
OBSTACLE TO OPPORTUNITY: HOUSING THAT
WORKING AND POOR PEOPLE CAN AFFORD
IN NEW ORLEANS SINCE KATRINA

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INTRODUCTION—PORTRAIT OF THE DAMAGE

Roughly one million people left their homes and were displaced by Katrina.¹ One month later, 600,000 people remained in temporary housing—hotels and shelters—with family.² Two months later, about a half million people were still displaced and living in

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The author suggests the following for more information: Xavier de Souza Briggs & Margery Austin Turner, *Assisted Housing Mobility and the Success of Low-Income Minority Families: Lessons for Policy, Practice, and Future Research*, 1 NW. J. L. & SOC. POL'Y 25 (2006), <http://www.law.northwestern.edu/journals/njls/v1/n1/2>; BROOKINGS INST., METRO. POLICY PROGRAM, NEW ORLEANS AFTER THE STORM: LESSONS FROM THE PAST, A PLAN FOR THE FUTURE (2005), *available at* http://www.brookings.edu/metro/pubs/20051012_NewOrleans.pdf; Molly Garber et al., *Hurricane Katrina's Effects on Industry Employment and Wages*, MONTHLY LAB. REV., Aug. 2006, at 22; BRUCE KATZ ET AL., BROOKINGS INST., METRO. POLICY PROGRAM, HOUSING FAMILIES DISPLACED BY KATRINA: A REVIEW OF THE FEDERAL RESPONSE TO DATE (2005), *available at* http://www.brookings.edu/metro/pubs/20051114_CostoffHousing.pdf; SUSAN J. POPKIN ET AL., URBAN INST., REBUILDING AFFORDABLE HOUSING IN NEW ORLEANS: THE CHALLENGE OF CREATING INCLUSIVE COMMUNITIES (2006), *available at* http://www.urban.org/UploadedPDF/900914_affordable_housing.pdf.

1. BRUCE KATZ ET AL., BROOKINGS INST., HOUSING FAMILIES DISPLACED BY KATRINA: A REVIEW OF THE FEDERAL RESPONSE TO DATE 1 (2005), *available at* http://www.brookings.edu/metro/pubs/20051114_CostoffHousing.pdf. Hurricane Katrina made landfall on August 29, 2005, along the coast of Louisiana. Sustained winds of 115 to 130 miles an hour pushed a storm surge as high as twenty-seven feet along the gulf coast. Levee failures in New Orleans put eighty percent of the city under water. Over 93,000 square miles were touched by the storm across the region, an area larger than Great Britain. Nearly 300,000 homes were destroyed or made uninhabitable. Molly Garber et al., *Hurricane Katrina's Effects on Industry Employment and Wages*, MONTHLY LAB. REV., Aug. 2006, at 22-23.

2. KATZ ET AL., *supra* note 1, at 1.

subsidized rental property, hotels, or shelters.³ Eighteen months later, a third of a million people in the New Orleans metro area had not returned.⁴

In New Orleans, more than 150,000 homes were severely damaged, with another 50,000 seriously damaged across Louisiana.⁵

3. *Id.* At the end of September, more than 71,000 people displaced by Katrina were still living in shelters. Audrey Singer & Katharine M. Donato, *In Katrina's Wake, Who Will Return?*, BROOKINGS INST., Sept. 27, 2005, http://www.brookings.edu/views/op-ed/20050927_singer.htm.

4. See Press Release, La. Recovery Auth., Comprehensive New Study Reveals Updated Population Nos. in Storm-Affected Parishes (Oct. 5, 2006), available at <http://www.lra.louisiana.gov/pr100506.html>. In New Orleans alone, eighty percent of the city went under water during Katrina and more than 150,000 homes were damaged. Jeffrey Jones, *Judge Rules Insurance Covers New Orleans Homeowners*, REUTERS, Nov. 29, 2006, <http://www.alertnet.org/thenews/newsdesk/N28296233.htm>. The focus of this Article is on New Orleans, though these problems spread far beyond the most graphic illustrations in New Orleans throughout the Gulf Coast. As Oxfam documented, government neglect has plagued the rebuilding of smaller towns like Biloxi, Mississippi, and rural parishes of Louisiana, leaving the entire region in distress. In Biloxi, the first to be aided after the hurricane were the casinos, which forced low-income people out of their homes and neighborhoods. In rural Louisiana, contradictory signals by government agencies have slowed and in some cases reversed progress. Small independent family fishing businesses have been imperiled by the lack of recovery funds. The federal assistance that has occurred has tended to favor the affluent and those with economic assets. OXFAM AM., FORGOTTEN COMMUNITIES, UNMET PROMISES: AN UNFOLDING TRAGEDY ON THE GULF COAST 2 (2006), available at http://www.oxfamamerica.org/newsandpublications/publications/briefing_papers/briefing_paper.2006-08-21.1978258942/Oxfam_GulfReport.pdf.

5. Jones, *supra* note 4; see Press Release, La. Recovery Auth., *supra* note 4. In Orleans Parish, the U.S. Department of Housing and Urban Development ("HUD") reported:

- Of the 188,251 occupied housing units, 72 percent had some damage and 56 percent had serious damage.
- Among those 105,155 units with serious damage, the SBA median cost to repair is \$103,955.
- Of the 53,474 seriously damaged owner-occupied units, 34 percent did not have any insurance for the damage incurred.
- Of the 51,681 seriously damaged renter-occupied units, 69 percent were single-family units.

Office of Policy Dev. & Research, U.S. Dep't of Hous. & Urban Dev., *The Impact of Hurricanes Katrina, Rita, and Wilma on the Gulf Coast Housing Stock*, U.S. HOUSING MARKET CONDITIONS, May 2006, at 9, available at http://www.huduser.org/intercept.asp?loc=/periodicals/ushmc/spring06/USHMC_06Q1.pdf.

Rental homes in the New Orleans metro area sustained the majority of the damage.⁶

Drinkable tap water was not restored to all parts of the city of New Orleans until more than a year after Katrina.⁷ Major problems with the drinking water system remained as of the end of 2006.⁸ As a result, the Sewerage and Water Board of New Orleans estimated in December 2006 that it had unfunded “urgent, near-term needs of \$1.9 billion and medium-term needs of \$1.4 billion” in order to bring the water and sewer system back to pre-Katrina operations.⁹

Officials estimate that it will take about \$8 billion to restore the city’s roads, transit systems, and utilities.¹⁰

At the end of 2006, there were 65,000 gas customers in Orleans Parish, compared to 145,000 before Katrina, and 85,000 electricity customers, compared with 190,000 before.¹¹

In Louisiana, 515,249 housing units, 31% of all housing in the state, sustained damage, and HUD reported that 204,737 housing units, 12.4% of all housing in the state, suffered serious damage. *Id.* at 8.

6. Over 225,000 housing units, more than 45% of the metropolitan area, were flooded. About 120,000 owner-occupied units (39% of metro total) and 108,000 units occupied by renters (56% of metro total) were damaged. BROOKINGS INST., METRO. POLICY PROGRAM, NEW ORLEANS AFTER THE STORM: LESSONS FROM THE PAST, A PLAN FOR THE FUTURE 14 (2005), available at http://www.brookings.edu/metro/pubs/20051012_NEWORLEANS.pdf.

7. See Leslie Williams, *All 9th Ward Water Deemed Safe; 4,000 Customers Can Finally Drink From Tap*, TIMES-PICAYUNE (New Orleans), Oct. 10, 2006, at National 1.

8. The city of New Orleans was losing more water through faulty pipes and joints in the delivery system than it was using. More than 135 million gallons were being pumped out daily, but only 50 million gallons were being used, leaving 85 million gallons “unaccounted for and probably leaking out of the system.” SEWERAGE & WATER BD. OF NEW ORLEANS, REPORT ON CURRENT AND FUTURE CAPITAL NEEDS 15 (2006), available at <http://www.swbno.org/Needs%20Report%202006.pdf>. The leakage has made maintaining adequate water pressure extremely difficult and costly. *Id.* at 16. The daily cost of the water leaking away in thousands of leaks was about \$200,000 a day nearly a year after the storm. Michelle Krupa, *Hard-Hit S&WB Swamped in Red Ink; \$50 Million Tab Tied to City’s Water Leaks*, TIMES-PICAYUNE (New Orleans), June 10, 2006, at National 1. Water pressure in New Orleans was estimated at half that of other cities, creating significant problems in consumption, sanitation, air-conditioning, and fire prevention, particularly in tall office buildings. Michael Bradford, *Big Easy’s Big Threat: Low Water Pressure; High-Rises Facing Greater Fire Risk*, BUS. INS., July 31, 2006, at News 1.

9. SEWERAGE & WATER BD. OF NEW ORLEANS, *supra* note 8, at 7.

10. Michelle Krupa & Coleman Warner, *Across South, Displaced Chime in with Own Ideas for Rebuilding N.O.; But Residents Hesitate on the Tough Calls*, TIMES-PICAYUNE (New Orleans), Dec. 3, 2006, at National 1.

11. Ed Anderson, *Southwest La. Objects to Aiding Entergy N.O.; Legislators Say It Isn’t Fair to Rita Victims*, TIMES-PICAYUNE (New Orleans), Nov. 14, 2006,

Since Hurricane Katrina (and to a lesser degree Hurricane Rita), a lack of affordable housing has been both a symptom and a source of difficulty for the return of the working poor to New Orleans and the Gulf Coast.

