approximately 20% and 40% of total government capital expenditure.⁶⁵

The HDB also received direct subsidies from the government. From 1975 to 1994, the HDB received between \$30 million and \$120 million in public housing grants each year. This generally represented 1% to 2% of total government expenditure.⁶⁶ The government also subsidized infrastructure and resettlement programs and provided grants to town councils for estate maintenance. This expenditure, combined with the public housing grants, represented between 6% and 9% of total government expenditure between 1989 and 1994.⁶⁷ The HDB observed that "[t]he subsidy [was] kept to such a low level by virtue of the Board's judicious financial management of revenue derived from commercial and industrial developments."⁶⁸ In addition, under the Home Ownership Scheme established in 1964, Singaporeans could use their compulsory savings in the Central Provident Fund ("CPF"), Singapore's equivalent of the United States Social Security Fund, to help repay loans obtained from the HDB for the purchase of homes.⁶⁹

Although it is clear that the HDB received funding through a combination of government loans, subsidies and operating revenues, the connection between ownership schemes, property appreciation, and the HDB budget calls for further clarification. The selling price of HDB flats was not strictly based on market price. In other words, price did not merely reflect consumer demands. Although the available information on the exact pricing method of units is quite limited, pricing was apparently based on a combination of factors including existing housing needs, available funding, and construction costs.⁷⁰ The HDB also factored in the objective of providing housing at subsidized costs. Housing prices were generally lower than both uncontrolled market prices and construction costs, resulting in a deficit from the operating costs of the sale of flats.⁷¹ In addition, the HDB provided rental flats at subsidized rates, which created rental deficits.⁷²

65. Ker, *supra* note 3, at 6. In 1993, for example, total government expenditure, calculated from combining operating and development expenditures, was \$16.6 billion, and total housing loan expenditure was \$3.9 billion. That year, housing loan expenditure represented approximately 24% of total government expenditure. HDB FACTS, *supra* note 5, at 5.

66. HDB FACTS, *supra* note 5, at 5.

67. *Id.*

68. Ker, *supra* note 3, at 6.

69. Cheng, *supra* note 63, at 34. See *infra* notes 124–125 and accompanying text for further discussion of the CPF.

70. Chong Kim Chang et al., *Housing Schemes: Policies and Procedures*, in HOUSING A NATION, *supra* note 3, at 230, 232–33.

71. In 1993 and 1994, for example, the HDB lost \$518 million and \$340 million respectively on the sale of flats. HDB FACTS, *supra* note 5, at 4.

72. Rental deficits resulted in net losses from rental flats in the amount of \$58 million in 1993 and \$119 million in 1994. HDB FACTS, *supra* note 5, at 4.

The HDB also experienced net losses from maintenance and upgrading programs. Net gains from non-housing activities, however, substantially offset the total operating net losses experienced from housing programs.⁷³ The portion of government loans and grants not spent on operating costs subsidize the mortgage financing programs. As stated above, the HDB made mortgages widely available to HDB residents to finance ownership of the homes. It closely tied mortgage interest rates to CPF returns, setting them at 0.1% above the floating CPF interest rate.⁷⁴ Rates were kept so low, presumably, so that residents could use their compulsory savings to meet mortgage principal repayments and interest payments.

This mortgage interest rate subsidy program, however, did not account for all government funds injected into HDB operations. If the HDB simply mortgaged the units, why was there a positive outflow of cash? The answer is not immediately apparent. The HDB spent \$4.8 billion financing mortgage loans in 1994.⁷⁵ At least part of the spending went to subsidizing the down payments of low-income families. The HDB had a separate expenditure account for development programs and operations. In 1994, it spent \$2.2 billion on construction of new units and operations.⁷⁶ While some government funds clearly financed new construction and current mortgage programs, exactly how the mortgage finance funding was spent is not clear.

E. Acquiring Land

Having obtained broad takings power from the extensive Land Acquisition Act, the government began to rapidly acquire public land to convert to public housing. By the end of 1973, the government had acquired more than half of the land in Singapore, and by 1979, it had acquired approximately two-thirds.⁷⁷ The 1973 amendment to the Land Acquisition Act permitted the government to acquire land at the lower of either the 1973 market value or the government-determined market value posted in the *Gazette*. Consequently, the government acquired and cleared squatter land, paying significantly less than market value. Critics have commented on the apparent unfairness of this provision, stating that "Singapore ha[d] experienced an astronomical rise in property prices and the 1973 market value [was] likely to be a

73. The HDB owns a number of properties that it leases and sells to commercial and industrial parties. Total revenues from these activities in 1993 and 1994 were \$484 million and \$510 million, respectively. *Id.*

74. *Id.* at 12.

75. *Id.* at 5.

76. *Id.*

77. Hird, *supra* note 8, at 34.

small amount compared with the actual market value."⁷⁸ The government, however, saw things differently:

These basic changes to the law . . . were necessary to curb speculation in land and limit the cost of acquisition to the level of compensation for its existing use or Master Plan Zoning. The majority of private lands comprised dilapidated properties or neglected land where squatters had mushroomed. The government therefore saw no reason why these owners should enjoy the greatly enhanced land values over the years without any effort put in by them.⁷⁹

Even the government's subsequent pledges to pay up to market value for the land⁸⁰ denied owners the land's true value. The Singapore government based market value on either the existing use or zoning of the land, whichever was lower. "No account [was] taken of any potential value of the land for any other more intensive use. This ignore[d] whatever potential the land may have [had] for future development if the land ha[d] been zoned for a restrictive use, as for example 'public open space.' Thus, land zoned 'Agriculture' . . . at the time of acquisition [was] valued as such."⁸¹

Critics of Singapore's land acquisition policies also express concern over the lack of public scrutiny over the acquisitions.⁸² Although the Land Acquisition Act required the HDB to give proper notice to individuals whose land was to be acquired and provided for an internal appeal process, the notice requirements only applied to "persons interested," meaning those who had a legal interest in the property. In addition, appeals were not public proceedings.⁸³ The HDB misleadingly described itself as having "instituted a very meticulous process of scrutiny to prevent abuse of power conferred by [the Land Acquisition] Act."⁸⁴ It only cited the provisions granting prior notice to the

78. Ricquier, *supra* note 2, at 317.

79. Cheng, *supra* note 63, at 41.

80. In 1981, the government promised to pay up to market value or \$600,000, whichever was less, to owner-occupiers of residential property acquired for government use. *Id.*

81. *Id.*

82. See Hird, *supra* note 8, at 33 (observing that "the Planning Department (an agency of the government) decides on what land will be suitable for various purposes so that private landowners have no recourse from adverse decisions"); see also Ricquier, *supra* note 2, at 317.

83. According to experts:

A final point to note about the basic acquisition process is the absence of public participation There is no procedure for a public inquiry. Indeed the entire planning system, which has transformed the country's physical and social environment in the space of two decades, operates without any formal element of public participation.

Ricquier, *supra* note 2, at 317-18. Ricquier stated in a footnote, however, that "[o]ccasionally, major projects may be the subject of public debate . . ." *Id.* at 331. Even so, the "Land Acquisition Act, contains no provision for public participation in any form." *Id.*

84. Cheng, *supra* note 63, at 42. The HDB also referred to the "restriction" that land could

owner and the internal appeal process. It did not address the larger "public inquiry" issue.⁸⁵ The apparent lack of procedural protections is further evidence that the government employed ends-based reasoning, ignoring, at least for the time being, the danger of abuse inherent in the means employed for acquiring land.

F. Resettlement and Renewal

Once the government acquired sufficient land, it began clearing squatters and owner-occupiers from the land and relocating them to temporary residences during the construction of the housing units. The HDB formed the Resettlement Department to undertake this task.⁸⁶ After the Department completed a census survey of the land site, it categorized the existing occupiers as farmers, residential families, single persons, commercial and industrial occupiers, or absentee homeowners in order to determine resettlement benefits. People verified their statuses by presenting various forms of identification including certificates of business registration, trade licenses, and public utilities bills.⁸⁷

Although resettlement amounted to a massive ousting of people from their homes, the government attempted to make the transition easier by providing reasonable compensation for resettlement. Compensation for resettlement varied throughout the years as the Resettlement Department analyzed and refined existing practices. Concerned that resettlement might erupt into unrest as it did in Tokyo during the resettlement for the development of the Narita Airport, the Singapore government made a concerted effort to continually scrutinize its resettlement practices.⁸⁸ Between 1964 and 1979, the HDB offered a series

only be acquired for a "public" purpose. This restriction did not serve as a real gate-keeper against random public takings. The government could simply assert any public purpose.

