OLO Report No. 94-1* November 30, 1993

Montgomery County Government

A PROFILE OF THE HOUSING OPPORTUNITIES COMMISSION

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* A draft of Chapters I-V of this report was circulated earlier this year as OLO 92-6. The report number has been changed to correspond to OLO's FY94 work program.

Office of Legislative Oversight

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EXECUTIVE SUMMARY

The Housing Opportunities Commission (HOC) is a public corporation authorized by State and County law to build, own, manage and finance affordable rental and homeownership housing for people of low and moderate income in the County. There are seven HOC Commissioners appointed by the County Executive and confirmed by the Council to serve five-year terms.

HOC has characteristics of both State and local government agencies. The current legal structure of HOC dates back to 1974, when State and local law was amended to expand the housing mission for the County, and HOC's authority to issue tax-exempt mortgage revenue bonds was expanded. State law authorizes HOC to exercise certain housing powers, in accordance with local law or a contract with the County. In practice, language authorizing HOC to undertake specific opportunity housing duties and responsibilities is included in the County's annual grant contract with HOC.

During 1992, HOC conducted an intensive planning exercise to develop a clear vision for the agency's future. One of the outcomes of HOC's mission and vision process was a revised organizational structure that divides HOC's activities into a Parent Company and five separate "businesses": Real Estate Development, Mortgage Finance, Property Management, Rental Assistance, and Social Services.

The capital development activities of the HOC can be divided into four fairly distinct phases over the past 20 years, with each phase reflecting external factors in the economic and political environment, as well as the County's housing policy goals. Since the late 1980's, the great majority of HOC's development activity has shifted to new construction of mixed income housing projects owned by HOC.

According to HOC, the agency's current development plans have been influenced by a number of factors, including: the virtual elimination of deep subsidy dollars; the scarcity of affordable, appropriately zoned land in the County; the difficulties faced by the private sector in developing affordable housing in the County; and the fact that communities continue to express concern over the location of affordable housing developments. Advantages cited to the agency's mixed income projects include that the developments: are economically feasible; produce more total rental units with long-term affordability; maximize scarce subsidy dollars; take advantage of HOC's bond authority; produce fee revenue; and create a new source of subsidy.

HOC's Capital Development and Improvement Plan represents HOC's overall development objectives, and it is this Plan that establishes the workload and activities of HOC's real estate development and mortgage finance staff. Whether all of the projects actually happen according to the Plan will depend upon multiple variables, including the ability of HOC to issue tax-exempt bonds, the availability of subsidy dollars, and the continued use of HOC's Opportunity Housing Reserve Funds. As circumstances change, it is the practice of the HOC Commission to review and adjust the Plan.

HOC's FY93-FY99 Capital Development and Improvement Plan totals $296.4 million. Tax-exempt mortgage revenue bonds issued by HOC will provide 68% of the total funding. The Plan allocates $205.4 million (69%) for multi-family new construction; $32 million (11%) to acquire existing multi-family properties; $40 million (13%) to purchase Moderately-Priced Dwelling Units; and $19 million (6%) for capital improvements.

All projects owned and/or managed by HOC have a legally imposed number of public purpose units, which are defined as units that must be affordable to low or moderate income households. The specific public purpose requirements are usually dictated by the funding source(s), and are endorsed formally by the HOC Commission. In most cases, HOC is able to exceed the minimum public purpose requirements.

Over the next seven years, HOC plans to almost double the total number of units the agency owns and/or manages. All categories of HOC's stock will increase, with the most significant increases coming from HOC's multi-family new construction projects. By FY99, according to HOC's development plan, units affordable to very low income households (below 34% of area median) will constitute half of HOC's stock, and market rate units will constitute 14% of HOC's stock. The remaining units will be affordable to households with incomes between 35-80% of area median.

As adopted by the Commission in June 1993, HOC's FY94 operating budget totals $59.9 million. Almost half of HOC's operating budget comes from the Federal government, primarily as housing assistance payments that are passed along to private sector landlords. Rents and related fees fund another large portion (38%) of HOC's FY94 operating budget, while other sources of revenue (the County, the State, mortgage finance fees, management/overhead fees) each constitute less than five percent of HOC's total operating budget.

HOC's operating budget indicates that the Mortgage Finance and Rental Assistance businesses will generate a surplus of revenue over expenses in FY94. The excess revenue generated from the Mortgage Finance and Rental Assistance businesses is budgeted to fund expected operating deficits for Real Estate Development, Social Services, and the Parent Company. The Property Management business is budgeted to break-even in FY94.

HOC's mission statement describes the HOC Commission with five roles to fulfill: policy direction, resources allocation, accountability, advocacy, and selection of certain professionals. The Commission exercises oversight of HOC's budget by adopting the annual capital, operating, and grants budgets, the personnel complement, and the salary and fee schedule for the agency. In addition, the Commission reviews plans and expenditures for individual capital projects, and has an active role in all of HOC's mortgage finance activities.

State law establishes HOC as an independent agency that is separate from the traditional lines of County Government authority. Although significantly different from an operating department of County Government, by law and through the appointment and budget process, the County Council and County Executive are afforded the opportunity to exercise both direct and indirect budget oversight of the agency. Examples of this include: the County's authority to appoint HOC Commissioners; the federal requirement that each bond issue include a statement from the County reaffirming HOC's authority to issue tax-exempt bonds; the County's authority to allocate federal and County grant funds that are used to support specific projects (e.g., HIF, HOME); and the requirement that the County approve HOC's receipt of certain State program subsidies.

I. AUTHORITY SCOPE AND METHODOLOGY

A. Authority

Council Resolution 12-1202, FY94 Work Program of the Office of Legislative Oversight, adopted July 13, 1993.

B. Scope

The Housing Opportunities Commission (HOC) of Montgomery County is a public corporation authorized by State and County law to build, own, manage, and finance affordable rental and homeownership housing for people of low and moderate income in Montgomery County. There are seven HOC Commissioners appointed by the County Executive and confirmed by the County Council to serve five-year terms. The Commission is responsible for setting HOC's policies, approving HOC's budget, and hiring HOC's Executive Director.

This report provides a profile of the Housing Opportunities Commission. It includes: a legislative history of HOC; a review of current laws governing HOC; a description of HOC's organizational structure; an overview of HOC's capital development and improvement plan; an overview of HOC's operating budget (including HOC's grant budget); a discussion of the budget oversight roles of the HOC Commission and the County Government; and a description of HOC's budget process.

C. Methodology

This project was conducted by Karen Orlansky, OLO Program Evaluator, with assistance from Sara Gilbert, OLO Public Administration Intern.

The study included a review of the County and State laws, legislative files, and budget documents relevant to the Housing Opportunities Commission. Information obtained through written documents was supplemented through interviews with past and present HOC Commissioners, HOC's Executive Director, HOC's legal counsel, HOC's bond counsel, and many HOC staff members organizationally located throughout the agency. Additional information about HOC's legislative history was obtained through a viewing of videotapes maintained by HOC's Office of Public Affairs, and special interviews with Alex Greene, Joyce Siegel, and Peg McRory.

Staff from multiple County Government departments and offices were consulted on specific issues, including staff from the Department of Housing and Community Development, the Department of Finance, the Office of Management and Budget, the Department of Transportation, and the Office of the County Attorney. Information was also obtained from the Office of State Assessments.

D. Acknowledgements

Throughout this study, OLO received full cooperation from all parties. OLO extends special thanks to the HOC Commissioners and Bernard Tetreault, Executive Director of HOC, for the support they gave to this project in terms of making staff and information available. OLO especially appreciates the many hours that HOC staff spent with us throughout the project, patiently answering our many questions. In particular, OLO thanks: Frankie Blackburn, Donna Boxer, Mary Jo Zenk, Joyce Siegel, Joe Feuerherd, Mel Adams, Roy Appletree, Ken Tecler, Mary Jones, Pat Scissors, Patrick Maier, Tom Doerr, Dan Sachs, Vivian Benjamin, Maida Tryon, Scott Minton, Tom DeBrine, and Benetta Waller.

II. LEGISLATIVE HISTORY

A. The Housing Authority of Montgomery County

State law authorizing local governments to create Housing Authorities was enacted in 1937. The stated purpose of this legislation was to help develop safe, sanitary, and decent housing for the citizens of Maryland. The Housing Authority of Montgomery County was created in the late 1930's, but did not become an active organization until the mid-1960's.

In 1966, a County Council Resolution activated the Housing Authority of Montgomery County (HAMC). The legislative record indicates that the activation of the HAMC was in response to growing concern about the continued existence of substandard housing in the County, and the need to provide housing for persons displaced by the urban renewal projects being undertaken in the County by the Rehabilitation and Redevelopment Commission.

Initially, the HAMC was established and funded as a bureau in the County Government's Department of Economic and Community Development. In accordance with State law, five volunteer Commissioners were appointed to oversee operation of the HAMC. The primary mission of the HAMC was to receive and allocate federal funds made available for the construction and management of low income public housing in the County.

In 1967, the HAMC articulated the need for the County to develop a more comprehensive strategy to address the growing need for low and moderate cost housing in the County. The HAMC recommended that the County adopt a broad range of housing objectives that went beyond constructing federally-funded public housing projects. The HAMC advocated that the

County's housing objectives should include: the elimination and replacement of structurally unsound dwellings; the provision of incentives to rehabilitate substandard dwellings; the construction of new dwellings for low income families suffering from overcrowding; the provision of additional housing for newly formed families or retired persons who could not afford to remain in the County; and programs to encourage low and moderate income families toward housing self-sufficiency through homeownership.

The HAMC concluded that it would be difficult, if not impossible, for the agency to meet the broader housing needs as a bureau within a County Government department and within the constraints of the County Charter. In particular, the HAMC cited the need to operate with greater flexibility with respect to: hiring staff; obtaining funds outside of the annual appropriations process; and being able to move quickly when opportunities for leasing or acquiring property were presented.

Therefore, in 1968, motivated by the desire for greater flexibility and without objection from the County Council, the HAMC separated itself from County Government. The HAMC relocated its offices to HAMC-owned property in Silver Spring and hired its own Executive Director.

B. The Housing Authority is Restructured into the Housing Opportunities Commission

1. **Overview.** As indicated above, by the early 1970's, it had become evident to County officials and members of the Housing Authority that a housing affordability gap existed in the County, and that the housing needs in the County went beyond the provision of public housing projects funded by the federal government. Specifically, there was interest expressed in expanding the ability of the public sector to provide housing services to a wider range of income groups, and exploring new approaches to providing capital for development.

To accomplish these goals, County legal staff advised that legislation be introduced to expand the County's own housing powers, and to create a new housing entity that could provide the County with increased flexibility. In 1974, after considerable debate about the appropriate structure of the new housing organization, parallel State and County legislation was enacted that established a broader housing mission for the County and restructured the HAMC into the Housing Opportunities Commission of Montgomery County.