I. TRANSITIONAL HOUSING

Hurricane Katrina likely made one of the poorest areas of the country even poorer. . . . Both those who were poor before the storm, and those who have become poor following the storm, are likely to face a particularly difficult time in reestablishing their lives, having few if any financial resources upon which to draw.¹²

Before Katrina, New Orleans ranked second among the nation's fifty largest cities in its concentration of poverty—the average household income was barely above \$20,000 a year.¹³ Louisiana ranked fiftieth among the states in child poverty.¹⁴

The tens of thousands of people who were left behind when Katrina hit, mostly poor renters, were first bussed out to shelters.¹⁵

at National 2.

12. CONG. RESEARCH SERV., HURRICANE KATRINA: SOCIAL-DEMOGRAPHIC CHARACTERISTICS OF IMPACTED AREAS 13-14 (2005), available at <http://www.gnocdc.org/reports/crsrept.pdf>.

13. ALAN BERUBE & BRUCE KATZ, BROOKINGS INST., KATRINA'S WINDOW: CONFRONTING CONCENTRATED POVERTY ACROSS AMERICA 1 (2005), available at http://www.brookings.edu/metro/pubs/20051012_ConcentratedPoverty.pdf.

14. Louisiana ranked fiftieth in the United States in percent of children in poverty and forty-ninth in overall conditions for children in a 2005 report from the Annie E. Casey Foundation. ANNIE E. CASEY FOUND., KIDS COUNT: DATA BOOK 33, 51 (2005), available at http://www.aecf.org/kidscount/sld/db05_pdfs/entire_db.pdf.

15. See William P. Quigley, *Boating Out of New Orleans: Who Was Left Behind in Katrina and Who is Left Behind Now?*, 40 CLEARINGHOUSE REV. 149, 154 (2006). The Washington Post, the Henry J. Kaiser Family Foundation, and the Harvard School of Public Health surveyed 680 randomly selected adult evacuees in Houston shelters on September 10th through 12th, 2005. Their results illustrate who ended up in shelters:

- 64% were renters
- 55% did not have a car or a way to evacuate
- 23% had to care for someone who was physically unable to leave
- 72% had no insurance
- 68% had no savings or checking account from which to withdraw money
- 59% had total household incomes of less than \$20,000 in the prior

From the shelters, hundreds of thousands of people were moved into temporary housing in trailers, apartments, or hotels.¹⁶

Major litigation challenged each of these methods of providing temporary housing. The Federal Emergency Management Agency ("FEMA") tried to push tens of thousands of people out of hotels when there was no other place for them to go.¹⁷ Trailers were not available for people with disabilities.¹⁸ Temporary housing was

year

- 76% of those who had children under 18 had them with them in the shelter
- 77% had a high school education or less
- 93% were black
- 67% were employed full- or part-time before the hurricane
- 52% had no health insurance
- 54% of those who get their healthcare at a hospital or clinic received their healthcare at a charity hospital

WASH. POST, KAISER FAMILY FOUND. & HARVARD UNIV., SURVEY OF HURRICANE KATRINA EVACUEES (2005), <http://www.kff.org/newsmedia/upload/7401.pdf>.

16. FEMA estimated that it provided rental assistance to more than 700,000 families. Press Release, FEMA, FEMA Announces Final Extension of Hotel Program to Feb. 7: New Authorization Process Offers Case-by-Case Evacuee Support (Jan. 9, 2006), available at <http://www.fema.gov/news/newsrelease.fema?id=22299>.

17. See Kris Axtman, *Katrina Evacuees Struggle to Exit Hotels: Frustrations Build as FEMA Nudges the Hurricane's Diaspora to Move to Long-Term Housing*, CHRISTIAN SCI. MONITOR, Nov. 29, 2005, at 3; Eric Lipton, *Storm and Crisis: Housing; Hurricane Evacuees Face Eviction Threats at Both Their Old Homes and New*, N.Y. TIMES, Nov. 4, 2005, at A20. The people in hotels the longest were the poorest and least able to create new housing opportunities. See Jodi Wilgoren, *Destitute Victims of Hurricane Remain Stuck in Hotels*, N.Y. TIMES, Dec. 22, 2005, at A22. Despite the extreme shortage of available housing for the displaced, FEMA announced on November 15, 2005, that it was going to quit paying for the housing of 50,000 families temporarily living in hotels by the end of the month. See *McWaters v. FEMA*, 408 F. Supp. 2d 221, 225 (E.D. La. 2005). FEMA extended this deadline to December 15, 2005, or January 7, 2006, on state-by-state basis. *Id.* It took major pro bono federal litigation to force FEMA to extend the deadline to February 7, 2006, and follow a phase-out plan for the termination of the short-term housing program. *Id.* at 236; Rebecca Mowbray, *Storm Victims Can Stay Put in Hotels; Inns Put in Bind as Carnival Nears*, TIMES-PICAYUNE (New Orleans), Jan. 13, 2006, at National 1.

18. Disability advocacy organizations reported that even though twenty-five percent of Katrina evacuees had disabilities only one to two percent were provided with accessible FEMA trailers. Sargent Shriver Nat'l Ctr. on Poverty Law, *Settlement Reached in Suit Seeking Accessible Trailers for Hurricane Evacuees*, POVERTY L. NEWS, Sept. 29, 2006, <http://www.povertylaw.org/news->

arbitrarily terminated for thousands of evacuees,¹⁹ and there were reports of discrimination against evacuees in several states.²⁰

In January 2007 FEMA announced the extension of temporary housing assistance until August 2007. At that time, eighteen months after Katrina, over 90,000 families remained in FEMA trailers and another 35,000 received federal rental subsidies for private housing in Louisiana—an estimated population of over 300,000 people.²¹ At the same time as FEMA announced an

and-events/poverty-law-news/2006-09-29; see also NAT'L COUNCIL ON DISABILITY, THE IMPACT OF HURRICANES KATRINA AND RITA ON PEOPLE WITH DISABILITIES: A LOOK BACK AND REMAINING CHALLENGES 15 (2006), available at http://www.ncd.gov/newsroom/publications/2006/pdf/hurricanes_impact.pdf. A federal class action lawsuit filed in February 2006 ultimately forced FEMA to accommodate the needs of disabled evacuees by providing trailers equipped with such things as entrance ramps, wider doorways, ample turn space for wheelchairs, grab bars near toilets, and kitchen appliances that are low enough to be accessible. See Settlement Agreement, *Brou v. FEMA*, No. 06-0838 (E.D. La. 2006), available at http://www.fema.gov/pdf/library/brou_fema.pdf; Susan Finch, *U.S. Judge OKs Accord on Trailers for Disabled; Toll-free Lines to Help FEMA Reach Out*, TIMES-PICAYUNE (New Orleans), Sept. 27, 2006, at Metro 1; Press Release, FEMA, Accessible Trailers for People with Disabilities Available from FEMA, Oct. 6, 2006, available at <http://www.fema.gov/news/newsrelease.fema?id=30558>.

19. See *ACORN v. FEMA*, 463 F. Supp. 2d 26, 29 (D.D.C. 2006). The suit charges that FEMA violated the due process rights of hurricane evacuees denied benefits under section 408 of the Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5174(b) (2006), by failing to give adequate explanations for denials of housing benefits so that people could file appeals. *ACORN*, 463 F. Supp. 2d at 28. At the time of this Article, the decision of the district court was stayed pending appeal by FEMA.

20. Discrimination in rental housing for Katrina survivors was confirmed by testing conducted in five states and seventeen cities. At sixty-six percent of the apartments surveyed, white applicants were favored over black applicants. NAT'L FAIR HOUS. ALLIANCE, NO HOME FOR THE HOLIDAYS: REPORT ON HOUSING DISCRIMINATION AGAINST HURRICANE KATRINA SURVIVORS 1 (2005), available at http://www.nationalfairhousing.org/resources/newsArchive/resource_07824627156408113400.pdf. Types of discrimination included showing apartments to whites and not to African Americans and quoting higher rental and security deposit prices to people of color. *Id.* at 3-4.

21. Bill Barrow, *FEMA Extends Housing Deadline; Trailers, Rental Aid Continue Till Aug. 31*, TIMES-PICAYUNE (New Orleans), Jan. 20, 2007, at Metro 4. There are no reliable reported estimates of the number of evacuees who live in each trailer or rental home. The U.S. Census Bureau used 2.59 as the average household size and 3.14 as the average family size in the 2000 Census. TAVIA SIMMONS & GRACE O'NEILL, U.S. CENSUS BUREAU, HOUSEHOLDS AND FAMILIES: 2000, at 2 (2001), available at <http://www.census.gov/prod/2001pubs/c2kbr01-8.pdf>. At the average household size of 2.59 people per family, that is over 323,000 people still in transitional housing. Using the average family size

extension of temporary housing in trailers, several local jurisdictions set earlier deadlines for trailer removals.²²

It appears that transitional housing will remain a critical issue for years.

II. RENTERS—PRIVATE

“What you have to realize is that we went from one of the most affordable cities in the country to one of the most expensive in one day.” —Ivan Miestchovich, Director, Real Estate Market Data Center, University of New Orleans.²³

Even before Katrina, despite the quotation above, New Orleans had a problem with affordable housing. Two out of every three extremely low-income households in New Orleans paid more than thirty percent of their income in rent, and over half of very low-income households used over half of their income for rent.²⁴ There was a waiting list of 17,000 families seeking to get into public housing.²⁵

of 3.14 people per family, the number rises to 392,000 people.

22. See Mark Waller, *FEMA Trailer Notices Go Up in Jeff; March 31 Deadline Can Be Extended*, TIMES-PICAYUNE (New Orleans), Jan. 21, 2007, at Metro 1 (Jefferson Parish set a deadline of March 31, 2007, St. Tammany Parish set a deadline of March 1, 2007, and Kenner set a deadline of May 1, 2007). Jefferson Parish was home to 12,000 FEMA trailers as of January 2007. *Id.*

23. Ariane Wiltse, *Out in the Cold: Woodlands Residents Struggle with the Affordable Housing Quagmire in New Orleans*, GAMBIT WKLY., Jan. 2, 2007, at 12.