85. In addition to acquiring private land, the government redeveloped public land for housing use. It developed beach land, cleared marshes and agricultural areas, and even redeveloped burial grounds. Such aggressive reclamation did not go without its own fair share of criticism. Rory Fonseca, professor of Architecture at the University of Singapore, observed:

In a situation where land is in short supply and pressures for expansion are dominant, demands for land are met by substituting one economic use with another. Usually, uses with a potential for higher yields succeed marginal ones. This suggests a burst of urban renewal activity, that swamps, lagoons and foreshore areas will be reclaimed, agriculture displaced, and rural zones encroached upon, and this is precisely what is happening in Singapore.

Rory Fonseca, *Planning and Land Use, in SINGAPORE: SOCIETY IN TRANSITION* 221 (Riaz Hassan ed., 1976).

86. Through a series of changing programs, the Department resettled 42,954 squatters and owners at a total cost of \$32.8 million from 1961 to 1970, 118,561 squatters and owners at a total cost of \$420.1 million from 1971 to 1980, and 67,346 squatters and owners at a total cost of \$726.4 million from 1981 to 1984. Lim Hoon Yong, *Resettlement: Policy, Process and Impact, in HOUSING A NATION, supra* note 3, at 305, 316. Although specific statistics are not available for the years after 1984, clearance and resettlement apparently has continued to increase dramatically. *See id.*

87. Cheng, *supra* note 63, at 43-44.

88. Yong, *supra* note 86, at 305. Yong also noted:

of replacement housing options to farmers and non-farming squatters.⁸⁹ In 1975, in order to decrease the number of squatters in shophouses, the HDB began to offer displaced shopkeepers suitable accommodations in strategic locations within the central urban area at comparably low rents. Although this new policy increased shopkeeper resettlement from 20% to 40%, it plainly did not meet with success. Central location was not a great incentive to shopkeepers who could no longer compete against more modern entrepreneurs.⁹⁰

In 1981, the Department revised resettlement policies in several ways. It began offering fixed allowances to compensate for disturbance and transportation. It offered each residential household a \$2,000 allowance. Farmers received an additional \$260 allowance.⁹¹ In addition, residential households could opt for an HDB flat at the low rent of \$33.33 per month for three years or the low down payment of \$200. Shopkeepers could choose either a cash grant of \$58,500 or a new business in an HDB-designated location.⁹² Analysts have applauded Singapore's attempt to make the unsettling process of relocation as fair as possible to ousted dwellers.⁹³

Singapore's resettlement policies may appear to reflect means-based reasoning in the sense that the government was concerned with the fairness of its relocation practices.⁹⁴ It is unclear, however, whether the scrutiny of the policies arose from an actual desire to make the process fair or simply from a desire to avoid unrest.⁹⁵

The Narita people are not exceptional. Most people are apprehensive of being resettled, irrespective of their nationality and culture because they need to make adjustments in their new environments which may affect them economically and socially. Resettlement, therefore, has often been perceived by the affected population with suspicion, which in certain instances, have erupted into violence or physical resistance through political agitation.

Id.

89. Prior to 1964, non-farming squatters could opt for free basic housing in agricultural settlements or for free HDB flats. Farmers received land with free basic housing in agricultural settlements plus compensation for improvements. The HDB abandoned this policy when it found that most of the people opted for houses in agricultural settlements. In 1964, as industrialization and urbanization increased, the Department introduced "Replacement Rates." The HDB offered \$1,000 per acre of agricultural land to induce those resettled in agricultural settlements to move to HDB flats. This program also proved to be unsatisfactory because farmers felt the compensation was insufficient and preferred cash to land. In 1971, to encourage more urban migration, the HDB increased farmers' compensation by 100% and offered either a free three-room HDB flat or the cash equivalent of one. The HDB ceased offering houses in agricultural settlements all together in 1979. *Id.* at 309-14.

90. *Id.* at 313.

91. *Id.* at 315.

92. *Id.*

93. Experts note that "[t]he statistics bear testimony to the achievement of the government's dual objectives of freeing lands from encumbrance for development while upgrading the standard of housing for slum dwellers through the process of relocation." *Id.* at 319.

94. *See id.*

95. *See supra* text accompanying note 88.

G. Constructing the Public Housing Units

As soon as the HDB had cleared enough land, it embarked upon its ambitious building program. By 1995, the HDB had built an impressive 721,881 units.⁹⁶ At the outset, however, it faced daunting challenges in preparation for such a massive undertaking.

Specifically, the HDB had to assemble and manage the materials required to build the housing units. It began by establishing several granite-crushing plants. By 1982, it had built four plants with several hundred thousand tons capacity.⁹⁷ The HDB arranged with the National Iron and Steel Mills Ltd. to bulk purchase construction items at low cost.⁹⁸ In addition, the HDB had to ensure an adequate supply of labor.⁹⁹ It implemented a program to socially engineer the Singapore work force to meet construction labor needs. It drew pre-high school age youths and immediately immersed them in construction training programs. These programs included training in both skilled and unskilled construction labor and continue to appropriate 1500–2000 youths annually.¹⁰⁰

The HDB organized the public housing complexes into “new towns.”¹⁰¹ Generally, about 41% of new town land went to housing developments, 10% to schools, 20% to industry, 4% to the town center, 3% to institutional use, 7% to sports and open space, and 7% to roads and other infrastructural facilities. Among the housing units were several neighborhood centers containing markets and other stores catering to residents’ lower order needs. Town centers, consisting of post offices, cinemas, libraries, creches, hawkker centers, and banks, catered to more specialized needs. New towns contained approximately 25,000 to 50,000 dwelling units, arranged into 9-story to 13-story “slabs” with the occasional 4-story slab and 25-story “point block” for variety.¹⁰²

96. Prior to 1960, the SIT had built only 22,113 public housing units. HDB FACTS, *supra* note 5, at 8. Between 1960 and 1967, the HDB constructed 74,500 units. Chang, *supra* note 70, at 246.

97. Cheng, *supra* note 63, at 47.

98. It bulk purchased cement, tiles, bathroom parts, etc. In anticipation of future construction, the HDB stockpiled such essential materials as granite, sand, bricks, squat pans, and wall tiles. *Id.* at 49.

99. “Traditionally, Singapore’s main source of foreign labor has been Malaysia. Since 1981, foreign workers have been taken in from other countries.” *Id.* at 51. The government recognized, however, that importing labor was only a short-term solution to Singapore’s labor needs. *Id.*

100. *Id.* at 51–53.

101. Experts have compared the new towns to European post-war new towns:

Singapore’s new towns are modeled largely upon the European post-war new towns with a few notable differences. First, the Singapore new towns are planned to accommodate sizable populations with a large majority of the residents housed in high-rise high-density flats due to land scarcity. Second the new towns are built to be self-contained.

Eng, *supra* note 32, at 259.

102. *Id.* at 260. Gross residential density in the new towns, including all land uses, is 60

The flats themselves were one-room to five-room units containing a kitchen and a bathroom. The room types are as follows: "Emergency," the lowest-quality of flat; "standard," a slightly larger version of the emergency flat; "improved," similar to the standard flat with a larger kitchen; "new generation," containing a kitchen-dining room and store room; and "Model A," containing the largest rooms.¹⁰³ The HDB designed and arranged the flats to foster certain socioeconomic goals. To encourage creation and maintenance of the nuclear family, the HDB designed the flats in the "Anglo-American housing model, which is oriented towards the needs of the conjugal-family household."¹⁰⁴ To encourage socioeconomic mixing, the HDB arranged the buildings so that low-quality and high-quality units existed in close proximity.¹⁰⁵ To foster satisfaction with public housing, the HDB built social, recreational, and transportation amenities.¹⁰⁶ The HDB also instituted an aggressive maintenance policy. It mandated regular and ongoing maintenance, conducted cyclical preventive maintenance of the buildings and mechanical and electrical installations, and undertook major repairs to the buildings to upgrade older units.¹⁰⁷

H. Eligibility for Public Housing

The Singapore government tailored its strict housing eligibility requirements to meet various national objectives.¹⁰⁸ This is further

dwelling units or 300 persons per hectare. Net density in residential areas alone is 175 dwelling units or 875 persons per hectare. Eng, *supra* note 32, at 259-60.