At the State level, legislation was enacted to establish the Housing Opportunities Commission of Montgomery County as a "public body corporate and politic". Similar to the powers granted earlier to the HAMC, the Housing Opportunities Commission was authorized: to acquire, own, lease, and operate housing projects; to provide for the construction or renovation of housing projects; to borrow money, accept grants, and obtain other financial assistance from any public or private sources to assist its housing projects; and to arrange for tenant services including social services and day care.

The 1974 amendments expanded the size of the Commission from five to seven members, and provided that Commissioners would be appointed by the County Executive and approved by the County Council. As described below, the law also outlined some additional powers and duties for HOC, and established that the exercise of such power is "pursuant to and in accordance with local law or a contract or contracts with Montgomery County".

At the County level, a new article, the Housing Opportunity Act, was added to the County Code. This law was written to parallel the new language in State law. The Housing Opportunity Act outlines an expanded housing mission for the County, and authorizes the County to enter into contracts with HOC or other non-profits to carry out its opportunity housing powers. (In practice, the County's annual grant contract with HOC includes explicit language which authorizes HOC to undertake these opportunity housing duties and responsibilities, see page 20).

2. <u>HOC's Broader Mission to Serve "Persons of Eligible Income"</u>. Perhaps the most significant change enacted in 1974 was to expand the definition of whom HOC could serve. The expanded definition was based upon the finding that the County population was increasing at the same time that the County was undergoing a substantial reduction in the supply of moderate income housing because of economic changes in the housing market and condominium conversions.

HOC was authorized to provide "opportunity housing" to "persons of "eligible income" as determined by the County Executive through regulation. As described in State law:

> For purposes of this section, the phrase "persons who individually or as part of a family unit lack sufficient income or assets (as determined by the Montgomery County Executive or his designee) to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings without overcrowding. With respect to the elderly or handicapped and families with other special needs, the meaning of the phrase: persons of eligible income" may be adjusted by the County Executive or his designee if other criteria are considered more appropriate.

The County's Housing Opportunity Act incorporates into local law the same concept of broadening the housing mission of the County. In addition to repeating the State's definition of "persons of eligible income", County law sets forth the term "Opportunity Housing" to mean those dwelling units for which the rental or selling price is established by the County in order that "persons of eligible income may be able, within their respective incomes, to live in decent, safe and sanitary accommodations, without overcrowding." The Housing Opportunity Act also specifies that eligibility standards for Opportunity Housing are to be established and revised as method (2) executive regulations.

3. **<u>HOC's Authority to Issue Tax Exempt Bonds</u>.** Another significant change enacted in 1974 was the expansion of HOC's authority to issue tax-exempt mortgage revenue bonds.

Prior to 1974, the Housing Authority could only issue mortgage revenue bonds to finance construction of their own developments. Although in most cases, mortgage revenue bonds are repaid from the income and revenue of the project that is financed with the bonds, State law also permits mortgage revenue bonds to be secured from the general revenues of the issuing agency.

The 1974 amendments to State law expanded HOC's bond authority to allow the agency to issue mortgage revenue bonds for additional purposes. Specifically, HOC, in accordance with local law or a contract with the County, was authorized to issue bonds to finance mortgage loans for persons of eligible income, or to finance multi-family construction projects, which provide a certain number of affordable units. At the County level, the Housing Opportunity Act included language that allows HOC to "issue bonds or borrow money under other obligations from time to time at Montgomery County's discretion, in order to carry out the purposes stated in this Article."

In 1977, State law was enacted to allow Montgomery County to guarantee the principal and interest on bonds issued by HOC. In accordance with State law, separate County legislation was enacted in 1978 to detail the process that must be followed when HOC bonds are backed by the full faith and credit of Montgomery County. A monetary limit was established on the amount of bonds issued by HOC that can be guaranteed by the County. Originally set in 1977 at $10 million, this limit was increased in 1982 to $25 million, and increased again in 1988 to $50 million.*

C. Legislative Changes in the early 1980's

1. **<u>Proposed State legislation</u>.** In the 1981 session of the General Assembly, a number of bills concerning HOC were introduced. At the time, in response to federal government directives to "use or lose" public housing subsidy dollars, HOC was proposing numerous public housing developments that affected many neighborhoods. According to the legislative record, the State bills were introduced in response to what some members of the community perceived as a lack of public participation in HOC's decisions concerning the citing of public housing projects.

The State bills that were introduced in 1981 concerned different aspects of HOC's structure and operation. The proposed legislation included provisions to:

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* To date, the County guarantee has been used to back approximately $18.5 million worth of HOC's bonds, which were issued to finance projects of special interest to the County. For more details on County-backed bond projects, see page 23.

- Require HOC to issue an annual financial report that is published in two local newspapers;
- Require HOC to hold a public hearing during the project planning stage;
- Require HOC to hold a public hearing on its proposed budget;
- Require HOC to submit its entire budget to the County Council for review;
- Establish residency requirements for HOC Commissioners; and
- Require HOC to offer the right of first refusal to the County on HOC properties being sold.

According to those involved in the 1981 legislative debate, a compromise was eventually reached between those who advocated additional restrictions placed on HOC, and those who felt no changes were required. Three State bills were eventually passed, and the County agreed to enact local legislation to address certain concerns about public notice and participation in HOC decision-making.

The State bills passed in 1981 required HOC to publish an annual financial report based on a certified audit, and to submit the agency's proposed budget to the County Council by May 1 of each year. The State law also established a requirement for HOC to hold a public hearing on any proposed assisted family housing project.

2. County legislation. At the County level, housing legislation was also enacted in the early 1980's. Chapter 25B, Housing Policy, sets forth requirements for the County to issue an annual housing report, and establishes certain standards and procedures for HOC and any other local government agency to follow before approving the development of a site for assisted-family housing or acquiring an assisted-family housing facility. The procedure explicitly excludes scattered sites and MPDUs acquired for assisted-family housing.

As outlined in Chapter 25B, the local government agency sponsoring the development or acquisition of assisted-family housing must hold a public hearing and make certain required findings. In February 1993, legislation (Bill 3-92) was enacted to amend Chapter 25B. The changes eliminated certain requirements and findings that restricted the location of affordable housing and emphasized the development and implementation of a fair share policy to distribute assisted housing more broadly around the County.

III. STATE AND COUNTY LAWS GOVERNING THE HOUSING OPPORTUNITIES COMMISSION

HOC is governed by a combination of State and County enabling legislation, and has characteristics of both State and local government agencies. This section summarizes the State and County laws that provide HOC with its major responsibilities and authorities. In addition to State and County laws, HOC must also comply with various federal laws and regulations relevant to the specific programs HOC is participating in. The specific federal laws and regulations will be referenced as appropriate throughout this report.

A. State Law: The Annotated Code of Maryland

1. **Article 44A, Title 2, Housing Opportunities Commission of Montgomery County.** As reviewed in the previous chapter, this is the State law that established HOC in 1974 as a "public body corporate and politic". It provides for seven Commissioners, to be appointed by the County Executive and confirmed by the County Council. The law authorizes HOC to exercise the powers necessary to provide for housing or housing projects for persons of eligible income, provided that the exercise of such power is "pursuant to and in accordance with local law or a contract with Montgomery County." (Section 2-102)

Article 44A, Title 2, enumerates specific powers granted to HOC, which include the authority to: acquire, own, lease, and operate housing projects; make mortgage loans and rent subsidy payments to persons of eligible income; make construction loans and long-term mortgage loans to produce housing for persons of eligible income; and to provide for tenant services. In the 1991 session of the General Assembly, legislation was passed that enables other counties in the State to model their housing authority after the HOC of Montgomery County.

2. **Property Tax Article, Section 7-215, Housing Authority Property and Article 44A, Housing Authorities, Section 1-104, Exemptions.** These two sections of State law provide that the property of a housing authority is exempt from all taxes and special assessments of the County, the State, or any political subdivision thereof. State law, provides, however, that in lieu of such taxes, the housing authority shall make a payment-in-lieu-of-taxes (PILOT) with the amount to be set by mutual agreement between the housing authority and the County or other political subdivision. The PILOT may not exceed the amount equal to the regular taxes that would be levied upon similar property.

3. **Government Procedures, Article 10, Subtitle V, Open Meetings and Public Information.** The State open meetings law applies to all public bodies, including HOC. This law sets forth the requirements for meeting in open session, and provides the conditions under which a closed session is permitted. It also outlines the requirements for keeping written minutes and public access to agency records.

B. Montgomery County Code

1. **Chapter 56, Article VI, Housing Opportunity Act**. As reviewed in the background chapter, this law was enacted in 1974 as local legislation to parallel the State law that restructured the Housing Authority of Montgomery County into the Housing Opportunities Commission.

The Housing Opportunity Act provides the County with an expanded housing mission, and authorizes the County to enter into contracts with HOC or other non-profit organizations to carry out its opportunity housing powers. Opportunity Housing is defined as those housing units for which the rent or sales price is affordable to persons of eligible income, as established by the County Executive by regulation.

2. **Chapter 25A, Moderate-Priced Dwelling Units**. The County's Moderate-Priced Dwelling Units (MPDU) law requires that when a developer builds a community of 50 housing units or more, up to 15 percent must be set aside as "MPDUs". MPDU prices must adhere to standards established by County regulation. The MPDU program is administered by the County's Department of Housing and Community Development.

The MPDU law specifies that in each housing project, HOC must be offered the opportunity to purchase or lease up to 33 and 1/3 percent of all MPDUs. An additional 6 and 2/3 percent must be offered to non-profit organizations that are certified by HOC.

3. **Chapter 20, Article VI, Bond Guarantee Program**. In accordance with State enabling legislation, this article outlines the procedures that must be followed when HOC issues revenue bonds that are backed by the full faith and credit of the County. The law establishes a $50 million limit on the amount of County backed bonds that can be used to acquire, provide, develop, or rehabilitate housing.

4. **Chapter 25B, Housing Policy**. The County's Housing Policy (Chapter 25B, Article I) establishes procedures for government entities (including HOC) to follow before approving a proposal to develop assisted-family housing or to acquire an existing assisted family housing facility. In accordance with this law, HOC must hold a public hearing (in the nature of a legislative, not an adjudicatory hearing) and make certain findings before granting final approval to such projects.

Chapter 25B, Article II establishes the Montgomery Housing Initiative as a program that must be included in the County's capital budget. The law provides that the Housing Initiative Fund (HIF) may be used: to construct or acquire affordable housing units; to buy and rehabilitate existing rental units that would otherwise be removed from the supply of affordable housing; and to participate in housing or mixed-use developments that will include affordable housing. Although HOC is not identified in the law, in practice, HOC has been a major recipient of HIF loans and grants.