24. SUSAN J. POPKIN ET AL., URBAN INST., REBUILDING AFFORDABLE HOUSING IN NEW ORLEANS: THE CHALLENGE OF CREATING INCLUSIVE COMMUNITIES 2 (2006), available at http://www.urban.org/UploadedPDF/900914_affordable_housing.pdf. According to HUD:

The generally accepted definition of affordability is for a household to pay no more than 30 percent of its annual income on housing. Families who pay more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care. An estimated 12 million renter and homeowner households now pay more than [sic] 50 percent of their annual incomes for housing, and a family with one full-time worker earning the minimum wage cannot afford the local fair-market rent for a two-bedroom apartment anywhere in the United States. The lack of affordable housing is a significant hardship for low-income households preventing them from meeting their other basic needs, such as nutrition and healthcare, or saving for their future and that of their families.

U.S. Dep't of Hous. & Urban Dev., *Affordable Housing*, <http://www.hud.gov/offices/cpd/affordablehousing> (last visited Mar. 6, 2007).

25. Editorial, *Speed Up Housing Case*, TIMES-PICAYUNE (New Orleans), Nov. 28, 2006, at Metro 6.

After Katrina, New Orleans experienced the worst affordable housing crisis since the Civil War. Fifty-one thousand rental homes in New Orleans were seriously damaged.²⁶ New Orleans before Katrina had about 86,000 low-cost rental units; over 40,000 low-rent units suffered severe or major damage and 14,000 units suffered lesser damage—together knocking out seventy percent of the market.²⁷ Another 15,000 apartments were destroyed or damaged in the surrounding parishes of Jefferson, Plaquemines, St. Bernard, and St. Tammany.²⁸

Once the waters of Lake Ponchartrain drained out of the city, renters faced new problems. Although a moratorium on evictions lasted for almost two months,²⁹ when the moratorium expired on October 25, 2005, waves of evictions began.³⁰

26. In Orleans Parish, HUD reported: “Of the 188,251 occupied housing units, 72 percent had some damage and 56 percent had serious damage. . . . Of the 51,681 seriously damaged renter-occupied units, 69 percent were single-family units.” U.S. Dep’t of Hous. & Urban Dev., *supra* note 5, at 9. “The Brookings Institution estimates that more than 48,000 rental units were destroyed or heavily damaged in the flood, or about 40 percent of the original stock of apartments and rental houses.” Susan Saulny & Gary Rivlin, *Renewal Money Bypasses Renters in New Orleans*, N.Y. TIMES, Sept. 17, 2006, § 1, at 14.

27. POLICY LINK, LOUISIANA, REBUILDING NEW ORLEANS tbl. 2, <http://www.policylink.org/Communities/Louisiana/NewOrleans.html> (last visited Mar. 6, 2007).

28. Jeffrey Meitrodt, *Rising Rent*, TIMES-PICAYUNE (New Orleans), Oct. 15, 2006, at National 1.

29. Governor Kathleen Babineaux Blanco first declared a state of emergency on August 26, 2005. La. Proclamation No. 48 KBB 2005 (Aug. 26, 2005), *available at* <http://www.gov.state.la.us/assets/docs/Proclamations/48pro2005-Emergency-HurricaneKatrina.pdf>. The Governor then suspended all legal deadlines through September 25, 2005. La. Exec. Order No. KBB 2005-32 (Sept. 6, 2005), *available at* <http://www.gov.state.la.us/assets/docs/32SuspensionofPrescription,Peremption.pdf>. The suspension was then extended until October 25, 2005. La. Exec. Order No. KBB 2005-48 (Sept. 23, 2005), *available at* <http://www.gov.state.la.us/assets/docs/48execAmend-KBB2005-32-Prescription-Peremption.pdf>.

30. See Michael Corkery, *With Few Rentals, New Orleans Struggles*, WALL ST. J., Dec. 21, 2005, at B1; Adam Nossiter, *New Orleans Landlords Are Pitted Against Tenants in Court*, N.Y. TIMES, Nov. 4, 2005, at A20; Sacha Pfeiffer, *Landlord with Boston Ties Lashed for Katrina Evictions*, BOSTON GLOBE, Jan. 29, 2006, at A1; Richard A. Webster, *Eviction Row: Landlord Boots Tenants for Missing Rent Payments*, NEW ORLEANS CITYBUSINESS, Nov. 28, 2005, at 1. Apartments in non-flooded areas were emptied to rent the property for more money to FEMA workers and outside contractors. Apartments which took on water were emptied to begin renovations. All matters were complicated by the demands of landlords for September rent when most people were still legally barred from returning to the city and their apartments had no electricity and no water. See Jamie Gumbrecht, *New Orleans Renters Facing Eviction*, LEXINGTON

Louisiana evictions are speedy. Louisiana law allowed notice of eviction by “tacking” a notice on the door of the rental property with quick evictions to follow—as little as three days after notice of trial.³¹

After the moratorium expired, evictions in New Orleans were temporarily stopped by a successful state courthouse challenge in late October, which was held at a temporary court fifty-eight miles away from the flooded local courthouse.³²

Once eviction court was returned to New Orleans, a serious problem remained—renters dispersed across the country had no way of knowing if their landlord tacked a notice of eviction on their home and put their property out on the street or was going to give them additional time to return. Merely taping a notice to the door of their apartment was clearly inadequate and insufficient notice, as some renters returned home only to find their furnishings gone and new people living in their apartment.³³

Federal litigation in the fall of 2005 changed the situation by requiring landlords to mail notice for renters displaced across the country, giving people a chance of actual notice of their impending evictions.³⁴ An order was entered in November 2005 stopping all

HERALD-LEADER (Ky.), Nov. 7, 2005, at A7; Josh P. Hamilton, *New Orleans' Chaotic Post-Storm Market Has Pushed Many Former Residents Out; Housing Crunch Worsens*, HOUS. CHRON., Nov. 27, 2005, at Business 3; Trymaine Lee, *N.O. Judge Temporarily Halts Evictions; Lawsuit Says Tenants Need Local Hearings*, TIMES-PICAYUNE (New Orleans), Oct. 25, 2005, at Metro 1. Some landlords refused to accept rents from residents who wanted to stay, and a judge had to order them to accept rent. Joe Darby, *Terrytown Tenants Are Ordered to Pay Back Rent; But Safety of Homes Remains in Question*, TIMES-PICAYUNE (New Orleans), Nov. 3, 2005, at Metro 1.

31. See LA. CODE CIV. PROC. ANN. arts. 4701-05 (1998). Under Article 4732, “The court shall make the rule returnable not earlier than the third day after service thereof, at which time the court shall try the rule and hear any defense which is made.”

32. Lee, *supra* note 30, at Metro 1; Smith v. Boissiere, 2005-12029 (La. Civ. Dist. Ct., Orleans Parish, 10/24/2005) (on file with author).

33. Some people came home to the places they had rented for years only to find the apartment totally emptied out by their landlord, who then said he used their security deposit to pay for getting rid of all their property. Gwen Filosa & Michelle Hunter, *Rental Quandary; Scarce Units, Costly Repairs and Surging Rents Hit Tenants and Landlords Hard*, TIMES-PICAYUNE (New Orleans), Dec. 12, 2005, at National 1.

34. See Sylvester v. Boissiere, No. 05-5527, 2006 WL 901754, at *1 (E.D. La. Apr. 4, 2006) (discussing November 22, 2005, order); Gwen Filosa, *Settlement Gives Renters Respite; Evictions on Hold; Notices To Be Mailed*, TIMES-PICAYUNE (New Orleans), Nov. 23, 2005, at Metro 1; see also Gwen Filosa, *Lawsuit Takes on Post-Storm Evictions; Groups Want Judge to Rein in Landlords*, TIMES-PICAYUNE (New Orleans), Nov. 18, 2005, at Metro 1 (discussing evictions four days before the hearing).

evictions in New Orleans and adjoining Jefferson Parish until notices of eviction were mailed to the last known address and the FEMA address of the renter.³⁵ Additionally, renters were given forty-five days before the rule for possession hearing could be scheduled.³⁶

Yet, much of the city remained closed for months. Not until December 2005 were residents in the Lower Ninth Ward neighborhood even allowed to visit their homes, and they were prohibited by law from staying overnight in their neighborhood.³⁷

The severe shortage of homes combined with increased cost of building materials, labor, and insurance created a surge in rental prices.³⁸ Before Katrina, the U.S. Department of Housing and Urban Development ("HUD") fair market rent for a two bedroom apartment was \$676; by 2007 it had risen to \$978.³⁹ But even HUD's increases are much lower than those reported on the ground. A survey of hundreds of actual units for rent revealed that rent for undamaged or repaired units was up seventy to eighty percent in the year after Katrina.⁴⁰ The Times-Picayune reported:

35. See *Sylvester*, 2006 WL 901754, at *1 (discussing November 22, 2005, order).

36. *Id.* (discussing December 8, 2005, modification that considered different circumstances based on location). The modified order allowed forty-five days before the rule of possession hearing would be set for renters in the East Bank of Orleans Parish, but only thirty days for renters in Jefferson Parish and the West Bank of Orleans Parish. *Id.* The modified order lapsed on March 1, 2006, for Jefferson Parish and the West Bank of Orleans Parish, but did not lapse until November 22, 2006, for the East Bank of Orleans Parish. *Id.*

37. Herald Wire Services, *City Vote Won't Occur Soon*, MIAMI HERALD, December 3, 2005, at A7; see also Press Release, City of New Orleans, Highlights from the Emergency Operations Center, Nov. 14, 2005, available at 2005 WLNR 18692485 (announcing that residents may return to certain zip codes within the city).