103. When the demand for the smaller, lower-quality flats began to taper off in 1970, the HDB began constructing four- to five-room "Executive" and "HUDC" flats. The flats range from a size of 23 square meters for the smallest one-room unit to 162 square meters for the largest HUDC unit. Tony Tan Keng Joo et al., *Physical Planning and Design, in HOUSING A NATION*, *supra* note 3, at 56, 58-60.

104. HASSAN, *supra* note 11, at 13. Although Hassan describes the nuclear family as the "prevailing socio-cultural organization of the family," evidence indicates that shophouse dwellers were not all organized into conjugal family units. In fact, it was quite common for both economically disadvantaged Asians and traditional Asians to have extended family and friends dwelling in the same house. See *supra* note 19 and accompanying text. It, therefore, appears that the Singapore government was trying to actively encourage the *formation* of nuclear family units.

105. Generally, each floor of an 11- to 12-story slab contains 8-10 flats. The smaller, 4-story slabs have 12-14 flats on each floor. Each building contains several staircases and elevators and a central lobby. Joo, *supra* note 103, at 71.

106. The HDB built several amenities:

[S]wimming complexes, sports complexes and indoor stadiums steadily appear in the estates. Parks and gardens as well as jogging tracks, keep fit corners and children's playgrounds find their way into every corner of the housing estates. To meet high parking demands, garages and specially designated bus and lorry parking lots are provided in addition to open parking lots. And free ground floor spaces of the residential blocks are converted into education centres, child-care centres, senior citizens' clubs, community sub-centres, neighbourhood police posts, offices for the residents' committees and community halls.

Ker, *supra* note 3, at 13.

107. *Id.* at 20-21.

108. Chang, *supra* note 70, at 236.

evidence of the government's employment of ends-based reasoning.¹⁰⁹ For example, in keeping with its strict immigration policies, the government required all owners and renters to be citizens of Singapore.¹¹⁰ To prevent profit making from ownership of public housing, the HDB forbade owners and renters to own any other private residential property. Even those who gave up their private property to be eligible for HDB flats had to wait thirty months before gaining eligibility.¹¹¹ The HDB, however, permitted public housing residents to own commercial property with a value up to \$250,000 if that property was for business use only.¹¹² In addition, the HDB tailored its eligibility requirements to emphasize family formation. Renters and owners had to be at least twenty-one years old.¹¹³ Households had to consist of two or more persons related by blood or marriage.¹¹⁴ The policy considerations behind the family-oriented requirements were twofold: "[T]he republic's limited land for housing development and the social objective of the government to dissuade young single persons from living away from their families."¹¹⁵

Despite the restrictive eligibility requirements, demand for HDB units has always outweighed supply.¹¹⁶ The average waiting period for an HDB flat has been three years.¹¹⁷ Two reasons explain why the demand for the public housing units was so high. First, applicants knew that many residents were satisfied with the public housing.¹¹⁸ Second, and more importantly, private property prices have escalated to astronomical levels during the past few decades. Most Singaporeans

109. The government was willing to subordinate the rights generally associated with ownership and renting to achieve its national objectives.

110. It did, however, allow some factories and institutions such as the National University of Singapore to rent HDB units and provide them to non-citizen employees. TAI, *supra* note 14, at 72.

111. Chang, *supra* note 70, at 240. The government did, however, make exceptions to this eligibility requirement, upon its discretion, in cases where a person had been bestowed property, owned property jointly and could not dispose of it or live in it, or owned property in name but was unable to use the property, such as in the case of rent-controlled premises. *Id.* at 240-41.

112. Ricquier, *supra* note 2, at 323.

113. HDB FACTS, *supra* note 5, at 10.

114. In 1960, the minimum household size for a one-room flat was five persons (related through blood or marriage). In 1962, the minimum size was reduced to three related persons. In 1967, the requirements were relaxed so that the minimum household size for any flat was two related persons. In 1978, the government began to allow any two adults, over 40 years old, to submit a joint application to rent or to purchase one public flat. It also allowed a person planning to get married to apply to rent a flat with her fiancé. The couple would then have to produce their marriage certificate within three months after the commencement of the tenancy agreement. TAI, *supra* note 14, at 72.

115. Teo Siew-Eng, *Patterns of Change in Public Housing in Singapore*, 11 THIRD WORLD PLAN. REV. 373, 378 (1989).

116. See TAI, *supra* note 14, at 75. "[T]he demand for all types of public housing . . . is always much greater than the supply. This phenomenon has not changed since the inception of the HDB in 1960, although the number of applications has fluctuated from time to time." *Id.*

117. *Id.* at 75-76.

118. *Id.*

simply could not afford to purchase private housing.¹¹⁹ Given the extreme demand for housing, it is not surprising that the Singaporeans did not express more dissatisfaction with the restrictive terms of their public housing occupancy.

I. Low-Income Aspects

To achieve the goal of eradicating homelessness and slums, the HDB concentrated on making public housing available to low-income Singaporeans. Specifically, the HDB endeavored to aid low-income people in renting the smaller emergency units. To ensure lower price units would be available to low-income families, the HDB placed an income ceiling on eligibility for renting the units. For example, in 1962, families earning above \$250 per month were not eligible for one-room flats.¹²⁰ The HDB also placed an income ceiling on eligibility for purchasing the units.¹²¹

In addition, the HDB encouraged low-income families to own their flats. Professor Teo Siew-Eng of the National University of Singapore explained the importance of home ownership:

The rationale behind home-ownership is obvious. Ownership brings with it a certain sense of security, gives root to a population, and ensures the long-term stability of society. Home-ownership has, in fact, instilled an element of pride among owners as seen in the willingness of many flat dwellers to spend vast sums of money in renovating and decorating their flats.¹²²

To help rental tenants own their flats, the HDB offered the flats at discounts of 30% off the selling price or \$10,000, whichever was lower.

119. *Id.*

120. Chang, *supra* note 70, at 244. After 1980, the income requirement was an income of less than \$500 per month for a one-room to two-room flat and less than \$800 per month for a three-room flat. TAI, *supra* note 14, at 73. As of 1995, rent for a one-room flat was \$26-\$33 and for a two room flat is \$44-\$75. HDB FACTS, *supra* note 5, at 11. This is less than the prices of the flats in 1989, which were \$25-40 and \$50-80, respectively. TAI, *supra* note 14, at 83.

These figures are not meaningful unless one considers that the current average gross monthly income of each employed person is \$2,086 per month. Families making only \$500 per month are easily considered low-income. As of 1995, per capita income was \$28,820. This is up from \$14,435 in 1986 and \$1,330 in 1960. HDB FACTS, *supra* note 5, at 11.

121. For example, after 1980, the income ceiling for purchasing a three- to five-room flat was between \$3,000 and \$6,000 per month. TAI, *supra* note 14, at 73.

122. Eng, *supra* note 115, at 378. Experts in the United States have echoed this view, observing that where people have less of stake in their property and more mobility, rate of deterioration of the property increases. See, e.g., WILLIAM WHEATON, URBAN HOUSING 231-60 (1966). But see HASSAN, *supra* note 11, at 200-05 (revealing that HDB residents, in fact, did not take pride in their units, but rather felt apathetic and resigned to their housing conditions). See also *infra* text accompanying note 184.