Chapter 25B, Article III establishes the Settlement Expense Loan Program. The purpose of this program is to provide financing for settlement expenses to eligible homebuyers who lack the resources to purchase homes. The law assigns administration of the Settlement Expense Loan Program to the "County Executive or designee". Section 25B-13 specifically authorizes the County Executive to delegate any of the powers and duties in this article to either the DHCD Director or HOC, or both. In practice, the County Executive has delegated administration of this program to HOC. However, due to lack of funding, this program has not yet been implemented.

5. **Chapter 11A, Condominiums**. This law provides the County or HOC (as the County's designated housing agency) to exercise the right of first refusal to purchase a rental facility that is being converted to condominium units. The procedures outlined in the County law for notice and action are consistent with those permitted by the State's condominium conversion law.

6. **Chapter 53A, Tenant Displacement**. This law authorizes the County, HOC, or a certified tenants' organization to exercise the right of first refusal to purchase rental units before they are sold and "converted". This chapter applies to conversions of rental facilities other than conversions to condominium use. For purposes of Chapter 53A, conversion is defined to mean any change in the status or use of a rental facility which has the effect of displacing tenants from 33 percent or more of the occupied units within any 12-month period.

7. **Chapter 19A, Ethics**. Chapter 19A is the County's Public Ethics law, which sets forth standards for the conduct of County business and establishes certain financial disclosure requirements. The ethics provisions set forth in Chapter 19A (e.g., conflict of interest, employment restrictions, improper influence, gifts) apply to all "public employees", which is defined to include members of the Housing Opportunities Commission. In accordance with Chapter 19A, HOC Commissioners and certain HOC staff must file public financial disclosure statements.

IV. HOC'S ORGANIZATIONAL STRUCTURE

During 1992, the Housing Opportunities Commission conducted an intensive planning exercise to develop a clear vision for the agency's future. One of the outcomes of HOC's mission and vision process was a revised organizational structure that divides HOC's activities into five separate "businesses" and a "Parent Company". Because this structure will be referenced throughout this report, it is briefly summarized below. The sources of funding and operating budgets for each of the five businesses will be reviewed in Part II of this report.

HOC is divided into the following five "businesses", which are defined as distinct yet interrelated operations:

- Real Estate Development;
- Mortgage Finance;
- Property Management;
- Rental Assistance; and
- Social Services.

In addition to the five businesses, there is a "Parent Company" that provides centralized support services, allocates resources to the five businesses, and sets policy direction. The role of the HOC Commission is described as the Board of Directors for the Parent Company.

Table 1 (page 10a) outlines HOC's operational structure, and lists the major activities of the Parent Company and each of the five businesses. HOC's FY93 budget reaffirms HOC's basic public mission (originally drafted in 1972), which is to make available housing and services to low income people. The budget contains the following mission statements for each of the five businesses:

Real Estate Development: To develop, acquire, and/or place under control for the long term the maximum number of housing units in Montgomery County which will serve all residents well, while housing a significant number of low income persons in every development.

Mortgage Finance: To raise capital to foster the provision of an increased supply of decent, safe, and affordable rental and ownership housing in Montgomery County. To assure the continued availability of such housing. To generate revenue to benefit the programs of HOC.

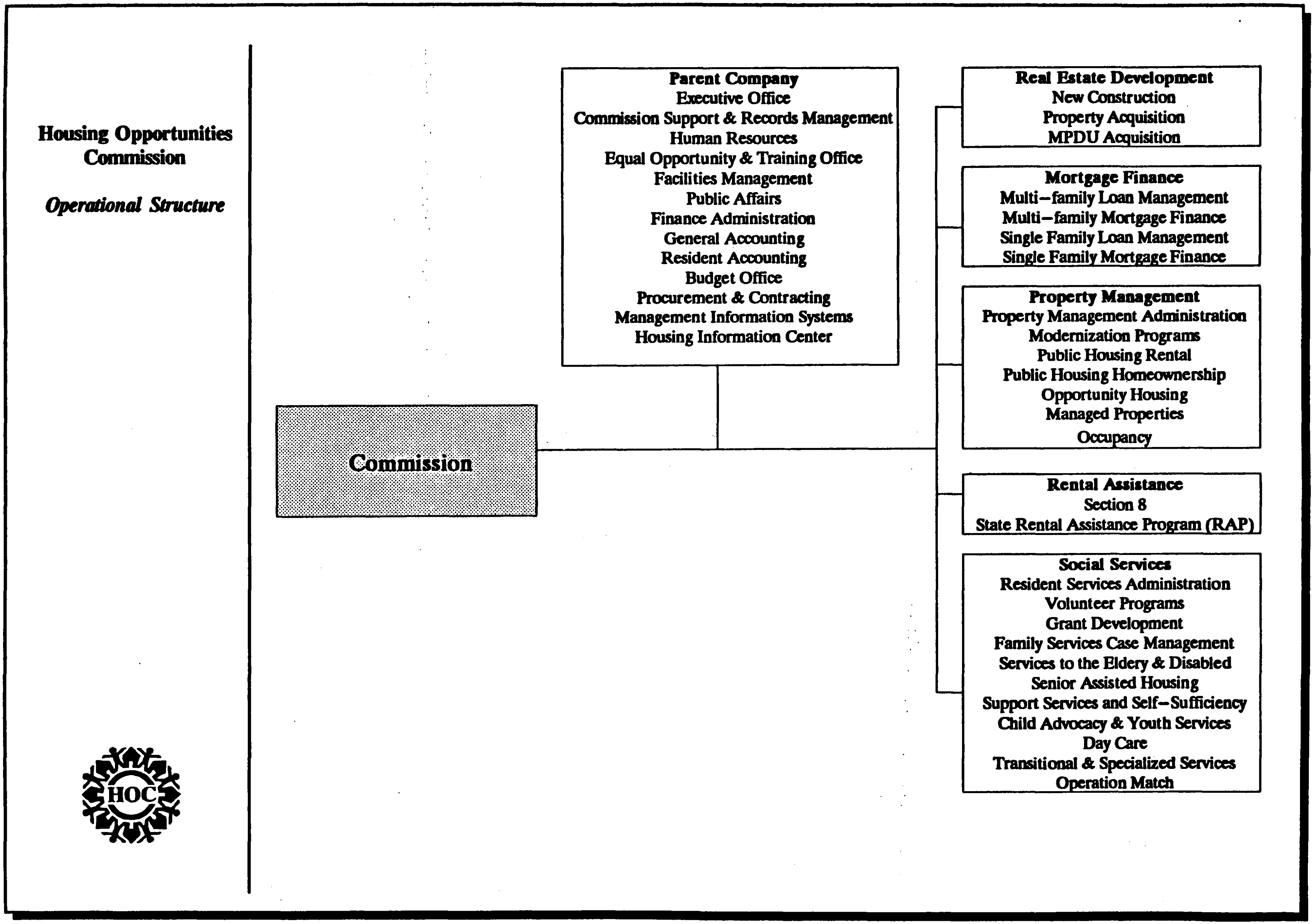
Property Management: To manage the entire spectrum of residential communities so that environmentally they are maintained inside and out at or above community norms; socially they create positive housing environments; and financially they operate within the parameters established by HOC while ever striving to moderate rents for our low-and moderate-income families.

Rental Assistance: To obtain the maximum amount of rental assistance funds offered by Federal, State, and local governments, and provide rental assistance subsidies for eligible low and moderate income households.

Social Services: To provide a range of direct, supportive and or specialized services which help to strengthen individual and family functioning, ensure positive adjustment to housing accommodations, afford opportunities to maximize individual potential and enhance the overall quality of life. To promote and improve the capacity for self-sufficiency, independence, upward mobility, and assimilation into the broader community.

HOC's FY93 budget describes the Parent Company as the "critical link between HOC's mission as a public agency and the operation of the individual entities". Within HOC, the mission of the Parent Company is to provide the individual operations with policy direction and operational support. In addition, the mission of the Parent Company is defined to include advocating for agency programs and providing the public with oversight and accountability.

Table 1



Source: Executive Director's FY94 Recommended Budget.

V. HOC'S CAPITAL DEVELOPMENT AND IMPROVEMENT PLAN

A. Introduction

1. **<u>The Phases of HOC's Development Activities.</u>** The capital development activities of the Housing Opportunities Commission can be divided into four fairly distinct phases over the past 20 years. Each phase reflects external factors in the economic and political environment, as well as the County's housing policy goals:

- Throughout the 1970's, HOC's development activity consisted of federally funded public and assisted housing. In accordance with federal regulations, public housing developments were 100 percent low income, while other developments (e.g., Section 236 projects) were targeted for more moderate income households.

- In the early 1980's, HOC's development activity expanded to issuing tax-exempt mortgage revenue bonds to finance privately owned developments. Each of these privately owned developments included a set-aside of units that, at minimum, met the "public purpose" definitions established by the federal government as a condition for tax-exempt financing. All of these privately owned and managed projects have a tenant mix of at least 20-40 percent low/moderate income households.

- During the mid- to late 1980's, HOC's development activity was primarily characterized by the acquisition of existing apartment buildings, which HOC maintains with a tenant mix of 20-50 percent low income households. HOC's purchases were financed through a combination of HOC bonds, and State and local subsidies. (Bond activity also continued through the mid-1980's).

- Since the late 1980's, the great majority of HOC's development activity has shifted to new construction of mixed income housing projects owned by HOC. These mixed income developments (with 20 to 50 percent low income households) are financed through a combination of HOC bonds, HOC funds, and State and County government subsidies.

Since the late 1970's, HOC has also implemented a policy of acquiring scattered site units. The mechanisms used to finance HOC's purchase of these individual units (primarily Moderately-Priced Dwelling Units) has varied.

2. **<u>Key Factors Influencing HOC's Current Development Plan.</u>** According to HOC staff, the agency's current and planned capital development plan is influenced by the following external factors:

- Deep subsidy dollars (capital and operating) are virtually no longer available;

- Affordable, appropriately zoned land is scarce in the County;

- Private developers are finding it increasingly difficult to develop affordable housing in the County; and

- Communities continue to express concern over the location of affordable housing developments.

During the 1980's, federal funds for development of public housing and other deep subsidy programs was virtually eliminated. According to HOC staff, it is becoming increasingly difficult to obtain any capital or operating subsidy funds from the federal, State, and County governments. In addition to reduced funding for housing subsidies, the availability of affordable land is scarce. Despite the current recession, the high cost of land remains a significant obstacle to the development of affordable housing in the County.