38. Wiltse, *supra* note 23, at 12 (citing University of New Orleans Professor Miestchovich). The housing shortage, combined with a thirty to forty percent hike in the cost of building materials and labor, plus insurance rates that have spiked by two to four times since the storm, all have affected the price of rent. *Id.* "Landlords are forced to pass those expenses on to their tenants, it's just rational business." *Id.*

39. 70 Fed. Reg. 9,800 (Feb. 28, 2005), available at <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-3814.pdf>; 71 Fed. Reg. 56,766 (Sept. 27, 2006), available at <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-8273.pdf>.

40. Meitrodt, *supra* note 28, at National 1. Rents in Orleans Parish were up seventy percent, increasing from an average of under \$800 per month to \$1357. *Id.* In Jefferson Parish, raises ranged from forty to eighty percent. *Id.*

Before Katrina, it was relatively easy to find an apartment for under \$500. In Orleans Parish, where rental prices were among the lowest among big cities in the nation, renters occupied more than 26,000 units priced below \$500, or 32 percent of the total market, census figures from 2005 show.⁴¹

The Louisiana Hurricane Task Force estimated in December 2006 that there was an “urgent need” for 30,000 affordable rental apartments in New Orleans alone—and another 15,000 around the rest of the state.⁴²

Further complicating the challenge, sixty-nine percent of New Orleans rental units are of the single-family variety, reflecting “a unique rental market, with a larger-than-typical share of singles and doubles.”⁴³ Thus, many of the most seriously damaged units will only be repaired when assistance is granted to the small-time landlord—assistance that had not even advanced to the application phase sixteen months after Katrina.⁴⁴

The crisis for renters continues. As the parts on public funding and public planning show, affordable housing opportunities for most renters will not exist until far into the future and may not be available at all.

III. RENTERS—PUBLIC

“We finally cleaned up public housing in New Orleans. We couldn’t do it, but God did.” —Richard Baker, U.S. Congressman (R-La.) only days after Katrina.⁴⁵

Before Katrina, there were over 5100 occupied public housing apartments in New Orleans and nearly 9000 subsidized housing voucher apartments, together housing about 14,000 families and 49,000 people.⁴⁶

41. *Id.* HUD estimated that as of February 1, 2006, available apartments within New Orleans were close to one hundred percent occupied. U.S. Dep’t of Hous. & Urban Dev., Policy Dev. & Research, *New Orleans-Metairie-Kenner, Louisiana Metropolitan Statistical Area: Economic and Housing Market Conditions*, Feb. 1, 2006, at 7, available at http://www.huduser.org/publications/pdf/CMAR_NewOrleansLA.pdf.

42. Deon Roberts, *Unaffordable Problem: N.O. Needs 30,000 Low-income Rental Units*, NEW ORLEANS CITYBUSINESS, Dec. 4, 2006, at 25, 28.

43. David Hammer, *Relief Far Off for La. Rental Owners; Their Road Home Paved with Red Tape*, TIMES-PICAYUNE (New Orleans), Jan. 4, 2007, at National 1.

44. *See id.*

45. Charles Babington, *Some GOP Legislators Hit Jarring Notes in Addressing Katrina*, WASH. POST, Sept. 10, 2005, at A4.

46. HOUS. AUTH. OF NEW ORLEANS, POST-KATRINA FREQUENTLY ASKED

Eighteen months after Katrina, over eighty percent of the 5100 New Orleans public housing apartments remained closed by order of HUD, which has controlled the Housing Authority of New Orleans ("HANO") since 2002.⁴⁷ Only 1800 vouchers were in use.⁴⁸

HUD announced in June 2006 that four major developments, Lafitte, B.W. Cooper, C.J. Peete, and St. Bernard, containing 5100 apartments, would be demolished.⁴⁹

The demolished buildings would make way for much newer and many fewer apartments, which would be built by private developers. The demolition and private development would be financed by federal funds and federal tax breaks designed to help Katrina victims.⁵⁰ Roughly \$80 million in Community Development Block Grant ("CDBG") funds were designated for private developers.⁵¹ This includes over \$34 million in tax credits for B.W. Cooper, C.J. Peete, Lafitte, and St. Bernard public housing developments.⁵²

QUESTIONS 1-2, <http://www.hano.org/FAQ102006.pdf>. Of the 7379 rental public housing units, 5146 were occupied. *Id.*; see also POLICY LINK, LOUISIANA, *supra* note 27.

47. See Joe Gyan, Jr., *Housing Hearing Stormy: Angry Crowd Protests Plans to Replace N.O. Projects*, ADVOC. (Baton Rouge), Nov. 30, 2006, at A17. Only 1000 of the 5100 pre-Katrina public housing units were open as of June 2006. *Id.*

48. POLICY LINK, LOUISIANA, *supra* note 27.

49. See Gwen Filosa, *Lawsuit Blocks Complex Razings; Former Tenants' Move Called Costly*, TIMES-PICAYUNE (New Orleans), Nov. 24, 2006, at National 1; see also Press Release, U.S. Dep't of Hous. & Urban Dev., HUD Outlines Aggressive Plan to Bring Families Back to New Orleans' Public Housing (June 14, 2006), available at <http://www.hud.gov/news/release.cfm?content=pr06-066.cfm>. HUD also announced in June that 2000 public housing apartments would be opened by August 2006. *Id.* St. Bernard had 1400 apartments; 1015 were occupied pre-Katrina. Lafitte had 865 apartments. C.J. Peete had 723 apartments, 144 occupied. Iberville had 836 apartments, 673 occupied pre-Katrina, and now only 217. Gwen Filosa, *Demolition is Developments' Destiny*, TIMES-PICAYUNE (New Orleans), Oct. 18, 2006, at National 1. B.W. Cooper had 1546 units pre-Katrina, the largest tenant-managed housing development in the country. Greater New Orleans Cmty. Data Ctr., B.W. Cooper Apartments Neighborhood Snapshot, <http://www.gnocdc.org/orleans/4/60/snapshot.html> (last visited Mar. 6, 2007).

50. Press Release, U.S. Dep't of Hous. & Urban Dev., *supra* note 49.

51. See LA. HOUS. FIN. AGENCY, LIHTC AWARDS LIST FOR 2007/2008 (Dec. 14, 2006), available at http://www.lhfa.state.la.us/news/news_detail.php (listing the tax credit reservation amount for each development and the number of units each will receive).

52. Jeffrey Meitrodt, *Millions Earmarked to Create Housing; Controversy Erupts Over Public Units*, TIMES-PICAYUNE (New Orleans), Dec. 14, 2006, at National 1.

Displaced residents pleaded to stop the demolition.⁵³ Residents' pleas were echoed by others, including New York Times architecture critic, Nicolai Ouroussoff, who criticized plans to demolish the apartments, saying: "Modestly scaled, they include some of the best public housing built in the United States. . . . Solidly built, the buildings' detailed brickwork, tile roofs and wrought-iron balustrades represent a level of craft more likely found on an Ivy League campus than in a contemporary public housing complex."⁵⁴

Federal litigation was launched in an effort to allow people to return to their apartments.⁵⁵ As part of that litigation, John Fernandez, an Associate Professor of Architecture at MIT, inspected 140 of these apartments and concluded in papers filed in court that

[n]o structural or nonstructural damage was found that would reasonably warrant any cost-effective building demolition. . . .

....

Therefore, the general conclusions are: demolition of any of the buildings of these four projects is not supported by the evidence of the survey, replacement of these buildings with contemporary construction would yield buildings of lower quality and shorter lifetime duration; the original construction methods and materials of these projects are far superior in their resistance to hurricane conditions than typical new construction, and with renovation and regular maintenance,

53. Residents promised to fix up their apartments themselves if given the chance. "I want my house back," said one young woman resident at a recent public hearing where residents strongly voiced their opposition to demolition. "If I could have, I would have cleaned it. I clean for a living, and I'm proud of it." Gwen Filosa, *Tenants Denounce HANO Plans to Demolish Housing; Hundreds Attend Meeting at John McDonogh High*, TIMES-PICAYUNE (New Orleans), Nov. 30, 2006, at Metro 1. For more resident opposition, see Gyan, *supra* note 47, at A17; Adam Nossiter, *In New Orleans, Some Hope of Taking Back the Projects*, N.Y. TIMES, Dec. 26, 2006, at A19; Katy Reckdahl, *Like a Ton of Bricks*, GAMBIT WKLY., Oct. 24, 2006, at 9; Katy Reckdahl, *Razing a Community*, GAMBIT WKLY., Oct. 31, 2006, at 9.

54. Nicolai Ouroussoff, *All Fall Down*, N.Y. TIMES, Nov. 19, 2006, § 4, at 1, 14. "These public housing buildings are some of the most sturdy housing in New Orleans, and I'm hesitant to see them torn down," said Susan Popkin, a researcher with the Urban Institute. Reckdahl, *Like a Ton of Bricks*, *supra* note 53, at 9.