Renters could obtain a mortgage loan of up to 100% of the discounted price to help finance the purchase. The HDB also offered to sell three-room and four-room flats to low-income families at subsidized prices.¹²³

Furthermore, the Home Ownership Financing Scheme, instituted in 1964, helped all families to own their flats. It permitted citizens to use a portion of the CPF to pay for down payments or mortgages on HDB units.¹²⁴ Singaporeans could use up to 30% of their portions of the CPF to finance home ownership.¹²⁵ In 1981, the government introduced the Home Protection Insurance Scheme. It ensured that dependents of sole breadwinners would not lose their homes as a result of default in loan repayments due to the death or permanent incapacity of the sole breadwinner.¹²⁶

J. Market Controls

To ensure continued occupancy of public housing units, the government severely restricted the free operation of Singapore's housing markets. As stated earlier, HDB owners and renters could not own property for appreciation or rental income, nor could they gratuitously transfer property interest without restriction.¹²⁷ HDB residents also did not enjoy the same opportunities for mobility as private-market owners.¹²⁸ Flat owners could only sell to private citizens in the secondary market under two conditions: The owner resided in the flat for at least two years; and the owner waited at least thirty months after the sale to

123. The HDB bought back three-room flats from the secondary market and sold them at subsidized prices to families with incomes of \$1,000 or less. HOUS. & DEV. BD., PUBLIC HOUSING IN SINGAPORE 1, 4-5. (1995); see *infra* notes 129-131 and accompanying text for a description of the secondary market. To help low-income families buy four-room flats, the HDB would offer them an emergency, lower-quality four-room flat, which, at 90 square meters, was a bit smaller than other four-room flats at a price 15-18% lower than the other flats. HOUS. & DEV. BD., *supra*.

124. As discussed earlier, the CPF is Singapore's equivalent of the U.S. Social Security Fund. See *supra* note 69 and accompanying text.

125. Ker, *supra* note 3, at 12. The HDB explained:

Today, with the contribution rate of 25 percent payable by the employer and the employee respectively, a person with a starting salary of \$500 per month increasing at 6 percent per year, would have accumulated CPF savings of over half a million Singapore dollars after thirty years of working. At this rate of savings, most Singaporeans have no difficulty in buying public housing flats using CPF contributions for monthly repayments

Id.

126. Chang, *supra* note 70, at 234.

127. See *supra* notes 54-55 and accompanying text.

128. Chang, *supra* note 70, at 235-36. Singapore has a tiny, consumer-driven market. *Id.* But see Teo Siew-Eng, *Why Singaporeans Move—A Profile of Movers in HDB Flats and Private Housing*, 7 ASIAN PROFILE 379, 379-88 (1979) (showing that HDB flat dwellers changed their flats once every 6.7 years, private flat dwellers once every 7.1 years, and private house dwellers every 9.1 years). Therefore, in reality, HDB dwellers were more mobile rather than less mobile.

apply for a new flat.¹²⁹ So long as these conditions were satisfied, an owner could sell either a flat bought directly from the HDB or a flat purchased on the secondary market.¹³⁰ Moreover, the government restricted the free operation of the secondary market by imposing a levy on the private sale of public housing units.¹³¹

K. Renters and Owners

At this point, the difference between renters and owners may not be apparent. In part, this is because there was no substantive difference between renters and owners in terms of property rights and entitlements. Under the Housing and Development Act, both renters and owners could be ousted basically at the discretion of the HDB.¹³² As Professor Ricquier observed:

It should be apparent already that buying a home in Singapore is, at least for the vast majority of the population, quite unlike buying a home in most places where the English legal system, in some shape or form, has taken root. Basically, the contractual element, in any real sense, has been removed. The process is more akin to applying for a license for some privilege. This is really not surprising, because that is precisely how public housing is regarded.¹³³

In addition, owners neither enjoyed free and clear alienation rights, nor the ability to freely transfer property either for value or as a gift. They also did not enjoy the benefits of capital appreciation.¹³⁴ Indeed, the concept of market appreciation was foreign to the HDB housing regime. The HDB controlled flat prices. Prices were based upon construction costs and availability of funding rather than market demands.¹³⁵

So why would anyone want to become an owner when ownership accrued no more property rights but presumably brought more finan-

129. Chang, *supra* note 70, at 235–36. Similarly, ex-private property owners were barred from applying for 30 months. These conditions have been in place since 1970. The original HDB policy toward resale was that an owner who wished to dispose of his flat could only sell it back to the HDB at the original purchase price minus depreciation. *Id.*

130. In 1982, the HDB permitted owners to sell only their first HDB flat on the open market. In 1985, the HDB began to allow owners of HDB flats bought on the secondary market to sell after a period of 30 months. *Id.*

131. In 1982, the HDB imposed a levy of 10% on the resale price of three-room flats, 15% on four-room flats, and 20% on five-room flats. The levy rules were relaxed in 1985, so that only sellers of flats bought directly from HDB had to pay a 10% levy. *Id.* at 236.

132. See *supra* notes 56–57 and accompanying text.

133. Ricquier, *supra* note 2, at 321.

134. See *supra* notes 54–55 and accompanying text.

135. See *supra* text accompanying note 70.

cial responsibility? The answer is simple: As part of its goal of making housing available to low-income families, the HDB severely limited its rental market. The HDB made the rental option available only to the small portion of society that could not afford to buy, even with the subsidy programs available to them. To that end, it made rental units available to three classes of families: Families whose total income was not more than \$800/month; "transitional" families who had booked flats and were awaiting occupancy; and families in the flat upgrading program who were awaiting occupancy of their upgraded flats. Finally, the HDB rented to qualified non-citizens in the housing program (for example, university students).¹³⁶ The remainder of HDB residents became part of the Home Ownership Financing Scheme described earlier.

L. External Social, Political, and Demographic Factors

A number of independent government programs and existing social characteristics contributed to the apparent success of Singapore's housing program. These factors are peculiar to Singapore, arguably making Singapore's housing success unique.¹³⁷

1. Integration

To prevent housing and other problems created by racial division,¹³⁸ the government implemented a massive campaign of racial integration. Singapore is an ethnically diverse nation with one dominant ethnic group, the Chinese.¹³⁹ Prior to the government's policy of active integration, the different ethnic groups experienced different socioeconomic statuses.¹⁴⁰ The government felt that deliberately manipulating the arrangement of public housing would help achieve racial integration. "One of the main objectives of Singapore's public housing program [was] to bring people of all ethnic groups to live together in a planned environment with the hope of promoting ethnic integration."¹⁴¹ Apparently, the government succeeded in integrating housing.

136. HDB FACTS, *supra* note 5, at 11.

137. See HASSAN, *supra* note 11, at 10 (observing that "some of [Singapore's features] are peculiar to Singapore and render Singapore's public housing programme somewhat unique and less likely to serve as a model for other neighboring countries").

138. In the United States, for example, housing problems are often associated with racial problems. See generally ARNOLD R. HIRSCH & RAYMOND A. MOHL, *URBAN POLICY IN TWENTIETH-CENTURY AMERICA* (1993).

139. Seventy-eight percent of Singapore's population is Chinese, 14% is Malay, 7% is Indian, and the remaining 1% consists of other groups. HDB FACTS, *supra* note 5, at 2.

140. The Chinese, like Caucasians in the United States, enjoyed the highest class in society. The Indians were lower-class, but mostly known as urban dwellers. The Malays experienced the lowest status. They were known as "kampong" (village) dwellers. TAI, *supra* note 14, at 23.