HOC staff cite a number of reasons why private developers have found it increasingly difficult to develop affordable housing. Most significantly, HOC has access to capital not available to the private sector. This is because HOC's ability to issue bonds for HOC-owned developments is not subject to the federally imposed cap on private activity bonds, and because private developers' access to loan funds in the private market has been severely restricted in recent years due to the savings and loan crisis and tighter banking controls.

In addition, even when private loans are available, they are not as highly leveraged as HOC's tax-exempt bonds, which means that the private developer must come up with a significant equity contribution (cash) that is not required of HOC. (HOC can finance up to 100 percent of development costs, while a typical private loan will support no more than 75 percent of costs.) HOC has also benefited from access to equity through public subsidies and unique development opportunities not readily available to private developers. HOC's proposed development over a County parking garage in downtown Bethesda is a good example.

As another factor, HOC staff cite the fact that HOC's feasibility analysis for specific developments views profit in a different light than that of the private sector. While HOC considers profit potential for purposes of creating internal subsidies, the need to achieve profit according to a particular schedule and rate is significantly less than that of a private sector developer.

Finally, the fact that communities continue to express concern over the location of affordable housing developments also has influenced the nature of HOC developments. According to HOC staff, the agency's development experience has demonstrated that mixed income rental properties create less controversy to surrounding neighborhoods than traditional public housing developments.

3. **<u>HOC's Policy Goals and Development of Mixed Income Housing</u>.** HOC's Capital Development and Improvement Plan is an active program with primary emphasis on mixed income housing.* According to HOC staff, HOC's development plans reflect the County's housing policy goals to develop economically and racially integrated housing, and housing projects that result in long-term affordability.

HOC staff characterize the agency's current plans to develop primarily mixed income housing as having the following advantages:

- Is economically feasible;
- Produces integrated housing;
- Produces more total rental units with long-term public control;
- Is more acceptable to surrounding communities;
- Maximizes scarce subsidy dollars, and creates a new source of subsidy;
- Takes advantage of HOC's bond authority and produces fee revenue; and
- Takes full advantage of development opportunities that have been created by the recent recession.

B. How HOC Approaches Individual Development Opportunities

As explained in the previous section, HOC describes its current Capital Development and Improvement Plan as reflecting the County's housing policy goals, as well as a variety of economic and political factors. This section summarizes how HOC approaches individual development opportunities.

According to HOC staff, the first step in HOC's approach to development opportunities is to weigh the proposed project against HOC's basic operating principles, which are:

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* While HOC's current developments are primarily mixed income in nature, staff indicates that there may be circumstances where predominantly lower income developments are proposed.

- To create a positive housing environment for residents and neighbors;

- To be efficient and achieve economies of scale;

- To spread available subsidies over as many units as possible; and

- To use HOC funds sparingly.

For each potential project, HOC conducts an initial feasibility analysis, which is structured to answer questions such as: Will the development produce the kind of units needed? Is it large enough? Is it in an appropriate location? What is the impact on the community? What are the physical constraints? How does it compare to other development opportunities.

If the initial analysis concludes that the potential project is feasible, then HOC invites the community to participate in the development process. Members of the public have the opportunity to participate in a number of different ways, including: formal participation at Commission meetings; input to HOC at community meetings held prior to key decisions are made by the Commission; and informal contact with Commission members and HOC staff. HOC's recently published brochure that outlines public participation in the HOC development process is attached as <u>Appendix A</u> of this report.

HOC's next step is to develop what is known as a "program concept" for the project. The program concept determines the desired income mix for the new development, taking into consideration factors such as community needs and concerns, and the appropriate program mix for creating a positive housing environment for both market and below-market units. Final decisions about the income mix are made by the HOC Commission.

The final step in HOC's development process is to conduct a financial feasibility analysis, which HOC staff describe as an iterative process. The financial feasibility analysis proceeds to answer the following questions:

- What are reasonable assumptions with respect to available subsidies?

- As a result, how much of the capital costs must be financed with bonds?

- Can the desired income mix be achieved?

- Are additional subsidies available?

- What are potential sources for additional subsidies?

- What funds will HOC need to provide and what impact will this expenditure have on future HOC development goals?

- Does the income mix need to change?

- Does the development still meet HOC's public purpose goals?

The rest of this chapter reviews the revenues and expenses associated with HOC's FY93-FY99 Capital Development and Improvement Plan.

C. Summary of HOC's FY93-FY99 Capital Development and Improvement Plan

1. General. HOC's Capital Development and Improvement Plan contains information about the revenue and expenses associated with HOC's approved and planned capital projects, which include:

- HOC's new construction and acquisition of multi-family housing projects;

- HOC's acquisition of Moderately-Priced Dwelling Units (MPDUs); and

- Capital improvements to HOC's existing housing properties and vehicles.

HOC's Capital Development and Improvement Plan represents HOC's overall development objectives, and it is this Plan that establishes the workload and activities of HOC's real estate development and mortgage finance staff. Whether all of the projects actually happen according to the Plan depends upon multiple variables, including the ability of HOC to issue tax-exempt bonds, the availability of subsidy dollars, and the continued use of Opportunity Housing Reserve Funds. As circumstances change, it is the practice of the HOC Commission to review and adjust the Plan.

In October 1992, the Commission adopted HOC's FY94 Strategic Plan, which was an expanded version of HOC's previous planning document, the annual Long Range Plan. The FY94 Strategic Plan adopted a FY93-FY99 Capital Development and Improvement Plan that totaled $432.7 million. In February 1993, the Commission revised the FY93-FY99 Capital Development and Improvement Plan downward from $432.7 million to $296.4 million. This downward revision reduced the projected number of new units (that HOC plans to acquire or construct) over the seven-year period from 4,493 units to 3,014 units.

The numbers used throughout this OLO report are based upon the revisions to the FY93-FY99 Capital Development and Improvement Plan, as adopted by the Commission in February 1993. These numbers are consistent with the Executive Director's Recommended FY94 Budget for HOC, which was transmitted to the County Council on March 15, 1993. Two summary tables of the earlier Capital Development and Improvement Plan adopted by the Commission as part of the FY94 Strategic Plan in October 1992 are attached as Appendix B of this report.

As adopted by the Commission in February 1993, HOC's FY93-FY99 Capital Development and Improvement Plan totals $296.4 million. The projected sources of revenue for this program are summarized on Table 2 (page 15a) and

Table 2

HOC Capital Development and Improvement Plan: Sources of Funding
FY93–FY99
(In millions)

Sources of Funding:	Approved Projects* Amount	Approved Projects* % of Total	Planned Projects Amount	Planned Projects % of Total	Total Plan Amount FY93–FY99	Total Plan % of Total FY93–FY99
I. NEW DEVELOPMENT AND ACQUISITION						
A. Debt						
Tax-Exempt Mortgage Revenue Bonds:	$58.9	74%	$141.2	65%	$200.1	68%
B. Subsidies/Loans/Grants						
a. County Government	3.0	4%	2.1	1%	5.1	2%
b. State Government	3.1	4%	16.6	8%	19.7	7%
c. Federal Government	4.8	6%	11.9	5%	16.7	6%
d. Private Funds**	2.8	4%	16.7	8%	19.5	7%
C. HOC Funds						
Opportunity Housing Reserve Funds:	3.3	4%	13.0	6%	16.3	5%
Total New Development and Acquisition FY93 – FY99:	**$75.9**	**96%**	**$201.5**	**93%**	**$277.4**	**95%**
II. IMPROVEMENTS						
a. Federal						
Public Housing Improvement Funds:	$2.2	3%	$9.8	4%	$12.0	4%
b. HOC Funds						
Opportunity Housing Prop. Reserves:	1.0	1%	6.0	3%	7.0	2%
Total Improvements FY93 – FY99:	**$3.2**	**4%**	**$15.8**	**7%**	**$19.0**	**6%**
III. TOTAL DEVELOPMENT/IMPROVEMENT PLAN, FY93 – FY99:	**$79.1**	**100%**	**$217.3**	**100%**	**$296.4**	**101%*** **

* An HOC project is considered approved when building or purchase contract has been signed by the Commission.
** These represent private funds associated with HOC's Tax Credit Partnerships.
*** Percent does not equal 100 due to rounding.

Source: HOC's Budget Staff, March 1993.

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the projected uses are summarized on Table 3a (page 16a). The tables summarizing HOC's capital development plans distinguish between the $79.1 million of "approved projects", which are projects for which the Commission has entered into a purchase or building contract; and the $217.3 million in "planned projects", which are projects that do not yet have binding contracts. Approved projects represent approximately 27 percent of HOC's FY93-FY99 Capital Development and Improvement Plan, while planned projects constitute the remaining 73 percent.

HOC's Capital Development and Improvement Plan does not include private activity bonds issued by HOC, or bonds issued for HOC's Single-Family Mortgage Purchase Program. According to HOC staff, these bond activities are not considered part of HOC's Capital Development and Improvement Plan because they are used to finance properties not owned by HOC, and HOC's capital budget would be distorted if the debt service for these bonds was included.

As outlined in Table 2, HOC projects that the agency's approved and planned new development and acquisition projects will be funded as follows:

- Tax-exempt mortgage revenue bonds issued by HOC will provide $200.1 million, or approximately 68 percent of the total funding;
- The County Government will provide $5.1 million, or two percent of the total funding;
- The State will provide $19.7 million, or seven percent of the total funding;
- The Federal government will provide $16.7 million, or six percent of the total funding;
- Private funds (generated through the federal low income tax credit program) will provide $19.5 million, or seven percent of the total funding; and
- HOC's own Opportunity Housing Reserve Fund (OHRF) will provide $16.3 million, or five percent of the total funding.

The $19 million allocated for HOC's improvement program is projected to come from a combination of Federal funds ($12 million), and HOC's own Opportunity Housing Property Reserves ($7 million).

Comparing HOC's approved and planned projects indicates that tax-exempt bonds are projected to remain the largest source of revenue. Comparatively, as a percent of the total, County and federal funds are expected to decline, while State and private funds are projected to increase. The contribution of HOC funds is also projected to increase as a percent of total revenue.