55. Gwen Filosa, *Displaced Residents File Suit: Local, Federal Housing Agencies Face Civil Rights Allegations*, TIMES-PICAYUNE (New Orleans), June 28, 2006, at Metro 1; *see also* Anderson v. Jackson, No. 06-3298, 2007 U.S. Dist. LEXIS 9074 (E.D. La. Feb. 6, 2007).

the lifetimes of the buildings in all four projects promise decades of continued service that may be extended indefinitely.⁵⁶

HUD pressed ahead with demolition even though internal HANO documents revealed the cost for repair and renovation was significantly less than for demolition and redevelopment.⁵⁷

The refusal to let people back into their apartments, followed by the announcement of the demolition, was part of the continuing national HUD effort to get out of the public housing business and to hand off future housing projects to private developers while advancing the cause of less-dense, mixed-income housing.⁵⁸

Mixed-income housing is a widely praised principle in housing planning and policy.⁵⁹ The promise and the reality are often different, as planners learn that poor people had trouble finding other housing, and, in some cases, poor people displaced by mixed-income housing longed to return to their former neighborhoods because they treasured their social networks.⁶⁰

56. Declaration of John E. Fernandez, *Anderson v. Jackson*, No. 06-3298 (E.D. La. Oct. 23, 2006), available at <http://www.justiceforneworleans.org/jfnodocs/Declaration.pdf>.

57. The housing authority's own documents show that Lafitte could be repaired for \$20 million, even completely overhauled for \$85 million, while the estimate for demolition and rebuilding many fewer units will cost over \$100 million. St. Bernard could be repaired for \$41 million and substantially modernized for \$130 million, while demolition and rebuilding fewer units will cost \$197 million. B.W. Cooper could be substantially renovated for \$135 million, compared to \$221 million to demolish and rebuild fewer units. Their own insurance company reported that it would take less than \$5000 per apartment to repair the C.J. Peete apartments. See Plaintiffs' Combined Memorandum in Opposition to HANO's Motion for Summary Judgment and in Support of Plaintiffs' Cross-Motion for Partial Summary Judgment at 3-6, *Anderson v. Jackson*, No. 06-3298 (E.D. La. Oct. 17, 2006), available at http://justiceforneworleans.org/index.php?module=pagemaster&PAGE_user_op=view_page&PAGE_id=31; see also Reckdahl, *Like a Ton of Bricks*, *supra* note 53, at 9.

58. Herbert R. Giorgio, Jr., Comment, *HUD's Obligation to "Affirmatively Further" Fair Housing: A Closer Look at Hope VI*, 25 ST. LOUIS U. PUB. L. REV. 183, 202 (2006) (discussing HUD's use of HOPE VI proposals to lessen the concentration of very low-income families).

59. URBAN LAND INST., MIXED-INCOME HOUSING: MYTH AND FACT 4 (2003), available at <http://www.uli.org/AM/Template.cfm?Section=Home&CONTENTID=41896&TEMPLATE=/CM/ContentDisplay.cfm>.

60. See, e.g., Sheila R. Foster, *The City as an Ecological Space: Social Capital and Urban Land Use*, 82 NOTRE DAME L. REV. 527, 565-66 (2006). For an excellent discussion of the history and complexity of this issue, see Xavier de Souza Briggs & Margery Austin Turner, *Assisted Housing Mobility and the Success of Low-Income Minority Families: Lessons for Policy, Practice, and*

Mixed-income housing in New Orleans had a very bad track record—most notably in the conversion of the 1500 apartment St. Thomas development into the private River Gardens project that, a year and a half after Katrina, had only created about 100 units of affordable housing and was now the home of a Wal-Mart.⁶¹ Some of the low-income residents let back in were only there because of litigation.⁶²

The demolition and redevelopment would result in a dramatic reduction in the number of apartments available for low-income public housing residents.⁶³

Future Research, 1 NW J. L. & SOC. POL'Y 25 (2006); see also ALASTAIR SMITH, MIXED-INCOME HOUSING DEVELOPMENTS: PROMISE AND REALITY (2002), available at http://www.jchs.harvard.edu/publications/W02-10_Smith.pdf.

61. Sara Gran, Editorial, *Nobody Home; Agencies in Charge of Housing New Orleans' Poor Prefer Not To*, TIMES-PICAYUNE (New Orleans), Oct. 30, 2006, at Metro 5; Bill Quigley, *HUD to New Orleans Poor: "Go F(ind) Yourself (Housing)!"*, N.Y. AMSTERDAM NEWS, July 6, 2006, at 13.

62. Dasha Corner lived in St. Thomas before it was torn down in 2000. Her application to move back in was approved before Katrina in August 2005. Ms. Corner applied four times for an apartment, even taking a bus back from Houston where she had been evacuated, only to be told there was no room for her. The last time she was turned down by Historic Restoration, Inc., which constructed and managed the apartments, because she was unemployed. Ms. Corner had been working in maintenance at Loyola University before being injured in a car accident. HRI and HANO leased forty-four of the sixty-three apartments set aside for public housing residents to HANO employees instead after Katrina. For several weeks in 2005 and 2006, Ms. Corner lived in her car, sometimes with her five-year-old. Until winning her lawsuit, she stayed with other family members living on \$234 a month in food stamps and \$188 in welfare. Gwen Filosa, *Tenant Admitted to River Garden After Suing; Housing Officials Had Turned Her Down*, TIMES-PICAYUNE (New Orleans), Dec. 7, 2006, at Metro 1. The Greater New Orleans Fair Housing Action Center also had to file a discrimination complaint against HANO to get them to honor previous commitments to allow displaced residents back in. See Press Release, Greater New Orleans Fair Housing Action Ctr., Fair Housing Center Files Discrimination Complaint Against Housing Authority of New Orleans (Nov. 17, 2005), available at <http://gnofairhousing.org/pdfs/11-16-05PressHANO.pdf>.

63. St. Bernard will go from 1400 apartments to 595 apartments, only 160 of which will be for low-income public housing residents. There will be 160 tax credit mixed-income and 145 market rate units. C.J. Peete will go from 723 units to 410; 154 will be public housing eligible, 133 mixed-income, and 123 market rate. B.W. Cooper will go from 1546 to 410; 154 public housing eligible, 133 tax-credit mixed-income, and 123 market. Lafitte will be downsized in the same way. JusticeForNewOrleans.Org, *Save NOLA Affordable Housing Fact Sheet*, <http://www.justiceforneworleans.org/index.php?module=article&view=72> (last visited Mar. 6, 2007); see also LA. HOUS. FIN. AGENCY, supra note 51 (giving tax credit reservation amounts for each development and the number of units each development will ultimately have).

New Orleans public housing residents were not necessarily against “mixed-income” housing as long as there could be public housing available for everyone in the short run and there were guarantees of long-term subsidized housing in the long run. “It’s not that people don’t want mixed-income housing,” said Tracie Washington, Gulf Coast Director of the NAACP Advocacy Center, “It’s that people need places to live for the short term and that evacuees have to be able to get back to New Orleans to have a place to reside in order to be a part of the long-term rebuilding process.”⁶⁴

The result is that HUD plans to spend tens of millions of dollars to end up with far fewer affordable apartments—a clear loss for the community. Removing 4500 apartments of affordable housing from an already devastated market will only exacerbate the short- and long-term housing problem for renters in the area. Those 4500 families will now be competing with thousands of other families not in public housing for scarce affordable housing.

IV. PUBLIC PLANNING

On the state level, the Governor and legislature of Louisiana created the Louisiana Recovery Authority (“LRA”), a thirty-three member board, to plan, propose, and oversee the distribution of federal funds for hurricane recovery.⁶⁵ The LRA has considerable legal and financial authority over all planning decisions made in the areas impacted by Katrina.⁶⁶ The LRA has the responsibility to prepare all proposals for the uses of the billions of dollars in CDBG recovery funds, subject to approval by the Louisiana legislature and the Governor.⁶⁷

On the local level, the planning process for the rebuilding of

64. Cheryl Smith, *Affordable Housing in NOLA*, AUSTIN CHRON., Sept. 1, 2006, available at <http://www.austinchronicle.com/gyrobase/Issue/story?oid=oid%3A399578>.

65. LA. REV. STAT. ANN. § 49:220.5(C)(1)(a) (Supp. 2007); Louisiana Recovery Authority, Board of Directors, <http://www.lra.louisiana.gov/board.html> (last visited Mar. 6, 2007).

66. For example:

The Louisiana Recovery Authority, the state agency in charge of recovery efforts, has made it clear both that local parishes must adopt the advisories for their residents to be eligible for the Road Home Homeowner Assistance Program and that individual homeowners who seek assistance to repair, rebuild, or relocate in the state must comply with these advisories, unless a specific waiver is granted for a particular area.

John A. Lovett, *Rebuilding a Region: Housing Recovery Efforts in the Wake of Katrina and Rita*, PROB. & PROP., Sept./Oct. 2006, at 55.

67. LA. REV. STAT. ANN. § 49:220.5(C)(1)(a) (Supp. 2007).

New Orleans has been delayed by several competing planning operations.⁶⁸ The Mayor created a Bring New Orleans Back Commission, which met for months, issued a report, was never funded, and quietly expired.⁶⁹ While the Bring Back New Orleans Commission was underway, the Urban Land Institute, a D.C. based think tank, was hired by the Mayor to create and release a report of recommendations.⁷⁰ Their recommendations included controversial suggestions like “shrinking the city’s footprint”—recommendations that, once issued, were largely rejected by the Mayor and not implemented.⁷¹ In April 2006 the New Orleans City Council awarded a \$2.9 million grant to a Miami consultant to create a plan for the forty-nine neighborhoods of New Orleans.⁷² Under pressure from the LRA, a fourth planning process, the Unified New Orleans Plan (“UNOP”), was launched in Spring 2006 with funding from the Rockefeller Foundation to integrate all the planning processes.⁷³ In September 2006 the City Council plan was released, while the UNOP process was just getting underway and, as of January 2007, the UNOP still had not been released.⁷⁴

68. Molly Reid, *Together at Last?: A Recap of the City’s Rebuilding Plans*, TIMES-PICAYUNE (New Orleans), Oct. 7, 2006, at Inside Out 1. For information on all of the plans, see NOLAplans.com, New Orleans Plan Database, <http://www.nolaplans.com> (last visited Mar. 6, 2007).