141. *Id.*

Surveys show that 53% of Singaporeans believe their present neighborhoods are more integrated than previous ones.¹⁴² The active integration program has not met with universal praise. Many criticize it on the grounds that the uniform housing and mixed environment has destroyed culture. Others simply argue that ethnic separation is maintained on a different level. One commentator noted:

[I]n a multi-cultural society like Singapore, different ethnic groups maintain and practice their own values and norms, and in some instances the different norms and practices may clash with one another; what is moral or sacred to one group may be despised or taboo to another. Consequently, ethnic boundaries are maintained and the intensity of inter-ethnic interaction is therefore much lower than that of intra-ethnic interaction.¹⁴³

2. Education and Propaganda

To ensure contentment with public housing, the Singapore government educated its constituents about socialized living. In order to directly communicate social values to the public, the HDB launched *Our Home* magazine. *Our Home* magazine now enjoys the largest circulation among all journals in Singapore.¹⁴⁴ The HDB also communicated with the public through several grass roots organizations. In addition, the government began using schools to orient children towards certain social and moral values. The government introduced into all schools a moral education program based on both Confucian ethics and government policy goals "to promote the awareness and the practice of moral and traditional values among Singaporeans."¹⁴⁵ Such propaganda and education programs have not been viewed favorably by all. One critic stated: "Socialization through mass media and the schools has successfully convinced the bulk of the population that there are no alternative methods or policies workable for Singapore's economic survival."¹⁴⁶ This may be viewed as another example of Singapore employing ends-based reasoning. The government used propaganda, a means viewed unfavorably by many, to achieve its housing ends.

142. *Id.* at 141. Thirty percent think the level of integration remains the same. *Id.*

143. *Id.* at 144; *cf. infra* notes 227–228 and accompanying text.

144. Ker, *supra* note 3, at 24.

145. TAI, *supra* note 14, at 113.

146. Chan Heng Chee, *The Political System and Political Change, in SINGAPORE: SOCIETY IN TRANSITION* 1, 38 (Riaz Hassan ed., 1976).

3. Population Control

To ensure that the population would not exceed available housing and land, the government initiated programs to curb population growth. In 1965, the government implemented the Family Planning Program, a comprehensive family planning service and program of incentives and disincentives to discourage large family formation.¹⁴⁷ As disincentives, families with three children or more were cut from state welfare and forced to wait longer for public housing. Furthermore, mothers in these families were not eligible for maternity leave. These families also paid higher maternity hospitalization costs and primary schooling fees.¹⁴⁸ As incentives, the government made contraceptives widely available, offered abortions for nominal fees, and induced sterilization by offering women an extra week of vacation if they agreed to be sterilized.¹⁴⁹

By 1980, 10% of Singapore's women of child-bearing age had been sterilized. By 1975, population growth had slowed to 1.3%, as compared with 5.4% in 1957.¹⁵⁰ The program worked so well that the HDB had to modify its housing projections because of the drastic decline in population growth rates.¹⁵¹ The program, arguably, worked too well. Combined with the growth of the job market due to technological advances and increased investment, population reduction led to labor shortages and the need to import human capital from Malaysia and other surrounding countries.¹⁵² Even so, the Singapore government generally did not permit the foreign workers to live in Singapore. Experts continue to describe Singapore's international immigration policies as "extremely selective."¹⁵³

4. Organizing Labor to Attract Foreign Investment

At the same time it was building public housing, the Singapore government was attempting to create a social environment attractive to foreign investors. The government took political steps to make labor more efficient and quash labor unrest.¹⁵⁴ These policies, while arguably

147. PETER S.J. CHEN & TAI CHING LING, *SOCIAL ECOLOGY OF SINGAPORE* 25 (1977).

148. *Id.*

149. *Id.*

150. HIRD, *supra* note 8, at 38.

151. TAI, *supra* note 14, at 49.

152. *See* Cheng, *supra* note 63, at 51.

153. HASSAN, *supra* note 11, at 12. This restrictive policy was also reflected in the provisions of the Housing and Development Act that restrict HDB residents from aiding illegal aliens in any way. *See supra* note 57.

154. In 1968, the legislature passed two labor-related Acts: The Employment Act and the Industrial Relations Act. The Employment Act increased the hours of work per week for white collar workers, restricted bonus payments based on performance, and reduced public holidays. The Industrial Relations Act provided that collective agreements could not supersede terms of the Employment Act. It also increased the Minister of Labor's discretionary power over industrial

violative of employment rights, succeeded in boosting the economy. As one analyst noted: "With the backing of a pool of well-organized labour, an efficient organizational and administrative system, and a series of well-designed infrastructures, investment capital [was] attracted, and the industrial sector gradually emerge[d]."¹⁵⁵

In 1967, the government passed the Export Expansion Incentives Act, which offered considerable tax incentives to newly established foreign and domestic industries.¹⁵⁶ The government exempted new companies that "contribute[d] to the Singapore economy" from the standard 40% tax on company profits for five years.¹⁵⁷ These labor and investment policies paid off, resulting in a tenfold increase in foreign investment between 1965 and 1971.¹⁵⁸ Between 1960 and 1984, Singapore's per capita domestic GNP also grew tenfold.¹⁵⁹

5. Other External Characteristics

A number of other characteristics appear to have contributed to Singapore's housing achievements. First, Singapore experienced virtually no rural-to-urban migration.¹⁶⁰ Rural-to-urban migration often transfers poverty from rural areas to cities.¹⁶¹ Without such a transfer, the government could better predict and meet housing needs. Second, Singapore was predominantly an urbanized country. In 1970, only about 4.1% of the labor force worked in agriculture.¹⁶² This enabled the government to invest all housing and development funds in urban areas. Third, until 1970, Singapore spent almost nothing on defense. This further liberated the government to invest a substantial portion of government funds in housing during the formative years of the housing program.¹⁶³ Finally, prior to the initiation of the public housing program, citizens were accustomed to living in high-density conditions. This facilitated their acceptance of the high-density housing

disputes and limited workers' rights to strike. Hird, *supra* note 8, at 25. This is yet another example of Singapore's willingness to subordinate individual rights in the quest for an efficient system.

155. DESMOND P. PEREIRA, *FOCUS ON ENVIRONMENT* 14 (1979).

156. Hird, *supra* note 8, at 28-29.

157. *Id.*

158. *Id.*

159. Ker, *supra* note 3, at 26.

160. *Id.* at 11-12.

161. In the United States, this phenomenon occurred when Southern rural African Americans migrated to Northern urban areas, creating scarcity in certain housing markets. *See generally* DANIEL R. FUSFELD & TIMOTHY BATES, *THE POLITICAL ECONOMY OF THE URBAN GHETTO* (1984). The authors argue, however, that the analysis is not as simple as poor blacks moving poverty into wealthy, urban areas. The effects of discrimination, artificially high rents, and opportunistic real estate agents lead to urban ghetto pathologies. *Id.*

162. P. ARUMAINATHAN, *REPORT ON THE CENSUS OF POPULATION 1970 SINGAPORE* 96 tbl. 8.25 (Singapore Dep't of Stat. vol. 1, 1970).

163. HASSAN, *supra* note 11, at 12.

units available from the HDB.¹⁶⁴ This attitude is evidenced by the notable absence of vandalism of the housing units. As one author stated: "Another credit which should be given to the residents is their cooperation in looking after the properties. The incidence of vandalism has been relatively low."¹⁶⁵

III. RESULTS OF SINGAPORE'S PUBLIC HOUSING PROGRAM

A. Tangible Achievements

The results of Singapore's housing program have been nothing short of extraordinary. As pointed out earlier, the HDB has built 733,471 units since 1960 and currently houses 86% of the population.¹⁶⁶ The government has virtually eliminated slums and homelessness. This achievement is vividly illustrated by changes in the character of the downtown area. One observer noted:

In the wake of [existing residents'] departure, the development of new industry and business has occurred unimpeded in the most desirable locations in Singapore. Consequently, urban renewal construction projects "have changed the character of downtown Singapore by replacing slums with high-rise office complexes and shopping marts."¹⁶⁷

During resettlement, the HDB demolished old historical buildings all over the country and replaced them with new residential and commercial structures. Many have expressed concern over Singapore losing its culture and heritage.¹⁶⁸ Although the government set up a committee on the preservation of historical monuments, it eventually cleared ethnic and historical landmarks, such as the entire Chinatown area, to make way for HDB development.¹⁶⁹

The housing policy also generally affected the economy. It created vast employment opportunities. Housing construction employed 6.3% of Singapore's total work force.¹⁷⁰ By the 1970s, Singapore had achieved full employment by international standards.¹⁷¹ As noted earlier, Singa-

164. *Id.* at 15.