Table 3a (page 16a) summarizes the allocation of funds by major category in HOC's FY93-FY99 Capital Development and Improvement Plan. Table 3b (page 16b) lists the approved and planned projects by name and category. The data indicate:

Table 3a

HOC Capital Development and Improvement Plan: Use of Funds
FY93–FY99
(In millions)

Use of Capital Funding	Approved Projects* Amount	Approved Projects* % of Total	Planned Projects Amount	Planned Projects % of Total	Total Plan Amount FY93–FY99	Total Plan % of Total FY93–FY99
Total Number of Units:	817		2,197		3,014	
I. MULTI-FAMILY DEVELOPMENT						
A. New Construction	$59.2	75%	$146.2	67%	$205.4	69%
B. Acquisition of Existing Property	9.4	12	22.6	10	32.0	11
Total Multi-Family Develop FY93-99:	**$68.6**	**87**	**168.8**	**77**	**$237.4**	**80**
II. PURCHASE OF MPDUs	**$ 7.3**	**9**	**$32.7**	**15**	**40.0**	**13**
III. IMPROVEMENTS						
A. Public Housing Improvements	$ 2.2	3	$9.8	5	$12.0	4
B. Opportunity Housing Improvements	1.0	1	6.0	3	7.0	2
Total Improvements FY93-99:	**$ 3.2**	**4**	**$15.8**	**8**	**$19.0**	**6**
III. TOTAL USE OF FUNDING FY93-99:	**$79.1**	**100%**	**$217.3**	**100%**	**$296.4**	**99%****

* HOC considers projects approved once a purchase or building contract has been signed by the Commission. Planned Projects does not include unknown new developments and existing property acquisition.

** Percent does not equal 100 due to rounding.

Source: HOC Budget Staff, March 1993.

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Table 3b

HOC Estimated Unit Production
FY93–FY99

HOC Development	FY93	FY94	FY95	FY96	FY97	FY98	FY99	Total Units FY93–FY99
Alexander House	311							311
Blair Road			29					29
Brooks Farm			18					18
Brookside Glen(Jones Lane)			90					90
Existing Prop. Acquisition		250	250					500
Garage 49			176		132			308
Hallowell			60					60
Kensington/Sunrise	165							165
Montgomery Arms	132							132
New Developments				300	135			435
Oakridge/Damascus				117				117
Pooks Hill New Construction			50					50
The Oaks at Four Corners		120						120
White Flint North			200					200
MPDU Rental	2	2	2	2	2	2	2	14
Public Housing (AWOR)	61	29	30	23				143
State Partnership Rental	6	12	18	20	20	20	20	106
Tax Credit V-VI & new	20	22	15	20	43	43	43	192
Total Estimated Units	**697**	**435**	**938**	**482**	**332**	**65**	**65**	**3,014**

Source: HOC's FY94 Executive Director's Recommended Budget.

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- The largest allocation of funds, $237.4 million (80% of total) is for HOC's multi-family development projects, of which $205.4 million is for new construction and $32 million is for the acquisition of existing multi-family properties;

- An additional $40 million (13% of total) is allocated for the purchase of MPDUs; and

- The remaining $19 million (6% of total) is allocated for improvements that will be made to HOC's public housing and Opportunity Housing properties.

Comparing HOC's approved and planned projects shows that, as a percent of total expenditures, HOC plans to spend a lower percent of total funds on the new construction and acquisition of multi-family properties, and a somewhat higher percent of total funds on the purchase of MPDUs. The percent of funds allocated to improvements is projected to increase from four to eight percent of total funding.

2. Who HOC Serves. All projects owned and/or managed by HOC have a legally imposed number of public purpose units, which are defined as units with rents that are affordable to low or moderate income households. The specific public purpose requirements in a particular property are usually dictated by the funding source(s), and are endorsed formally by the HOC Commission. In most cases, HOC is able to exceed the minimum public purpose requirements, either by providing additional below market units or serving households that have incomes below the legal maximums.

Table 4a (page 17a) divides the stock of units that HOC owns and/or manages into three categories: Public Housing, Opportunity Housing, and Managed Properties. Table 4a indicates the income limits of all units owned and/or managed by HOC in FY92, and shows the income limits of the stock that HOC plans to own and/or manage by FY99. The data indicate that during the next seven years, HOC expects to almost double the total number of units that the agency owns and/or manages from 3,293 units to 6,307 units.

At present, HOC's 1,394 units of Public Housing represents 42 percent of HOC's stock. According to federal requirements, all Public Housing residents must have household incomes below 50 percent of area median. Over the next seven years, HOC expects to acquire an additional 143 units of public Housing. As a percent of HOC's total stock, Public Housing is expected to decline from 42 to 25 percent.

HOC's program guide defines "Opportunity Housing" as a "catch-all term to refer to HOC's properties which are affordable to the County's moderate and lower income households." The term Opportunity Housing applies to entire projects as well as scattered site properties. Table 4a divides HOC's Opportunity Housing stock into four categories, according to the income limits placed on the units. The data indicate that:

Table 4a

Income Limits of Units Owned/Managed by HOC
FY92 - FY99

	FY92 Total Units	Percent of Total Units	FY99 Total Units	Percent of Total
A. Public Housing Units*	**1,394**	**42%**	**1,537**	**25%**
B. Opportunity Housing	**1,016**	**31%**	**3,678**	**58%**
a. Maximum Income Limits As Percentage of Area Median Income				
Below 34%	621	19%	1,203	19%
34% - 60%	338	10%	1,014	16%
61% - 80%	15	1%	582	9%
b. Market Rate Units (no restrictions)	39	1%	879	14%
C. Managed Properties**	**886**	**27%**	**1,092**	**17%**
a. Section 236	486	15%	486	8%
b. Tax Credit Partnerships	210	6%	416	7%
c. Other***	190	6%	190	3%
D. Total HOC owned/managed units:	**3,293**	**100%**	**6,307**	**100%**

* 100 percent of Public Housing units must be rented to households with incomes less than 50 percent of the area median income.

** Section 236 units must be rented to households with incomes below 65 percent of the area median; Tax Credit Partnership units must be rented to households with incomes below 60 percent of area median.

*** Magruder's Discovery, Edinburgh and Jessup Blair Properties.

Source: HOC Budget Staff, March 1993.

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- The number of Opportunity Housing units affordable to households with incomes below 34 percent of the area median income (currently $20,000) will increase from 624 units to 1,203 units, and will continue to constitute approximately 19 percent of HOC's stock.

- The number of Opportunity Housing units affordable to households with incomes between 34 and 60 percent of area median (currently, $20,000-$35,500) will triple from 338 to 1,014 units, and will increase from 10 percent to 16 percent of HOC's stock.

- The number of Opportunity Housing units affordable to households with incomes between 61 and 80 percent of area median (currently $35,500-$47,360) will increase from 15 units to 582 units, and will grow from one percent to nine percent of HOC's total stock.

- The number of Opportunity Housing units that can be rented at market rates will increase from 39 to 879 units. As a percent of HOC's total stock, market rate units will increase from one to 14 percent.

The 886 units that HOC currently manages (but does not own) currently constitute approximately one-fourth of HOC's stock. About half of these are Section 236 projects (Leafy House, Town Center, Bauer Park, and Camp Hill Square), which were federally funded projects constructed in the 1970's. The other half include HOC's Tax Credit Partnership units, and three unique developments that HOC has become involved with (Magruder's Discovery, Edinburgh, and Jessup Blair). Over the next seven years, HOC expects to add another 206 Tax Credit Partnership units. As a percent of HOC's total stock, the number of units managed (but not owned) by HOC is projected to decline from 27 to 17 percent.*

Table 4b (page 18a) summarizes the incomes of households that HOC actually serves and projects to serve over the next seven years. As noted earlier, in most cases, HOC is able to exceed the legally established public purpose requirements. The data in Table 4b indicate that:

- In FY92, approximately three-fourths of the total number of units owned and/or managed by HOC serve households with incomes below 34% of median income (currently $20,000). Over the next seven years, HOC expects to add another 725 units to this category. By FY99, the number of HOC units rented to very low households is projected to be approximately half of HOC's stock.

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* Section 236 units must be rented to households with incomes below 65 percent of area median income; Tax Credit Partnership units must be rented to households with incomes below 60 percent of area median income.

Table 4b

Number of Households Served by HOC by Income Level
FY92-FY99

Household Incomes:*	Actual FY92	Budget FY94	Projected FY97	Projected FY99
Below 34% of median	2,539	2,787	3,224	3,264
35 to 60% of median	692	1,137	1,484	1,574
61 to 80% of median	23	278	590	590
Over 81% of median	39	223	879	879
TOTAL:	3,293	4,425	6,177	6,307

* As of April 1992, the area median income of the Washington Metropolitan Statistical Area was $59,200; 34 percent of the area median income was $20,000; 60 percent of the area median income was $35,500; 80 percent of the area median income was $47,360.

Source: HOC Budget Office, March 1993.

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- In FY92, only 39 (1.2%) of the units owned and/or managed by HOC were market rate units. Over the next seven years, the number of HOC's market rate units is projected to increase to 879, which in FY99, will represent 14 percent of HOC's stock.

- In FY92, 692 (21%) of the units owned and managed by HOC served households with incomes between 35-60 percent of median income (currently between $20,000 and $35,500). This number is projected to more than double over the next seven years to 1,574 units, which in FY99, will represent 25 percent of HOC's stock.

- In FY92, only 23 (less than 1%) of the units owned and managed by HOC served households with incomes between 61-80 percent of median (currently $35,500 to $47,360). This number is projected to increase significantly to 590 units, which in FY99, will represent nine percent of HOC's stock.

The following sections review in greater detail the sources and uses of funds in HOC's Capital Development and Improvement Plan. Because of its paramount importance to HOC's capital development, the first funding source discussed is HOC's issuance of tax-exempt bonds. The discussion of tax-exempt bonds is followed by a review of the various subsidy, grant, and loan programs of the Federal, State, and County governments, and an explanation of HOC's Opportunity Housing Reserve Fund. This chapter concludes with a review of funds available for HOC's property improvements.

D. HOC's Issuance of Tax-Exempt Bonds

1. HOC's Authority to Issue Tax-Exempt Bonds. State and local housing finance agencies, such as HOC, issue two types of revenue bonds: single-family bonds and multi-family bonds.* Single-family bonds are sold to fund mortgages made to qualified purchasers of single family-homes. Multi-family bonds are sold to fund mortgages for the purchase and development of qualified multi-family rental properties. Interest rates on both types of mortgages are significantly below the interest rates on comparable conventional mortgages since issuers pay a lower rate to bond holders due to the tax-exempt status of the bonds.

The purpose of the tax exemption and lower interest rates is to help make both homeownership and rental housing more affordable to low and moderate income households. The tax-exempt status carries a host of restrictions regarding qualified buyers, properties, and renters. For example, in return for providing below market interest rate loans for rental properties, HOC requires developers to provide a percentage of units for low and moderate income households, and to maintain the properties as rental for a number of years.

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* Mortgage revenue bonds are payable and secured by the revenues from the projects that the bonds finance. This differs from general obligation bonds, which are secured by the full faith and credit of the government issuer.

As reviewed in the background section, prior to 1974, the Housing Authority of Montgomery County was authorized to issue tax-exempt mortgage revenue bonds to finance its own developments. The 1974 legislative changes that created the Housing Opportunities Commission allow HOC to issue mortgage revenue bonds for additional purposes. Specifically, HOC was authorized, in accordance with local law or a contract with the County, to issue bonds to finance mortgage loans for persons of eligible income, or to finance multi-family construction projects that provide a certain number of affordable units.