69. See Karen Turni Bazile, *Residents Discuss Concerns with Council; Issues Include Blight, Pedestrian Lighting*, TIMES-PICAYUNE (New Orleans), June 4, 2006, at Metro 3; Cain Burdeau, *Big Easy Dreams of Even Bigger Future; New Orleans’ Rebuilding Panel to Unveil a Wish List for a Modern City*, HOUS. CHRON., Jan. 11, 2006, at A3.

70. Frank Donze, *Don’t Dare Write Us Off, Residents Warn; Urban Land Institute Report Takes a Beating*, TIMES-PICAYUNE (New Orleans), Nov. 29, 2005, at National 1.

71. Anne Rochell Konigsmark, *Residents Will Define New Orleans’ Recovery Plan*, USA TODAY, Sept. 13, 2006, at 3A; Clifford J. Levy, *Political Willfulness; New Orleans Is Not Ready to Think Small, Or Even Medium*, N.Y. TIMES, Dec. 11, 2005, § 4, at 1.

72. Ann M. Simmons, *The Nation; Lower 9th Plan: Start ‘From Scratch’*, L.A. TIMES, Sept. 23, 2006, at A12; Coleman Warner, *Council Defends Plan for Recovery; Members Brush Off Consultant’s Criticism*, TIMES-PICAYUNE (New Orleans), Aug. 4, 2006, at Metro 1.

73. Michelle Krupa, *Planning Meetings Objectives Questioned; Some Say Challenges Differ by Neighborhood*, TIMES-PICAYUNE (New Orleans), Oct. 15, 2006, at Metro 1. The planning team hired by the City Council took out a full-page ad to blast the fourth planning effort. Warner, *supra* note 72, at Metro 1; see also UNOP: Unified New Orleans Plan, What is the Unified New Orleans Plan?, <http://unifiedneworleansplan.com/home2/section/22/> (last visited Mar. 6, 2007).

74. Molly Reid, *Together at Last?: A Recap of the City’s Rebuilding Plans*, TIMES-PICAYUNE (New Orleans), Oct. 7, 2006, at Inside Out 1; see also

The most recent planning process for New Orleans was due to have a comprehensive plan for guiding the rebuilding process finished for the Mayor by March 2007.⁷⁵

One of the early advisors from the Urban Land Institute, John McIlwain, blasted the delays, noting, "It's virtually a city without a city administration and it's worse than ever You need a politician, a leader that is willing to make tough decisions and articulate to people why these decisions are made, which means everyone is not going to be happy."⁷⁶ Without major changes at City Hall, the city will have miles of neglected neighborhoods for decades. "We're talking Dresden after World War II."⁷⁷

Complicating city planning is the fact that the city remains nearly bankrupt and must rely on the funds released by the LRA and others to survive—thus the planning process must comport not only with local community and political concerns, but also federal and state mandates.⁷⁸

V. PUBLIC FUNDING

New Orleans, like every other part of Louisiana damaged by Katrina and Rita, looked to the federal government for assistance in rebuilding. Congress allocated over \$10 billion to Louisiana under the CDBG program to be used to rebuild the damage from Katrina

UNOP: Unified New Orleans Plan, The Planning Timeline, <http://unifiedneworleansplan.com/home2/section/22-69> (last visited Mar. 6, 2007).

75. Michelle Krupa, *Citizens Say Yes to Unified N.O. Plan; Recovery Director Calls for Streamlining*, TIMES-PICAYUNE (New Orleans), Jan. 21, 2007, at National 1. There is a proposal to allow the City of New Orleans to assemble vacant or abandoned lots and swap them out for similar lots in more populated areas. Bruce Nolan, *New Nagin Aide Floats Land Swaps to Aid Recovery: Clusters of Neighbors Would Trade Together for Spots in Viable Areas*, TIMES-PICAYUNE (New Orleans), Jan. 5, 2007, at National 1.

76. Gwen Filosa, *Experts Excoriate Recovery Leaders; Nagin, Council are Failing N.O., They Say*, TIMES-PICAYUNE (New Orleans), July 29, 2006, at National 1.

77. *Id.*

78. See BUREAU OF GOV'T RESEARCH & THE PUB. AFFAIRS RESEARCH COUNCIL OF LA., MUNICIPAL BANKRUPTCY: IN PERSPECTIVE (2006), available at <http://www.bgr.org/MunicipalBankruptcy%204-5-06.pdf>. Two watchdog groups analyzed the finances of the city of New Orleans and concluded in early 2006 that the city is "teetering on the edge of a cliff" and "is one month away from running out of cash." *Id.* at 5. The City of New Orleans fired 3000 employees after Katrina, raised taxes to pay debt, borrowed money from the federal government, and suspended all capital expenditures, but that is not enough to make it fiscally solvent given the dramatic loss of population and tax base. *Id.* Tax rates will have to rise to support existing indebtedness, while at the same time city services are in decline. *Id.* at 23.

and Rita.⁷⁹

The \$10 billion in CDBG funds was part of the over \$100 billion Congress appropriated to rebuild the Gulf Coast.⁸⁰ Over \$50 billion of that money was allocated to temporary and long-term housing.⁸¹ Just under \$30 billion was allocated for emergency response and Department of Defense spending.⁸² Over \$18 billion was allocated for state and local response and the rebuilding of infrastructure.⁸³ 3.6 billion dollars was allocated for health, social services, and job training and \$3.2 for non-housing cash assistance.⁸⁴ 1.9 billion dollars was allocated for education and \$1.2 billion for agriculture.⁸⁵

Louisiana directed most of the CDBG funds to housing recovery through the Road Home Program.⁸⁶ The Road Home Program was designed to give up to \$150,000 to homeowners for damages that were not covered by private insurance or federal flood insurance.⁸⁷

Over 100,000 homeowners in Louisiana signed up for rebuilding assistance through the CDBG Road Home Program.⁸⁸ Unfortunately, at the end of 2006, fewer than 100 homeowners in Louisiana had actually received federal housing rebuilding assistance to rebuild their severely damaged houses back into homes.⁸⁹ This failure to disperse assistance occurred a full year after the city launched plans to bulldoze severely damaged homes.⁹⁰

79. See Lovett, *supra* note 66, at 51; see also 42 U.S.C. §§ 5301-5321 (2000).

80. Matt Fellowes et al., Op-Ed., *The State of New Orleans: An Update*, N.Y. TIMES, July 5, 2006, at A17.

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.*

86. See Lovett, *supra* note 66, at 51.

87. See The Road Home Program, Frequently Asked Questions, <http://www.road2la.org/about-us/faqs.htm#gpi1> (last visited Mar. 6, 2007).

88. The Road Home Program, Media Center, <http://www.road2la.org/media-center.htm> (last visited Mar. 6, 2007). For a brief explanation of the CDBG program, see generally Lovett, *supra* note 66, at 50-56.

89. Associated Press, *Lawmakers Blast ICF for Road Home Delays*, NEW ORLEANS CITYBUSINESS, Dec. 7, 2006, <http://www.neworleanscitybusiness.com/up-to-the-minute.cfm?recid=7698> (last visited Mar. 6, 2007). As of November 11, 2006, only twenty-two of nearly 79,000 families had received access to cash through the Road Home Program, and only 1721 families had been notified of how much aid they will receive. Leslie Eaton, *Slow Home Grants Stall Progress in New Orleans*, N.Y. TIMES, Nov. 11, 2006, at A1.

90. It was primarily in the Lower 9th ward where the City announced a massive plan to bulldoze homes without notice—a plan made public just before Christmas in 2005. Frank Donze, *Judge Puts Hold on Home Razing*, TIMES-PICAYUNE (New Orleans), Dec. 29, 2005, at Metro 1; *Hannity & Colmes*:

Although homeowners were having a very difficult time receiving compensation for their damages,⁹¹ renters were in even worse shape. No direct CDBG assistance is even contemplated for renters despite the fact that most of the people in New Orleans were renters; New Orleans had a homeownership rate of forty-seven percent before Katrina, compared to the national average of sixty-seven percent.⁹² New Orleans lost more than 43,000 rental units to the storm.⁹³ Rents skyrocketed in the undamaged parts of the area, pricing regular working people out of the market. The official rate of increase in rents was thirty-nine percent.⁹⁴ The real rate was nearly double that—a 2006 review showed the actual rents for the undamaged or repaired went up seventy to eighty percent since

Homeowners Fighting to Save Hurricane Damaged Homes (FOX television broadcast Dec. 29, 2005), available at 2005 WLNR 22088818. City inspectors dismissed the battered homes, which people had not even been allowed to view until December, as an “imminent public hazard.” Donze, *supra*. The City refused requests for a process of fair notice, and it took demonstrations and a lawsuit to give people notice and an opportunity to be heard before the decision to bulldoze was enacted. See *id.*; Hannity & Colmes, *supra*. See generally *Sylvester v. Boissiere*, No. 05-5527, 2006 U.S. Dist. LEXIS 15500 (E.D. La. Apr. 3, 2006) (challenging various state, federal, and local agencies’ practice of “tacking” eviction notices on doors of New Orleans lessees).