165. Ker, *supra* note 3, at 26.

166. HDB FACTS, *supra* note 5, at 2, 8.

167. Hird, *supra* note 8, at 47 (quoting NENA VREELAND ET AL., AREA HANDBOOK FOR SINGAPORE 111 (1977)).

168. "They ask, 'How can we teach our children about their roots if all visible evidence of [it] is destroyed?'" TAI, *supra* note 14, at 99. A similar type of debate occurs in the United States concerning ghetto dispersal versus ghetto enrichment. See WILSON, *supra* note 19; *infra* notes 227-228 and accompanying text.

169. TAI, *supra* note 14, at 100.

170. *Id.* at 94.

171. *Id.*

pore's labor needs are currently so great that industries must import foreign workers must be imported into the country to combat labor shortages.¹⁷² In addition, experts contend that, by keeping housing costs low and constant, public housing has served as an "important subsidy to wages" and has thereby boosted the economy.¹⁷³

B. Satisfaction with Public Housing

To the outside observer, Singapore looks clean and people are housed, but are low-income people really any better off than they were living in slums and shophouses? The HDB conducted surveys concerning the satisfaction level of HDB residents in 1968, 1973, and 1981.¹⁷⁴ As might be expected, the HDB reported mostly favorable results. It described residents as showing "a fairly high level of satisfaction" and having a "satisfactory and sound" experience.¹⁷⁵ It observed that satisfaction levels had been rising since the 1960s due to the government's commitment to providing better and better housing.¹⁷⁶ Although many residents responded that the conditions in HDB flats were "cleaner" and "nicer" than before, residents complained that the flats were "too small," the buildings were "too crowded," and there were "too many rules and regulations."¹⁷⁷ Apparently the HDB was not particularly concerned with whether residents felt, all things considered, better off than they were before. It was more interested in whether they were satisfied with their current residences.¹⁷⁸

Moreover, not all studies have shown favorable results. A 1972 study by Iain Buchanan revealed that for many people, "resettlement [was] a step backward, socially and economically, in their search for security."¹⁷⁹ Buchanan explained that former slum residents forced to relocate to HDB flats ended up in buildings with much greater vertical density and experienced both decreased work opportunity and increased expenditures.¹⁸⁰ In other words, to satisfy the government's desire for a clean, efficient country, Singaporeans were forced to move,

172. See *supra* note 152 and accompanying text.

173. Hird, *supra* note 8, at 52. Hird also noted, however, that a greater number of Singaporeans were below the poverty level in the mid-1970s (35%) than in the mid-1950s (25%). *Id.* at 57.

174. TAI, *supra* note 14, at 5.

175. *Id.* at 8 (citing STEPHEN H.K. YEH, PUBLIC HOUSING IN SINGAPORE 337 (1975)).

176. Lim Koon Poh et al., *HDB and Its Residents*, in HOUSING A NATION, *supra* note 3, at 375, 396.

177. *Id.* at 400-05.

178. This is most likely because many former shophouse dwellers, upon comparison, would have preferred the old style of living. See *infra* note 184 and accompanying text. The HDB would not be able to conform public housing units to the dwellers' satisfaction due to their inherent dissatisfaction with the very nature of public housing.

179. IAIN BUCHANAN, SINGAPORE IN SOUTHEAST ASIA: AN ECONOMIC AND POLITICAL APPRAISAL 240 (1972).

180. *Id.* at 241.

against their wills, to residences that cost more than they wanted to spend.¹⁸¹ Thus, even though the government had intended the system to help low-income families, it actually may have left these families with a "poorer" quality of life.

A 1977 study by Riaz Hassan highlighted many of the negative outcomes of the housing program. First, Hassan discovered that resettlement had severe psychological effects on HDB residents. He explained that "when people are forced to change their residence, the result, under certain circumstances, is a 'grief syndrome.'"¹⁸² He described this syndrome as a "psychosomatic condition that may include intestinal disorders, nausea, vomiting, and crying spells over an extended period of time."¹⁸³

He also observed that many of the resident-respondents expressed distress that they had no control over their housing situations and felt that the HDB only helped the "well off." Hassan noted:

Many felt that they were stuck with what they had. Those affected by urban renewal felt that they were powerless and had to take what the Government offered. In their former homes, they could rear pigs, chicken and ducks to subsidize their incomes. With urban renewal they felt they had been forced out of their former residence with no power to resist. When asked if they had sought aid from the Government, many did not know what help to ask for.¹⁸⁴

In addition, Hassan observed that recreational outings were rare since people could no longer afford them. He also showed that the lower-income people in HDB flats did not always upgrade their conditions after resettlement. Although former Chinatown residents generally found the HDB flats to be cleaner, rural resettlers "seemed to miss their cleaner, quieter former homes."¹⁸⁵ Finally, Hassan observed a low standard of living and education among the residents. He explained that because of the capital required to maintain HDB residency, residents could think about little else outside of what occurred in the immediate household.¹⁸⁶

181. In the United States, the anti-paternalist argument that people should be free to pay less for inadequate housing if they so desire is often produced against compulsory terms in leases, and more specifically, the nondisclaimable implied warranty of habitability. See Duncan Kennedy, *Distributive and Paternalist Motives in Contract and Tort Law, with Special Reference to Compulsory Terms and Unequal Bargaining Power*, 41 MD. L. REV. 563, 657 (1982).

182. HASSAN, *supra* note 11, at 18.

183. *Id.*

184. *Id.* at 203.

185. *Id.* at 205.

186. *Id.* at 210-11.

Another way the housing system may have hurt the least well off was by cementing them in their situations of poverty. The income ceiling portion of the HDB's low-income assistance program applied only to the worst-quality units.¹⁸⁷ This maintained the poor in their lower class statuses and, in turn, lowered their aspirations and educational achievements. As one analyst noted:

The crowded conditions in HDB housing and the existing poverty have led to severe constraints on the chances of the children, who, as a result of poor studying environments and the constant need for more household income, prematurely [leave] the education system to take low-paid jobs.¹⁸⁸

IV. ANALYSIS OF SINGAPORE'S PUBLIC HOUSING PROGRAM

As evidenced by the divergent analyses of Singapore's housing program, experts are divided on the desirability, expediency, and propriety of many aspects of the program. Inherent in these criticisms and justifications are "means-based" and "ends-based" reasoning. The Singapore government foremost has employed ends-based reasoning to justify the methods it used to achieve its housing goals.¹⁸⁹

A. Means-Based and Ends-Based Reasoning

Broadly speaking, the two most common forms of criticism against social programs are, stated in a colloquial way, either that "they are unjust" or "they do not work." These criticisms represent means-based and ends-based reasoning, respectively.¹⁹⁰ People who engage in means-based reasoning attack or praise a system based on the means it uses to achieve an ends. This encompasses the justness of the legal regime, implementation methods, and values inherent in the system.¹⁹¹ In the United States housing policy context, means-based reasoning is often

187. See *supra* notes 120–121 and accompanying text.

188. Hird, *supra* note 8, at 59.

189. See *supra* note 10 and accompanying text.

190. This shows that people criticize systems according to logical forms even if they do not know they are using them. Means-based arguments are also known as "deontological" arguments, and ends-based arguments are known as "teleological" arguments.

191. Means-based reasoning can be observed in the work of philosophers like Kant and Rawls. See IMMANUEL KANT, *THE CRITIQUE OF PRACTICAL REASON AND OTHER WRITINGS IN MORAL PHILOSOPHY* (Lewis W. Beck trans., 1959), reprinted in *ETHICAL THEORIES: A BOOK OF READINGS* 317 (A.I. Melden ed., 2d ed. 1967). Kant uses means-based reasoning when he posits the "categorical imperative," which states, "Act only according to that maxim by which you can at the same time will that it should become a universal law." *Id.* at 339. He is saying that there are certain behaviors and values that are moral independently of the ends they achieve. Rawls, likewise, recognizes a certain "overlapping consensus" of values latent in the public political

used against legal services centers who pursue eviction-free zone strategies.¹⁹² The argument is that legal service centers, by vigorously enforcing the warranty of habitability as an anti-eviction measure, are using immoral, or at least improper, methods to achieve the positive goal of housing the poor.¹⁹³ Such arguments do not analyze the result of the policies but merely the morality of the policies themselves.