At the County level, the Housing Opportunities Act outlines an expanded housing mission for the County, and authorizes the County to enter into contracts with HOC to carry out its opportunity housing powers. With respect to bonds, the Housing Opportunities Act authorizes HOC to "issue bonds or borrow money under other obligations from time to time at Montgomery County's discretion, in order to carry out the purposes stated in this Article.*

In practice, the County has entered into an annual grant contract with HOC that includes explicit language authorizing HOC to undertake the County's opportunity housing duties and responsibilities. The scope of services section of the contract describes HOC's Opportunity Housing program to include the issuance of bonds for certain activities. The following excerpt from the FY93 contract between HOC and the County Government contains the key language that authorizes HOC to issue bonds for the Opportunity Housing program:

> <u>Opportunity Housing</u>: This program will produce, finance and market opportunity housing for eligible persons. These activities will include but not be limited to: the issuance of bonds to finance the making or purchasing of mortgage loans for persons of eligible income; market and finance "Housing Projects for Persons of Eligible Income" as defined in Article 44A of the Annotated Code of Maryland in which a substantial portion of the accommodations (as determined by the County Executive) are intended to be occupied by persons of eligible income, and to issue bonds to finance such housing projects.**

2. <u>Multi-family Mortgage Revenue Bonds: Essential Purpose vs. Private Activity Bonds</u>. HOC is one of the most active local issuers in the country. Since 1979, HOC has issued about one billion dollars of bonds and currently has over 750 million dollars of bonds outstanding. HOC has been one of the few local issuers that has remained active since 1986 when the federal government placed a limit on the volume of private activity bonds issued within a state.

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* This general authority for HOC to issue bonds is separate from the County's authority to back up to $50 million of HOC bonds with the full faith and credit of the County. See page 23 for more details on the County-Backed Bond CIP Project.

** 1992 Agreement between Montgomery County and HOC, Attachment I, <u>Scope of Services and Reporting Requirements</u>.

HOC issues two types of multi-family bonds:

- Essential Purpose Bonds, which are used to finance multi-family development projects that HOC will own; and
- Private Activity Bonds, which are used to finance multi-family development projects owned by private or non-profit developers.

As shown on Table 5 (page 21a), between January 1979 and July 1992, HOC issued $534 million in tax-exempt multi-family mortgage revenue bonds. These bonds financed the construction or acquisition of 9,157 units, of which 8,180 (89%) are owned by private and non-profit developers. The remaining 977 units (11%) are owned by HOC.

All developments financed by tax-exempt bonds and owned privately or by non-profit groups must, at minimum, meet the "public purpose" requirements established by the federal government. Over the years, the federal government has modified the public purpose requirements that serve as a condition for tax-exemption. The current limit for use of tax-exempt bonds for privately-owned properties requires that 20 percent of the units must be affordable to residents with incomes at or below 50 percent of the area median income, or 40 percent of the units must be affordable to residents with incomes at or below 60 percent of the area median income. For non-profit owned properties, 50 percent of the units must be affordable to residents with incomes at or below 80 percent of the area median income. The area median income is based on a family of four and is reduced for smaller size families.

Although the federal public purpose requirements do not apply to HOC-owned developments financed by tax-exempt bonds, the State requires that in developments financed by tax-exempt bonds: 20 percent of the units must be affordable to persons at Section 8 income limits; or 50 percent must be affordable to "persons of eligible income", as defined by the County Executive.

The final decisions on the public purpose mix for all developments financed by HOC bonds (both private activity and essential bonds) are made by the HOC Commission. Table 6 (page 21b) shows the income limits of the 9,739 units financed by HOC between 1982-1992. The data indicate that 3,003 (30,8% of total units) are public purpose units, and the remaining 6,736 units (69.2%) can be rented as market rate units.

The ability of local housing authorities to finance privately-owned developments has been curtailed since 1986, when the federal government first placed an annual cap on the amount of private activity tax-exempt mortgage revenue bonds that can be issued. Each year, Congress sets the numerical cap, which is then allocated among the states. In Maryland, the State Department of Economic and Employment Development (DEED) then allocates the cap among local jurisdictions. Technically, the County Government passes the County's private activity bond cap on to HOC. The County's cap on private activity bonds has been approximately $12.2 million each year since 1986. (The formula used to allocate the cap is described in State law.)

Table 5

Summary of HOC Multi-Family Bond Activity
January 1, 1979 - July 1, 1992
(In $000's)

A. Multi-family Bonds Issued by HOC	**Amount**	**Number of Units**	**Number of Properties**
Private Activity Bonds	$454,999	8,180	33 (owned by private and non-profit developers)
Essential Activity Bonds	79,237	977	12 (owned by HOC)
Total:	**$534,236**	**9,157**	**45**
B. Other Multi-family Financing			
For Private & Non-Profit Projects	$ 8,404	416	4
For HOC Owned Projects	4,902	166	4
Total Other Financing	**$13,306**	**582**	**8**
C. Multi-Family Loans Paid	**$13,700**	**337**	**3**
D. Total Multi-family Bond and Other Financing	**$561,242**	**10,076**	**56**

Source: HOC's FY93 Adopted Budget.

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Table 6

Income Limits of Multi-Family Units Financed
January 1979 - July 1992

A. Public Purpose Units

Maximum Income Limits as Percentage of Area Median Income	HOC Units*	Private/ Non-Profit Units	Total Units	As Percent of Total Units Financed by HOC
Below 20%	66	0	66	.7%
30% - 60%	76	225	301	3.1%
Section 8	265	825	1,090	11.1%
50% - 80%	524	1,022	1,546	15.9%
Total Units with Public Purpose Requirements:	**931**	**2,072**	**3,003**	**30.8%**
B. Market Rate Units (No income limits):	212	6,524	6,736	69.2%
Total Units:	**1,143**	**8,596**	**9,739**	**100.0%**

* Includes financing of Alexander House and Sunrise at Kensington Park which will not be under management until FY94.

Source: HOC's FY93 Adopted Budget

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There is no federally imposed limit on the amount of essential bonds (bonds used to finance HOC-owned developments), but there is a State cap of $150 million on bonds issued per year for developments that will be owned by non-profit corporations. As outlined earlier in this chapter, HOC's FY93-FY99 Capital Development and Improvement Plan relies heavily upon the issuance of essential purpose bonds. Over the next seven years, HOC's projects that $200.1 million, or approximately 68 percent of the total $296.4 million plan, will be funded through the issuance of multi-family mortgage revenue bonds.

The federal Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 imposes a number of community process requirements as a condition to issuing private activity tax-exempt bonds.* In particular, TEFRA requires that a public hearing be held at which interested parties are given a reasonable opportunity to state their views concerning the issuance of the private activity bonds. The public hearing can be held either by a representative of the County or HOC, and there must be a minimum of 14 days notice of the hearing published in a local newspaper.

After the public hearing is held, TEFRA requires that the issuance of the private activity bonds be approved by one of the following:

- The County Executive; or
- The County Council; or
- Any elected official of the County who has been designated by the chief elected executive officer to approve tax-exempt issues; or
- By voter referendum of the County.

In practice, an HOC staff member is usually designated as the Hearing Officer to hold the required TEFRA public hearing for each private activity bond issue. A written report of the hearing is provided to the Housing Opportunities Commission and the County Executive. Following receipt of the public hearing findings, the County Executive (as the chief elected executive officer of the County) signs a resolution stating the "Public Approval of Bonds Pursuant to Section 147(f) of the Internal Revenue Code of 1986".

3. **Credit Enhancement: The Maryland Housing Fund and the County Guaranteed Bond Project**. HOC's tax-exempt bonds are generally rated by one of the national municipal bond rating services, such as Moody's Investors Service. Because bonds that are insured are a more secure investment, insured bonds receive a higher rating, and can therefore be sold at a lower interest rate.

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* TEFRA's community process requirements do not apply to essential bonds. According to HOC's bond counsel, essential bonds are assumed to have a public purpose because, by definition, essential bonds are issued to finance a government-sponsored project. See Appendix A for HOC's brochure that describes public participation in HOC's development process.

Almost all of HOC's private activity bonds are insured by the Maryland Housing Fund, the Federal Housing Administration, or some other municipal bond insurer, e.g., insurance company, bank. Most of HOC's essential bonds are insured by the Maryland Housing Fund, with a limited number insured by the County Government. Several of HOC's essential bond issues are partially uninsured, such as the bonds issued to finance Alexander House. Sunrise at Kensington Park is the only HOC project that was financed entirely with uninsured bonds.

Both the State (through the Maryland Housing Fund) and the County Government (through the County-Guaranteed Bond Project) provide HOC with a means of credit enhancement, which enables HOC to obtain a lower interest rate on its tax-exempt bonds. These two means of credit enhancement are discussed below.

The Maryland Housing Fund. The Maryland Housing Fund (MHF) is created in State law (Article 83B). The Fund is intended to encourage the flow of private investment into multi-family and single-family housing through insuring qualified lenders against default from mortgage loans. MHF insures mortgage loans made by the State Community Development Administration, as well as local public housing authorities and some private lending institutions.

The MHF has limits on the amount it will insure, and the current limit is $12.95 million per project. The MHF charges an insurance premium, which is calculated as one-half of one percent of the total bond issue. For example, the insurance premium on a $10 million bond issue would be $50,000. HOC's premium payments to the MHF appear as a cost in each of the individual property budgets.

According to HOC staff, the ability of the MHF to insure all of HOC's planned projects has recently come into question. The Fund's reserves necessary to cover project defaults have declined in recent years, and the Fund's capacity to insure mortgage loans may be more limited in the future. HOC staff are currently in the process of exploring alternative approaches to providing credit enhancement for future bond issues.

County-Guaranteed Bond Projects. As reviewed in the background section, State law was amended in 1977 to allow Montgomery County to guarantee the principal and interest on bonds issued by HOC. In accordance with State law, separate County legislation was enacted in 1978 to detail the process that must be followed when HOC bond (County Code Chapter 20, Article VI) are backed by the full faith and credit of the County.

County law requires that decisions on whether to provide a County bond guarantee must be made by the County Council and County Executive on a case by case basis. The monetary limit on the total amount of bonds issued by HOC that can be guaranteed by the County was originally set in 1977 at $10 million. This limit was increased in 1982 to $25 million, and in 1988 was increased again to $50 million.