91. See Eaton, *supra* note 89, at A1. Even among homeowners, it remains more likely that white homeowners will have the chance to rebuild than black homeowners because of deep patterns of racial disparities in income—white median income is \$61,000, contrasted with black median income of \$25,000. JOHN R. LOGAN, THE IMPACT OF KATRINA: RACE AND CLASS IN STORM-DAMAGED NEIGHBORHOODS 14-15, <http://www.s4.brown.edu/Katrina/report.pdf> (last visited Mar. 6, 2007).

92. POPKIN ET AL., *supra* note 24, at 2. Some developers will receive assistance at some point, and when they do, some apartments will be made available, but that is years away. Deon Roberts, *New Orleans Critics Claim ‘Road Home’ Is Unfair to Poor*, NEW ORLEANS CITYBUSINESS, June 20, 2006, available at http://findarticles.com/p/articles/mi_qn4200/is_20060620/ai_n16518659; see also Administrative Complaint from Advancement Project et al., to Alphonso Jackson, Secretary, & Kenneth M. Donohue, Inspector General, U.S. Dep’t of Hous. & Urban Dev. 3 (June 20, 2006), available at <http://www.justiceforneworleans.org/jfnodocs/CDBG.pdf>. The reality of post-Katrina construction costs has caused estimated numbers of newly created apartment units to go from 35,000 to 15,000 statewide. Meitrodt, *supra* note 28, at National 1.

93. Michelle Krupa, *Council Seeks to Boost Rental Housing; Fast-tracking Urged for Federal Tax Credits*, TIMES-PICAYUNE (New Orleans), July 18, 2006, at Metro 1.

94. AMY LIU ET AL., BROOKINGS INST., KATRINA INDEX MONTHLY SUMMARY OF FINDINGS: JULY 2006 2 (2006), http://www.brookings.edu/metro/pubs/200607_KatrinaIndexes.pdf.

Katrina.⁹⁵

In New Orleans, sixty-nine percent of rental units are of the single family variety.⁹⁶ As the LRA reported, “New Orleans is a unique market, with a larger-than-typical share of singles and doubles.”⁹⁷ Yet, these small landlords, who own one to four units and who are scheduled to be eligible for nearly \$900 million in no-interest forgivable loans, had not yet been allowed to even apply for CDBG funds as of January 2007.⁹⁸

The priority of property owners is illustrated by the fact that, under the CDBG program, property owners can get up to \$150,000 from the CDBG Katrina housing program on top of insurance proceeds to rebuild homes worth hundreds of thousands of dollars, but a renter around the corner is eligible for nothing.⁹⁹

Controversy in the CDBG allocations was not limited to its slow pace. To help lower the rates of those who have returned to New Orleans, the local utility, Entergy New Orleans, was granted \$200 million in CDBG funds from the Louisiana Recovery Authority in November 2006.¹⁰⁰ Questions were raised because the grant was made despite the fact that Entergy New Orleans’s parent company, Entergy Corporation, reported earnings of \$282 million between April and June on revenue of \$2.6 billion.¹⁰¹

95. Meitrodt, *supra* note 28, at National 1. Rents in New Orleans parish were up seventy percent from an average of under \$800 to \$1357 a month. *Id.* In Jefferson parish, the raises ranged from forty to eighty percent. *Id.*

96. *See id.*

97. Hammer, *supra* note 43, at National 1. Thus aid for the small-time landlord is important. *Id.*

98. *Id.* Small landlords are scheduled to be eligible for no-interest loans that will be forgiven after ten years if the landlord keeps rents at affordable levels (which had not been set as of January 2007) for a period of time (which had also not been set as of January 2007, but is reportedly between three and twenty years). *Id.* Renters in mixed-income properties are expected to earn between \$26,800 and \$41,800. *Id.*

99. *See* The Road Home Program, About the Road Home Program, <http://www.road2la.org/about-us/default.htm> (last visited Mar. 6, 2007). Yet, in the fall of 2006, a “good-government group” and a number of state legislators criticized the Road Home Program as too focused on helping the poor, rather than renters of all levels! *See* Hammer, *supra* note 43, at National 1; *see also* BUREAU OF GOVERNMENTAL RESEARCH, THE ROAD HOME RENTAL HOUSING PROGRAM: CONSEQUENCES FOR NEW ORLEANS 5-6 (2006), available at http://www.bgr.org/Consequences_for_N.O._091506.pdf.

100. Matthew Penix, *Power Discord: Entergy New Orleans Battles Bankruptcy, \$600M in Storm Damage*, NEW ORLEANS CITYBUSINESS, Dec. 25, 2006, at 37.

101. Pam Radtke Russell, *Entergy Corp. Is Raking in Millions Supplying Power to New Orleans’ Suburbs and Three Other States, So Why Can’t It Use*

Obstacles to public funding of affordable housing came from within New Orleans and in neighboring parishes.¹⁰² Within New Orleans, some objected to plans for development of rental housing that had a generous percentage of subsidized units.¹⁰³ St. Bernard Parish, a ninety-three percent white suburb adjoining New Orleans, enacted a post-Katrina ordinance which restricted home owners from renting out single-family homes “to anyone who is not a blood relative of the owner” without securing a permit from the government.¹⁰⁴ Jefferson Parish, another adjoining majority-white suburb, unanimously passed a resolution opposing all low-income tax credit multi-family housing in the areas closest to New Orleans, trying to stop the construction of a 200 unit apartment building on vacant land for people over the age of sixty-two and any further Section 8 housing.¹⁰⁵ As a result, public funding has not yet made a

that Money to Help Out Its Customers in Katrina-Devastated N.O.?, TIMES-PICAYUNE (New Orleans), Aug. 9, 2006, at National 1; Penix, *supra* note 100, at 37; Editorial, *Entergy N.O. Plan Does Not Add Up*, NEW ORLEANS CITYBUSINESS, Oct. 30, 2006, at 20.

102. For example, across Lake Ponchartrain from New Orleans, the chief law enforcement officer of St. Tammany Parish, Sheriff Jack Strain, complained openly about the post-Katrina presence of “thugs and trash” from New Orleans” and announced that people with dreadlocks or “chee wee” hairstyles” could “expect to be getting a visit from a sheriff’s deputy.” Paul Rioux, *Sheriff Jack Strain is Sticking to His Guns; Voters Will Validate Him in the End, He Says*, TIMES-PICAYUNE (New Orleans), July 16, 2006, at National 1; *see also* Paul Rioux, *Group to Comb Sheriff’s Files for Signs of Hiring Bias*, TIMES-PICAYUNE (New Orleans), Aug. 3, 2006, at National 1.

103. *See* Hammer, *supra* note 43, at National 1. In the fall of 2006, a “good-government group” and a number of state legislators criticized the Road Home Program as too focused on helping the poor, rather than renters of all levels. *Id.*; *see also* BUREAU OF GOVERNMENTAL RESEARCH, *supra* note 99, at 1.

104. Bob Warren, *Rental Policy Called Discriminatory; Black People Ruled Out, Group Charges*, TIMES-PICAYUNE (New Orleans), Sept. 27, 2006, at Metro 1; Staff, *Fair Housing Center Decries “Racist” Ruling*, NEW ORLEANS CITYBUSINESS, Oct. 2, 2006, at 11. Violators were subject to fines of \$50 to \$250 per day. Warren, *supra*, at Metro 1. Federal civil rights litigation forced the government to suspend the operation and enforcement of the ordinance. Bob Warren, *St. Bernard Agrees to Delay Its Rent Rule; Ordinance Prompted Discrimination Suit*, TIMES-PICAYUNE (New Orleans), Nov. 14, 2006, at National 1. A copy of the amended complaint for this action, filed by the Greater New Orleans Fair Housing Action Center and the Lawyers Committee for Civil Rights, is available at <http://www.lawyerscomm.org/2005website/publications/press/pdf/Amended%20Complaint%2011206.pdf>.

105. Meghan Gordon, *Terrytowners Resist Low-Income Housing; Group Seeks Home for Senior Citizens*, TIMES-PICAYUNE (New Orleans), Nov. 2, 2006, at Metro 1; Joe Gyan, Jr., *Group Asks Parish Change Housing Stance*, ADVOC. (Baton Rouge), Oct. 24, 2006, at B5. The sponsoring legislator condemned poor

significant dent in the affordable housing market in the New Orleans area.

VI. THE STILL DISPLACED

“With each passing day, a crucially significant political distinction in New Orleans gets clearer and clearer: Property owners are able to assert their interests in the polity, while non-owners are nearly as invisible in civic life now as in the early eighteenth century.”¹⁰⁶

people as “lazy,” “ignorant,” and “leeches on society”—specifically hoping to guard against the influx of former residents back into New Orleans public housing. Rachel Wilch, *Region Will Continue to Falter Without Affordable Housing*, NEW ORLEANS CITYBUSINESS, Dec. 18, 2006, at 19.

106. Adolph L. Reed, Jr., *When Government Shrugs: Lessons of Katrina*, THE PROGRESSIVE, Sept. 2006, available at http://progressive.org/mag_reed0906. It is important to underscore that race is not the only obstacle to justice in this matter. There is a clear economic justice analysis that helps explain how some upper- and middle-income African Americans have made it back and will indeed prosper, while other blacks face incredibly higher burdens. As Adolph Reed observes, the language of racial equity alone can obscure the reality of significant concentration of economic opportunity and benefits within the black population, and thus

a simplistically racial interpretation of the injustices perpetrated in New Orleans is inadequate, even when those injustices cluster heavily along racial lines. Substantial numbers of blacks as well as whites are in a position to benefit materially from this regime [i.e., the prioritizing of property owners]; blacks as well as whites support the de facto creation of a property owners’ republic. It is possible simultaneously to include black people as stakeholders in the equation for rebuilding the city and to exclude poor people.