Ends-based arguments, on the other hand, analyze both whether a certain policy has achieved its desired goal and whether the goal was expedient enough to justify the methods used.¹⁹⁴ In the United States housing context, empiricists employ ends-based reasoning to attack or praise various policies.¹⁹⁵ To them, the ultimate barometer of whether or not a housing policy has succeeded is whether or not it has achieved its proposed goal.¹⁹⁶

Singapore, for the most part, employed ends-based reasoning to justify the methods used to create and implement its public housing program. It reasoned that preexisting conditions were so bad and current conditions are so good that the methods used were necessary and justified.¹⁹⁷ There are both ends-based and means-based responses to this argument. The ends-based responses contest the premise that preexisting conditions were that bad and that current conditions are

culture that are justified independently of the ends they achieve. See generally JOHN RAWLS, *POLITICAL LIBERALISM* (1992).

192. See Lawrence K. Kolodney, *Eviction Free Zones: The Economics of Legal Bricolage in the Fight Against Displacement*, 18 *FORDHAM URB. L.J.* 507 (1991). Kolodney explains:

The point of the strategy is to launch a form of legal guerrilla warfare. Hence, it may be said that an EFZ [Eviction Free Zone] uses "legal bricolage," in the sense that the lawyer uses any legal means at hand to bring about the desired result of increasing the time and expense needed to evict tenants. Rather than employing the IWH [implied warranty of habitability] and other defenses in only those cases where the defense is likely to succeed, the strategy is to mount a legal defense in all cases with a colorable claim The goal is to force landlords to back down before the eviction can be brought to a full trial, or, at least, make each eviction as costly as possible.

Id. at 518.

193. *Id.*

194. Ends-based reasoning is best illustrated by the works of Thomas Hobbes. See THOMAS HOBBS, *LEVIATHAN* (1841), reprinted in *ETHICAL THEORIES: A BOOK OF READINGS*, *supra* note 191, at 218. Hobbes felt that the state of nature was so bad ("and the life of a man, solitary, poor, nasty, brutish, and short") that it justified the creation of an absolute dictator to give order to society. *Id.* at 223.

195. See, e.g., Kolodney, *supra* note 192, at 520. He illustrates a particular ends-based critique of eviction free zone strategies: "Neoclassical economists generally maintain that enforcement of the warranty which imposes extraneous costs on landlords produces a negative supply effect in the affordable housing market." *Id.*

196. Various philosophers have debated whether or not means-based reasoning should supersede ends-based reasoning or vice versa. See, e.g., JOHN STUART MILL, *UTILITARIANISM* (1863). This Recent Development does not attempt to tackle the debate between deontology and teleology. The distinction is used only to clarify how a certain housing policy is likely to be analyzed.

197. See *supra* note 10 and accompanying text.

that good. The means-based responses contend that even if the results of the system are positive, they do not justify the abusive means used to achieve those results.¹⁹⁸

B. Singapore's Ends-Based Defense of Public Housing and Ends-Based Responses

Most experts agree that the Singapore public housing program worked.¹⁹⁹ Critics even agree with the government that the means used to implement the program may have been necessary given the preexisting conditions. Thomas Michael Hird observed:

In all fairness, criticism of Singapore's public housing efforts should not occur without some qualifying expressions of admiration. Thirty years ago in Singapore, the conditions faced by a young PAP government were vastly different than those presented in the modern city-state In a means-versus-end analysis, given its starting point and the alternatives so vividly illustrated by other countries in the region, perhaps the authoritarian posture and practices of the PAP are validated in that Singapore provides its residents with what so many others lack.²⁰⁰

Critics, however, are quick to point out that Singapore's housing achievements may not have been as positive as the government would like people to believe. First, they contend that the system did not work to benefit those who most needed the system's help.²⁰¹ Evidence shows that the system actually may have served to hurt the poorest segment of the population.²⁰² By offering only the lowest-quality emergency units to the low-income residents, the HDB effectively reinforced those residents' situations of poverty.²⁰³ Moreover, as Hassan discovered, many residents ended up in worse housing conditions after resettlement.²⁰⁴

In addition, critics assert that the HDB's programs forced residents to pay more than they wished for housing.²⁰⁵ This, in turn, gave them less money to spend on other things like education, entertainment, and basic needs. Essentially, the residents had a "poorer" lifestyle. In the

198. See, e.g., Hird, *supra* note 8.

199. See, e.g., Ricquier, *supra* note 2.

200. Hird, *supra* note 8, at 69.

201. See *supra* text accompanying notes 180–188.

202. *Id.*

203. Hird, *supra* note 8, at 69. Housing problems like this can be observed in the United States, where public housing projects give rise to pathologies that exacerbate rather than lessen residents' impoverished conditions. See generally WILSON, *supra* note 22.

204. See *supra* text accompanying notes 183–186.

205. See BUCHANAN, *supra* note 179.

United States, a similar criticism arises in the context of the nondisclaimable implied warranty of habitability. Critics argue:

[L]andlords will pass along some of the increased maintenance costs generated by the warranty, so that rents will go up. Tenants will be forced to purchase more amenity than they want; they will pay more for less housing. . . . Attempts to improve their situation by paternalistic interference with their freedom of choice supposedly just make matters worse.²⁰⁶

One could respond to this criticism in two ways.²⁰⁷ On the means-based level, one could assert paternalistically that the government (or intellectual elites, as the case may be) should determine for low-income (and, presumably, less educated) people what they should value. In other words, one may assert that the poor should spend a larger percentage of their income on better housing instead of choosing to live in squalid conditions. Harvard Law School Professor Duncan Kennedy has observed that “there may be a strong paternalist case in favor of the warranty if it turns out that eliminating very bad units, forcing marginally higher densities in better maintained conditions, has long-term beneficial effects on poor families.”²⁰⁸ On the empirical level, one could simply argue that the implied warranty of habitability does not have the effect of making tenants pay more than they are willing for housing.

Returning to the Singapore context, the HDB argues paternalistically that they had the expertise to determine the kind of system that would most benefit its residents. They assert that the government legitimately decided to improve the condition of its constituents.²⁰⁹ The HDB, however, has a harder time defending against the empirical criticism. Unlike the warranty of habitability, whose empirical results depend on its effect on a private market, the HDB has controlled the market. In other words, because United States housing markets continue to function independently, the warranty of habitability may be able to create better housing without forcing residents to pay more than they are willing for housing. In Singapore, however, the HDB actually set housing prices and controlled residential densities. The

206. Duncan Kennedy, *The Effect of the Warranty of Habitability of Low Income Housing: “Milking” and Class Violence*, 15 FL. ST. U. L. REV. 485, 497 (1987) (citing Hirsch, Hirsch, & Margolis, *Regression Analysis of the Effects of Habitability Laws Upon Rent: An Empirical Observation on the Ackerman-Komesar Debate*, 63 CAL. L. REV. 1098, 1116–24 (1975)).

207. This does not imply that only two responses exist. These responses are merely examples of means-based and ends-based responses to the argument. For a more complete discussion of the warranty, see generally *id.*

208. *Id.* at 498 (citing Duncan Kennedy, *supra* note 181, at 624–49 (1982)).

209. Yong, *supra* note 86, at 319.

market could not compensate for the fact that housing prices were generally higher than what the poorest residents desired to pay.²¹⁰

Moreover, critics contend that, in addition to the “grief syndrome” caused by resettlement,²¹¹ high-density living in the HDB flats caused a host of other problems.²¹² These criticisms, however, apply to any system in which there is displacement and high-density, not just Singapore’s system. Notwithstanding the particular objections to the HDB’s method of clearing residents, if clearing had to occur, escaping the effects of resettlement would be impossible. Moreover, avoiding the downfalls of high-density living was impractical, given Singapore’s size and population.