The County Government's Capital Improvement Program (CIP) contains a Project Development Form (PDF) titled the County-Guaranteed Bond Projects. This PDF tracks the principal amounts of the bonds issued by HOC that received a County bond guarantee. Between FY85 and FY89, County bond guarantees totalling $18.5 million were used for five developments that were of special interest to the County: Oaks at Four Corners, Magruder's Discovery, Spring Gardens, Chevy Chase Lake South, and Fairfax Court. (See Table 7, page 24a). No HOC project has received a County Government bond guarantee since FY89, and $31.5 million of the $50 million guarantee limit remains.

4. Multi-family Bond Fee Revenue. There are three kinds of fees that HOC collects related to its multi-family bond activity: application fees, commitment fees, and loan management fees.

HOC charges an upfront application fee of $5,000 to private and non-profit developers who apply to HOC for financing by tax-exempt mortgage revenue bonds. The application fee is later subtracted from the loan commitment fee (calculated as one percent of the bond issue) that is collected at the time of bond closing.

HOC documents use the terms "commitment fee" and "development fee" interchangeably. The commitment or development fee is the general fee that HOC collects for issuing multi-family mortgage revenue bonds. Similar to "points" charged by private financial institutions, the commitment fee is calculated as a percent of the total bond issue. In addition to a commitment fee, HOC charges private and non-profit developers an annual loan management fee during the term of the public purpose requirements of the loan.

Table 8 (page 24b) summarizes the total revenue that HOC collected in multi-family commitment fees and multi-family loan management fees between FY86 and FY92. The data indicate that, during this time period, HOC's multi-family bond activity yielded approximately $7 million in fee revenue. Part of the revenue collected was used to support HOC's operating budget; the other part was deposited in HOC's Opportunity Housing Reserve Fund.

The remainder of this section discusses in more detail the collection and allocation of multi-family commitment and loan management fee revenue.

Multi-family Commitment Fees. HOC's multi-family commitment fee structure varies between essential purpose bonds (used to finance HOC-owned developments) and private activity bonds (used to finance private or non-profit owned developments). The use of commitment fee revenue also varies depending upon the type of bond issued.

HOC charges private and non-profit developers a one percent commitment fee, which according to HOC staff, is competitive with the fees charged by the State's Community Development Administration. For example, the commitment fee for a $10 million private activity bond issue is $100,000. The commitment fee revenue collected on private activity bonds is used as a funding source for HOC's operating budget, and in particular to support HOC's real estate development and mortgage finance activities.

Table 7

County-Guaranteed Bond Projects
FY85 - FY93

Fiscal Year	Bond Amount Guaranteed	Projects Financed
1985	$4,120,000	Oaks at Four Corners
1986	5,740,000	Magruder's Discovery
1987	0	
1988	0	
1989	8,640,000	Spring Gardens Chevy Chase Lake South Fairfax Court
1990	0	
1991	0	
1992	0	
1993*	0	
Total FY85-FY93	**$18,500,000**	
Amount Remaining of $50 Million Limit:	**$31,500,000**	

* Through December 31, 1992.

Source: Approved County CIPS, FY85 - FY93.

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Table 8

Multi-Family Commitment and Loan Management Fee Revenue FY88-FY92 (In $000's)

Fiscal Year	Multi-Family Commitment Fees	Loan Management Fees	Total Fee Revenue
1988	$422	$816	$1,238
1989	260*	789	1,049
1990	104	804	908
1991	1,380	806	2,186
1992	927	917	1,844
Total FY88-FY92:	**$3,093**	**$4,132**	**$7,225**

Note: Commitment/Development fee data are from HOC's budget documents and FY94 Strategic Plan. All fees are directly related to HOC's multi-family bond activity except for approximately $21,000/year, which represents development fees from HOC's Tax Credit Partnerships and fees charged for HOC's review of affordable housing development plans proposed for exceptions for the Annual Growth Policy.

Source: HOC Budget Staff, March 1993.

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HOC collects a two percent commitment fee on essential purpose bonds. For example, the commitment fee for a $10 million essential purpose bond issue is $200,000. Half of the commitment fee revenue collected from essential purpose bonds goes into HOC's operating budget to support staff costs associated with development and mortgage finance. The other half is deposited into HOC's Opportunity Housing Reserve Fund (OHRF) to fund future development of affordable housing.

According to HOC staff, estimating commitment fee revenue is one of the agency's most difficult budget tasks. Because HOC's actual receipt of commitment fee revenue depends upon the timing of major financings, the amount received each year can fluctuate significantly. For purposes of budgeting commitment fees as a more stable revenue source, HOC staff use a formula that projects an annual average of the commitment fee revenue expected to be available to support HOC's operations. Based upon quarterly budget updates, the Commission decides how to allocate any excess commitment fees or how to adjust the budget if the amount of commitment fee collected turns out to be less than the amount budgeted.

Table 9 (page 25a) contains data about actual and budgeted commitment fee revenue for the past five fiscal years (FY88-FY92), and Table 10 (page 25b) shows HOC's projected and budgeted commitment fee revenue for FY93-FY97. Each table shows the allocation of commitment fee revenue between HOC's operating budget and the OHRF. The data on Table 9 indicate that between FY88 and FY92, multi-family commitment fees yielded HOC a "net" revenue of approximately $1.2 million; specifically, between FY88 and FY92:

- The amount of multi-family commitment fee revenue collected was $202,000 more than budgeted in HOC's operating budget. (This represents the fee revenue generated from private activity bonds plus half of the commitment fee generated from essential bonds; the actual receipt of these funds varies so greatly year-by-year that the Commission uses a rolling average to determine how much to include in its operating budget.)

- HOC deposited $963,000 of commitment fee revenue into the OHRF for support of individual capital development projects. (This represents the other half of fee revenue generated from the issuance of essential bonds.)

Table 10 shows HOC's projected and budgeted use of commitment fee revenue for FY93-FY97. Based upon an assumption that HOC's approved and planned development projects move forward as planned over the next five fiscal years, HOC's Capital Development Plan projects that HOC will collect $6.5 million in commitment fees, of which $3.9 million will be used to support HOC's operating budget and $2.3 million will be deposited in the OHRF. However, as shown on Table 10, the Strategic Plan budgets a substantially lower estimate of $2.6 million in commitment fee revenue for use in HOC's operating budget.

Table 9

Use of Multi-Family Commitment Fee Revenue
FY88 - FY92
(In $000's)

Fiscal Year	Allocated to HOC's Operating Budget* (A) Actual	(B) Budgeted	(C) Actual vs Budgeted	(D) OHRF**	(C) + (D)
1988	317	361	(44)	105	61
1989	298	345	(47)	307	260
1990	104	550	(446)	0	(446)
1991	1,019	513	506	361	867
1992	737	504	233	190	423
Total FY88-FY92:	**$2,475**	**$2,273**	**$202**	**$963**	**$1,165**

* Represents the 1% commitment fee collected on private activity bonds plus half (1%) of the commitment fee revenue collected on essential purpose bonds.

** Represents half (1%) of the commitment fee revenue collected on essential purpose bonds that is deposited in the Opportunity Housing Reserve Fund.

Note: Commitment/Development fee data are from HOC's Budget document and FY94 Strategic Plan. All fees are directly related to HOC's multi-family bond activity except for approximately $21,000/year, which represents development fees from HOC's Tax Credit Partnerships and fees charged for HOC's review of affordable housing development plans proposed for exceptions for the Annual Growth Policy.

Source: HOC Budget Staff, March 1993

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Table 10

Use of Projected Multi-Family Commitment Fee Revenue
FY93 - FY97
(In $000's)

	Allocated to HOC's Operating Budget*				
Fiscal Year	**(A)Projected**	**(B)Budgeted**	**Projected (C)vs.Budgeted**	**(D)OHRF****	**(C) + (D)**
1993***	$ 668	$706	($ 38)	$269	$231
1994	1,186	675	511	619	1,130
1995	1,087	546	541	660	1,201
1996	560	334	226	133	359
1997	427	311	116	0	116
Total FY93-FY97:	**$3,928**	**$2,572**	**$1,356**	**$2,287**	**$3,037**

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* Represents the 1% commitment fee collected on private activity bonds plus half (1%) of the commitment fee revenue collected on essential purpose bonds.

** Represents half (1%) of the commitment fee revenue collected on essential purpose bonds that is deposited in the Opportunity Housing Reserve Fund.

*** FY93-FY97 data are projected.

Note: Commitment/Development fee data are from HOC's FY94 Strategic Plan. All fees are directly related to HOC's multi-family bond activity except for approximately $21,000/year, which represents development fees from HOC's Tax Credit Partnerships and fees charged for HOC's review of affordable housing development plans proposed for exceptions for the Annual Growth Policy.

Source: HOC's FY94 Executive Director's Recommended Budget, March, 1993.

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In 1992, the Commission requested HOC staff to re-examine the use of commitment fees for operations. As will be discussed in Chapter VI of this report, commitment fees are one of four sources of funding for HOC's multi-family development and mortgage finance activities. (The other three funding sources are: multi-family bond proceeds, surplus multi-family bond funds, and a grant from the County Government.) The HOC's staff's analysis concluded that in FY93, the total costs (both direct and indirect) for multi-family development and multi-family mortgage finance activities that are not funded from one of the three other funding sources totalled approximately $775,000. Although the FY93 budgeted amount of commitment fee revenue allocated to HOC's operating budget was only $705,660, the Commission decided that the deficit was not significant enough to change the current way that the agency budgets for commitment fees used in the operating budget.

Multi-family Loan Management Fees. HOC charges private and non-profit developers an annual loan management fee of .25 percent (one fourth of one percent) of the loan amount for the life of the loan. For example, the annual loan management fee on a $10 million loan is $25,000. As of July 1992, HOC had 36 outstanding private activity loans totalling $500 million. The FY93 budget shows that this year HOC will collect approximately $949,000 in multi-family loan management fees.

In part, HOC uses multi-family loan management fee revenue to cover HOC staff costs related to the ongoing monitoring of the loans. The remaining multi-family loan management fee revenue is identified in HOC's operating budget as "excess" or "unrestricted" loan management fees, and is a source of revenue used to support other HOC operations.

Table 11 (page 26a) shows the loan management fee revenue collected by HOC between FY87 and FY92, and HOC's projections for FY93-FY96. The table also shows the annual multi-family loan management staff costs. The balance column indicates the amount of excess (or unrestricted) loan management fee revenue received each year.

The data show that between FY87 and FY92, HOC collected approximately $4.7 million in multi-family loan management fees, of which $352,000 (7.5%) was needed to cover multi-family loan management staff costs. The balance of $4.3 million was used to support other parts of HOC's operating budget. HOC's FY94 Strategic Plan projects that between FY93 and FY96, HOC will collect an additional $4.0 million in multi-family loan management fees, of which $399,000 (10%) will be spent on direct multi-family loan management staff costs and the remaining $3.6 million to support other HOC operating costs.