Id. Reed, a New Orleans native, wrote immediately after Katrina:

Class will almost certainly turn out to be a better predictor than race of who was able to evacuate, who drowned, who was left to fester in the Superdome or on overpasses, who is stuck in shelters in Houston or Baton Rouge, or who is randomly dispersed to the four winds. I’m certain that class is also a better predictor than race of whose emotional attachments to place will be factored into plans for reconstructing the city.

Adolph Reed, *Class-ifying the Hurricane*, THE NATION, Oct. 3, 2005, available at <http://www.thenation.com/doc/20051003/reed>. A purely racial critique, continued Reed,

can lead nowhere except to demands for black participation in decision-making around reconstruction. But which black people? What plans? Reconstruction on what terms? I’ve seen too many black- and Latino-led municipal governments and housing authorities fuel real estate speculation with tax giveaways and zoning variances, rationalizing massive displacement of poor and other working-class people with sleight-of-hand about mixed-income occupancy and appeals to the sanctity of market forces.

Id.

One year after Katrina, 298,000 displaced people were still living in FEMA trailers across the gulf coast.¹⁰⁷ More than 80,000 families in Louisiana alone were living in FEMA trailers.¹⁰⁸

Race, gender, and economic status remain driving forces in the decisions involving which people will return to New Orleans.¹⁰⁹ As the Institute of Women's Policy Research pointed out, "The hurricanes uncovered America's longstanding structural inequalities based on race, gender, and class and laid bare the consequences of ignoring these underlying inequalities."¹¹⁰

At the beginning of 2006, well over a third of a million people had not made it back to the metropolitan New Orleans area.¹¹¹ The pre-Katrina population in New Orleans of roughly 454,000 people

107. Keith O'Brien, *Waiting in Fear in Government Trailers; Storm Evacuees Live in Uncertainty*, THE BOSTON GLOBE, Sept. 3, 2006, at National/Foreign A1.

108. News Release, FEMA, FEMA Delivers to Louisiana Citizens, Aug. 21, 2006, available at <http://www.fema.gov/news/newsrelease.fema?id=29070>. Most of these trailers are 240 square feet of living space. O'Brien, *supra* note 107, at National/Foreign A1. FEMA trailers did not arrive in parts of the lower 9th ward of New Orleans until fall—while the displaced waited for water and electricity to resume. For homeowners, their trailer is placed in front of their own battered home. Renters are not so fortunate and are placed in gravel strewn FEMA-villes across the state. See generally *id.* (giving an excellent overview of what life is like in a trailer village).

109. See William P. Quigley, *Thirteen Ways of Looking at Katrina: Human and Civil Rights Left Behind Again*, 81 TUL. L. REV. (forthcoming 2007).

110. ERICA WILLIAMS ET AL., INST. FOR WOMEN'S POLICY RESEARCH, THE WOMEN OF NEW ORLEANS AND THE GULF COAST: MULTIPLE DISADVANTAGES AND KEY ASSETS FOR RECOVERY PART II: GENDER, RACE, AND CLASS IN THE LABOR MARKET 1 (2006), available at <http://www.iwpr.org/pdf/D465.pdf>. Gender was, and remains, a defining issue in reviewing the impact of Katrina. See CONG. RESEARCH SERV., HURRICANE KATRINA: SOCIAL-DEMOGRAPHIC CHARACTERISTICS OF IMPACTED AREAS 20-21 (2005), available at <http://www.gnocdc.org/reports/crsrept.pdf>. In issuing a one-year report on the impact of Katrina on women, a coalition of groups pointed out that gender analysis had not been given enough emphasis:

Women have become a critical force rebuilding the Gulf Coast after being disproportionately affected by Katrina. This report reveals that, while the lens of race and class were applied to the natural disaster early on, the gender dimensions of poverty and recovery on the Gulf Coast have largely been overlooked.

Women's Funding Network, Hurricane Katrina Resources for Giving, <http://www.wfnet.org/donate/katrinarelieff.php> (last visited Mar. 6, 2007).

111. Press Release, La. Recovery Auth., Comprehensive New Study Reveals Updated Population Numbers in Storm-Affected Parishes (Oct. 5, 2006), <http://www.lra.louisiana.gov/pr100506.html>. The Metropolitan area of New Orleans, Orleans, Jefferson, St. Bernard and Plaquemines Parishes had 1,002,046 people before Katrina and were reported one year later at 668,351. *Id.*

dropped in one year to just over 187,000.¹¹² As a result of continued displacement, New Orleans is a much smaller, older, whiter, and more affluent city.¹¹³

Texas surveyed the displaced in the summer of 2006 and reported that over 250,000 mostly low-income displaced people remained in the state.¹¹⁴ Houston officials reported in the summer of 2006 that their city was still home to about 150,000 storm evacuees—90,000 in FEMA assisted housing.¹¹⁵

Another 100,000 people displaced by Katrina were in Georgia, more than 80,000 in metro Atlanta¹¹⁶—most of whom also needed long-term housing and mental health services.¹¹⁷ The massive

112. *Id.*

113. “In the New Orleans metropolitan area, hurricane-induced loss produced a population that was more white, less poor, and more transitory than the pre-hurricane population. These changes resulted from the disproportionate out-migration, and slower return, of lower-income and black residents from the entire metropolitan area after the storms.” WILLIAM H. FREY & AUDREY SINGER, BROOKINGS INST., *KATRINA AND RITA IMPACTS ON GULF COAST POPULATIONS: FIRST CENSUS FINDINGS 1* (2006), available at http://www.brookings.edu/metro/pubs/20060607_hurricanes.pdf; see also Rick Lyman, *Reports Reveal Hurricanes’ Impact on Human Landscape*, N.Y. TIMES, June 7, 2006, at A16 (describing the impact Katrina had on the demographics of the Gulf Coast).

114. Polly Ross Hughes, *State Finds Evacuees in Holding Pattern*, HOUS. CHRON., Aug. 10, 2006, at A1. Forty-one percent of these households reported income of less than \$500 per month. Eighty-one percent are black, fifty-nine percent are still jobless, most have at least one child at home, and many have serious health issues. *Id.*

115. Allan Turner & Eric Berger, *Report: Storms Left New Landscape*, HOUS. CHRON., June 7, 2006, at A1; see also Lyman, *supra* note 113, at A16 (describing Katrina’s impact on the demographics of the Gulf Coast). Of the 35-40,000 displaced residents in Houston, almost half have no health insurance. Nearly a third lack a high school diploma, and less than twenty percent are employed. Surveys found seventy-four percent of the displaced residents earned less than \$1500 a month. Allan Turner, *Of Poorest Evacuees, 69% Plan to Stay*, HOUS. CHRON., Sept. 8, 2006, at A1.

116. Bob Dart, *100,000 Evacuees Still in Georgia*, ATLANTA J. CONST., Aug. 15, 2006, at News 4A.

117. Sheila Dewan, *Storm Evacuees Found to Suffer Health Setbacks*, N.Y. TIMES, Apr. 18, 2006, at A1. Healthcare among the displaced is difficult. The Columbia University Mailman School of Public Health surveyed hundreds of families living in FEMA trailers and found: nearly half of the parents surveyed reported that at least one of their children had emotional or behavioral difficulties that the child did not have before the hurricane; more than half the women caregivers showed evidence of clinically diagnosed psychiatric problems, such as depression or anxiety disorders; on average, households have moved 3.5 times since the hurricane, some as many as nine times, often across state lines; and more than one-fifth of the school-age children who were displaced were

displacement continues because people cannot return to a region that has little affordable housing.

CONCLUSION

As post-Katrina housing costs have increased, many who have the desire to come home and the skills and ability to contribute to the rebuilding effort are kept at bay due to their inability to acquire an affordable residence. This reality, perhaps more than any other, has contributed to the distinct population shift currently experienced by the region.¹¹⁸

The most important key to the recovery of New Orleans and the return of its population is widespread availability of affordable housing. Yet, as this Article points out, little progress has been made. Unless there is significant change in the immediate future, there is little chance that the renters and workers of New Orleans will be able to return.¹¹⁹

At the time this Article was written, over a third of a million people had not made it back to the metropolitan New Orleans area.¹²⁰ The pre-Katrina population of roughly 454,000 people in the city of New Orleans dropped to just over 187,000.¹²¹ The African American population of New Orleans shrank by sixty-one percent, or 213,000 people, from a pre-Katrina number of 302,000 down to 89,000.¹²²

The world saw those left behind when Katrina struck New Orleans: the working poor, renters, the disabled and the elderly, and

either not in school or had missed 10 or more days of school in the past month. *Id.* at A1, A20.

118. WILLIAMS ET AL., *supra* note 110, at 20.

119. The Institute for Women's Policy made several recommendations to address the challenges that women workers, particularly women of color, face in trying to rebuild their lives. These include: ensuring the right to return by dramatically increasing affordable housing; restoring public services including good public schools, health care, and mental health services; including women in the planning and rebuilding processes; providing child care; expanding access to job training (including for non-traditional jobs); increasing wage supports to make a living wage more possible; and keeping track of and monitoring the people returning and displaced. *Id.* at 20-23.

120. Press Release, *supra* note 111.

121. *Id.*

122. Survey Report, La. Recovery Auth., 2006 Louisiana Health and Population Survey 3 (Jan. 17, 2007), http://popest.org/popestla2006/files/PopEst_Orleans_SurveyReport.pdf; see also Lyman, *supra* note 113, at A16 (calculating the change in the New Orleans African American population after Katrina).

mostly African Americans. Unless there is massive change in the planning, financing, and implementation of affordable housing for the region, those left behind when Katrina hit will be left behind forever and will never return.