C. Means-Based Criticisms of Public Housing

The first aspect of the program that can be criticized under a means-based approach is the government’s prioritization of housing. The Singapore government felt that “making housing a top priority” was an indispensable step toward national prosperity.²¹³ Critics could counter that public housing should not have been regarded so highly by the government. They point out that Singapore has not traditionally spent much on defense, a program whose maintenance many people in the United States would consider absolutely necessary.²¹⁴ Critics could also assert that housing problems are simply income problems. They could argue that the real social dilemma is poverty, not inadequate housing, and that redistributing income more evenly eventually would have solved the low-income housing problems.²¹⁵

Conversely, some critics argue that the Singapore government did not respect the value of housing enough. They assert that because of the various restrictions on freedom within the housing units and the tenuous position of HDB residents as tenants, the government denigrated individual property rights. Ricquier observed:

It should be noted that [according to the Singapore government] there is no *duty to provide housing* as such, in the sense of a legal concept carrying with it the corollary of individuals being able to

210. BUCHANAN, *supra* note 179, at 241.

211. See HASSAN, *supra* note 11, at 18.

212. See BUCHANAN, *supra* note 179, at 241.

213. See *supra* text accompanying notes 23–35.

214. See HASSAN, *supra* note 11, at 12. When told that Singapore spends up to 50% of the government’s budget on public housing, a peer replied, “How will they defend themselves?”

215. The Singapore government does not attempt to redistribute income. In fact, critics point out that the low-income housing system actually served to maintain the worst off in their positions of poverty. See HIRD, *supra* note 8, at 59. In the U.S. context, WILSON, *supra* note 19, advocates an income-distribution type of policy. He favors a subsidized jobs program for inner-city African American males, rather than housing resettlement or demand-side housing policies. *Id.*

claim a right to be housed. It is indeed a lynch-pin of the Government's approach to the question that public housing is a privilege and not a right.²¹⁶

The government, on the other hand, responds that it was justified in placing housing as a top priority. It holds that the most important step in establishing Singapore as a developed, prosperous, stable nation was ensuring that the bulk of the population had sufficient housing.²¹⁷

Critics also craft means-based arguments against the government's broad takings power.²¹⁸ They find the lack of procedural protections against government takings objectionable. They object to the fact that the HDB was not required under statute or constitution to compensate former owners of acquired land, but did so only by choice.²¹⁹ The Land Acquisition Act provided for no check on the government's power to acquire private land.²²⁰ For the most part, the government had discretion to do as it pleased with the land. Moreover, if the government had intended to provide a fair market price for the land, the legislature could have specified so in the Land Acquisition Act.

The government insists that the notice and appeals provisions of the Land Acquisition Act provided adequate procedural due process.²²¹ Critics, however, note the lack of public scrutiny over these appeals and argue that, in reality, the government compulsorily acquired vast quantities of land, paying less than market value.²²²

Critics also advance means-based arguments against the government's resettlement policies. These objections pinpoint the problems of a forced, comprehensive housing program. Foremost, resettled residents had no real freedom of choice over where to live.²²³ Although the government argues that residents could have resorted to the private housing market, most had no real opportunity to do so. HDB policies forced market housing prices to rise so high that no resettler could afford to buy or rent on the private market. This created a situation where residents were forced to spend more money on housing (to live in HDB units) than they would have had markets not been affected and their land not been seized by the government.²²⁴

216. Ricquier, *supra* note 2, at 319.

217. See YEUNG, *supra* note 28, at 169.

218. See Ricquier, *supra* note 2, at 317 (stating that "[t]he breadth of the acquisition power is one notable feature of the Act").

219. See *supra* text accompanying notes 48–49.

220. See *supra* text accompanying notes 45–46.

221. Cheng, *supra* note 63, at 42.

222. See *supra* text accompanying notes 82–85.

223. See *supra* text accompanying notes 86–95.

224. See TAI, *supra* note 14, at 72; HASSAN, *supra* note 11, at 18. A similar occurrence took place in the United States when African Americans migrated from the South. Although, techni-

Moreover, critics object to the government paternalistically deciding for the people how and where they would live. Singapore's system differs from a low-income housing project or voucher system in the United States in that low-income Singaporeans are forced to live in the housing projects. Vouchers and housing programs in the United States give low-income people the option to live in better housing without paying more than they are willing to for housing.²²⁵ Consequently, even if they would not have chosen to spend the money on housing had they been given cash,²²⁶ at least they are not forced to pay more for housing than before. They still have the choice not to use vouchers and not to live in projects. They can choose to live in conditions worse than those found in subsidized or government housing. The Singaporeans had no choice but to accept this government "service" even if they did not want it.

In addition, critics argue that the government used objectionable means when it dispersed residents without any attempt to preserve the cultural norms of the affected communities.²²⁷ A similar means-based argument is encountered in the United States housing context with regard to ghetto dispersal versus ghetto enrichment. Some experts go so far as to argue that blindly integrationist policies hurt minorities by preventing them from achieving solidarity and political power.²²⁸ The Singapore government, on the other hand, maintains the importance of the residents being Singaporean first and Chinese, Malay, or Indian second. It contends that integration was a necessary precondition to a stable living environment in the public housing units.²²⁹

Finally, analysts raise means-based arguments against the government's treatment of HDB residents. Tenants and even owners have virtually no secure rights to their units. The Housing and Development Act gave almost absolute discretion to the government to reacquire units.²³⁰ Of course, the government did not have the goal of

cally, there was a free private housing market, racism effectively excluded them from all but a few areas of the city. This, in turn, artificially drove up prices in those areas. African Americans, therefore, ended up paying more than they would have had the market operated normally. See FUSFELD & BATES, *supra* note 161, at 28.

225. Some housing analysts, however, contend that U.S. voucher and housing projects actually raise rents for nonrecipients, thereby forcing the nonrecipients to either pay more or try to get into the programs. See generally William C. Apgar, Jr., *Which Housing Policy Is Best?*, 1 HOUSING POLICY DEBATE 1 (1992).

226. *Id.*

227. See TAI, *supra* note 14, at 99.

228. See Martha Mahoney, *Law and Racial Geography: Public Housing and the Economy in New Orleans*, 42 STANFORD L. REV. 1251, 1264-65 (1990) (stating that "scholars . . . criticize integration for neglecting the right of the black community to continue to receive subsidized housing and for overlooking the necessity of black solidarity to political power").

229. See TAI, *supra* note 14, at 23.

230. See *supra* notes 53-57 and accompanying text.

creating more homelessness or randomly evicting tenants. Rather, the likelihood of eviction had the effect of making tenants complacent and unlikely to ask for better conditions.²³¹ On a more fundamental level, many view property as something more than a gift from the government that can be given or taken at will. Ownership should entitle one to certain rights and a certain level of security. Property rights should not be subject to disposal at the government's discretion.²³²

V. CONCLUSION

On the surface, Singapore's public housing program may seem attractive as a model upon which to base other public housing programs. Singapore has eradicated slums and homelessness and has put spotless high rises where there once was squalor. There are several aspects of the system, however, that make it unattractive as a model of public housing, especially for the United States. First, Singapore's system is the product of a unique legal and political structure. United States legislatures would not likely pass such broad statutes, and United States politicians would not likely make housing a top priority in their political platforms. Singapore's public housing success was also the product of unique economic, social, and demographic conditions that do not currently exist in any other country. Moreover, experts disagree on whether or not Singaporeans are better off with public housing. Finally, and most importantly, the government achieved its housing goals using means many in the United States would find objectionable. In its quest for the perfect public housing regime, the Singapore government subordinated many of the rights and freedoms people in the United States associate with property ownership, rights and freedoms with which most would be reluctant to part.

Aya Gruber*

231. Riaz Hassan reported:

When questioned about their satisfaction and dissatisfaction, many respondents showed that they took what they had for granted and felt powerless to make any changes The respondents generally felt that they were stuck with the space they were living in and the facilities provided

HASSAN, *supra* note 11, at 203-04.

232. See Ricquier, *supra* note 2, at 319.

* The author would like to express special thanks to the Harvard Asia Law Society for organizing the spring 1995 delegation to Singapore; the Singapore Housing and Development Board for arranging a tour of the housing units and providing facts and statistics; and Professor Duncan Kennedy for his indispensable guidance on this Recent Development.