5. <u>Transfer of Excess Multi-family Bond Funds (Surplus Withdrawal)</u>. As explained in HOC's FY94 Strategic Plan, HOC's multi-family bond programs are generally structured so that the mortgage payments plus interest are just sufficient to pay the debt service on the bonds. Surplus bond funds are generated, however, when actual interest rates exceed the estimate used to calculate the cash flow. The withdrawal and use of these surplus bond withdrawal funds is also known as "surplus withdrawal".

Table 11

Multi-Family Loan Management Fee Revenue
FY87 - FY96
(In $000's)

Fiscal Year	Fee Revenue	Multi-Family Loan Management Staff Costs	Balance
1987	$541	$36	$505
1988	816	38	778
1989	789	41	748
1990	804	60	744
1991	806	82	724
1992	917	95	822
Total FY87–FY92:	**$4,673**	**$352**	**$4,321**
1993*	$949	$97	852
1994	939	100	843
1995	1,017	101	916
1996	1,007	101	906
Total FY93–FY96:	**$4,016**	**$399**	**$3,517**

* FY93–FY96 data are projected.

Source: HOC's Budget Office and HOC's FY94 Strategic Plan

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The bond documents specify the conditions under which monies in the bond accounts can be considered surplus, and detail how these funds can be transferred and used for other purposes. As reported in HOC's Strategic Plan, cash flow analyses of the multi-family bond issues have indicated that:

- No significant amount of surplus funds can be safely withdrawn from any of the stand alone multi-family bond issues; and

- Surplus funds of approximately $105,000 a year are available from HOC's 1984 Multi-Family Open Indenture.

HOC's policy has been to use any surplus multi-family bond funds to help fund HOC's mortgage finance activities. In FY93, approximately $66,000 of the surplus multi-family bond withdrawal is budgeted for staff costs in multi-family mortgage finance; the remaining $39,000 is budgeted for related bond accountants' time.

6. **Multi-family Bonds: The Costs of Issuance**. In addition to the actual project construction costs, the proceeds of bonds issued by HOC can be and are used to pay for related consultant costs. The ability to "charge" costs to a bond issue is contingent upon the Commission's approval of an "Inducement Resolution", which signals the Commission's support of the project. Both the loan management fees and public purpose requirements terminate after a specified period of time, usually 10-15 years. HOC will begin to see this occur in FY95.

Bond funds can be used to pay for what is known as "the costs of issuance". This term refers to the fees paid by HOC to special advisors and consultants, e.g., underwriters, bond counsel, financial advisor, bond trustee, and bond trustee counsel. The costs of issuance also include related operating expenses for special computer runs and printing of the bond documents. The costs of issuance are paid from the bond proceeds at the time of bond closing.

HOC's financial advisor, bond counsel, underwriters, banking services, and general counsel are each hired on a contract basis. The Commission selects these special contractors on a competitive basis every two to four years At present, only the auditors have a limit on the number of times a firm may be selected for professional services.

Table 12 (page 27a) summarizes the actual costs of issuance associated with one HOC project, Sunrise at Kensington. HOC issued $18.9 million in tax-exempt mortgage revenue bonds for this project. For this issue, the costs of issuance totalled $627,760, of which $460,125 (73%) was for underwriter fees, $91,301 (15%) was for bond counsel, and $33,922 (5%) was for HOC's financial advisor. According to HOC staff, because the bonds for Sunrise were unrated, much more effort was required on the part of the brokers, which in turn increased the cost of underwriting for the project.

Table 12

Sunrise at Kensington
Cost of Issuance

	Amount Paid
Underwriter Fees	$460,125
Bond Counsel	91,301
Financial Advisor	33,922
Computer	10,000
Printing	23,857
Trustee	3,000
Trustee Counsel	5,555
Total:	**$627,760**

Source: HOC Finance Division records.

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7. The Single Family Mortgage Purchase Program

a. General Description of Program. As reviewed earlier, the 1974 legislative changes that created the Housing Opportunities Commission authorizes HOC to issue bonds to finance mortgage loans for persons of eligible income, as defined by the County Executive through regulation. Specific powers of the Commission include making mortgage loans, providing permanent mortgage financing, and purchasing mortgages.

HOC's Single Family Mortgage Purchase Program (MPP) was established to provide below-market interest rate mortgage loans for the purchase of single family homes by moderate income families. Funds for the MPP have been provided by the issuance of tax-exempt mortgage revenue bonds for single family mortgages. HOC issued its first single family mortgage revenue bonds in 1979, and each year since 1979 has issued or refinanced bonds for the Mortgage Purchase Program.

The activities of the Mortgage Purchase Program are accounted for in a separate fund, the Single Family Fund. As indicated earlier, the activity of the MPP is not considered part of HOC's capital development program and the Single Family Fund is not included in HOC's capital budget.

With the funds provided from each single family bond issue, HOC purchases (from private mortgage lenders) mortgage loans that meet the eligibility requirements that are established for the program by each Bond Resolution. By purchasing the loans, HOC acts as the secondary lender, while private lending institutions serve as the primary lender. The Commission approves all banks that participate in this program, and all participating banks must agree to follow HOC's guidelines regarding loan terms. Qualifying household incomes and maximum house prices for the program are established by the County Executive through method (2) executive regulation.

First time homebuyers wishing to participate in the Single Family Mortgage Purchase Program submit an application to HOC.* Applicants are accepted on a first-come-first-serve basis, and housing units can be a condominium, townhouse, or single family house. The unit located for purchase must be in Montgomery County although the MPP applicant does not have to live in the County. HOC staff conduct a preliminary review of applications and forward eligible applications to the primary lender for the actual loan processing. Once the loan has been approved by the primary lender, HOC purchases the loan.

The MPP is structured so that the primary lender remains responsible for the direct servicing of the loan, i.e., collecting the monthly mortgage payments. HOC's Single Family Mortgage Finance staff monitor the banks who serve as primary lenders, submit recommendations to the Commission on how to allocate the bond proceeds among the lenders, and conduct the

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* Some builders who plan to price all available units at or below MPP price guidelines send applicants directly to an assigned lender to apply for MPP financing.

preliminary review of applications. HOC's Single Family Loan Management staff underwrite and purchase the mortgage loans from the primary lenders. The Loan Management staff also monitor the servicing of the loans, which includes ensuring that HOC receives the appropriate remittances from the primary lenders.

Since 1979, HOC has issued 20 series of bonds for the Single Family Mortgage Purchase Program for a total of $440 million. As of June 30, 1992, through the MPP, HOC had purchased 7,251 30-year mortgage loans totalling $405 million. Because of loan pre-payments, HOC's active portfolio contains only 3,417 outstanding single-family mortgage loans totalling $212.5 million.

b. Single Family Bond Fee Revenue. Fees assessed in the Mortgage Purchase Program total three points, or three percent of the mortgage loan amount. The fees are paid either by the applicant and/or the seller or builder of the unit.

The primary lender (the bank) keeps one of the two points, and HOC receives the other two points. For example, on a mortgage loan of $50,000, the bank receives a fee of $500, and HOC receives a fee of $1,000.

The fee revenue collected by HOC is kept within the Single Family Fund and used to pay for the cost of issuance of the bond. These costs include the fees paid to the underwriters, the financial advisor, the bond counsel, and bond trustee. Because it remains within the Single Family Fund, HOC's two points do not appear as revenue in HOC's budget.

c. Transfer of Surplus Single Family Bond Funds (Surplus Withdrawal). There are two types of bond drawdown from the Single Family Fund: a withdrawal of funds to cover administrative costs of the Mortgage Purchase Program; and a withdrawal of excess bond funds.

HOC is allowed to withdraw (or drawdown) funds from the Single Family Bond Fund to cover administrative costs associated with the Mortgage Purchase Program. For FY93, HOC budgeted for the withdrawal of approximately $862,000 from the Single Family Fund for staff and operating costs as follows:

- $117,000 for staff and related operating costs in the Single Family Accounting Staff;and

- $745,000 for staff and related operating costs in the Single Family Mortgage Finance & Loan Management, which include approximately $320,000 for trustee fees and insurance; and $133,000 for overhead.

In addition to administrative costs, HOC is allowed a second type of bond fund withdrawal called the surplus bond withdrawal. Surplus funds are generated in HOC's Single Family Fund in a number of different ways, including the use of funds generated by pre-arbitrage bonds,* the allowable spread between the mortgage interest rate and the bond interest rate, and the use of the refunding process to call high rate bonds while high rate loans remain outstanding.

According to a cash flow analysis completed by HOC's financial advisor, sufficient funds are available in HOC's Single Family Fund to allow withdrawal of $700,000 a year through FY93. This withdrawal of surplus bond funds can be increased to $1 million per year beginning in FY94 and continuing at least through FY98. In accordance with the bond documents, this surplus bond withdrawal has been approved by the financial advisor.

HOC's policy has been to place some of the surplus Single Family Bond Fund monies into the Opportunity Housing Reserve Fund (OHRF) for Capital Development programs. The use of OHRF funds is discussed later in this chapter, see page 41.

E. Subsidies/Loans/Grants from the Federal, State, and County Governments for Capital Development

1. <u>Federal Funds</u>. As indicated above, the federal government used to be the primary source of revenue for HOC's capital program. Although HOC's reliance upon federal funds has been reduced over the past 20 years, HOC continues to receive some direct financial assistance from the federal government for development and capital improvements. In addition, HOC's capital budget relies upon indirect federal assistance in the form of tax credits and tax-exemptions. This section will review HOC's participation in the federally funded programs that support HOC's capital development. Federal funding for capital improvements to HOC's public housing stock is discussed later in this chapter, see page 42.

a. Public Housing: Acquisition Without Rehabilitation. HOC continues to respond to Notices of Fund Availability (NOFAs) from the U.S. Department of Housing and Urban Development (HUD) for the limited amount of federal Public Housing dollars made available for Acquisition Without Rehabilitation (AWOR). In recent years, HOC has used AWOR dollars exclusively to purchase Moderately Priced Dwelling Units (MPDUs), made available to HOC for purchase through the County's MPDU law.** HOC then rents these scattered site units to low income households that qualify for public housing.

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* The Internal Revenue Service (IRS) Code of 1986 placed significant restrictions regarding how housing finance agencies can use arbitrage. Arbitrage refers to earnings made when investments of bond proceeds not used to purchase mortgage loans earn more than the interest rate on the bonds, or when the agency's "spread" (the difference between the mortgage interest rate and the bond rate) exceeds 1.125 percent. Under IRS arbitrage regulations, if an individual bond series has positive arbitrage after five years from original issuance, then this amount must be refunded to the IRS.

** See page 8 for description of MPDU law.

Table 13 (page 31a) shows the federal dollars received by HOC for the purchase of Moderately Priced Dwelling Units (MPDUs) to use as public housing rental units. During the past five fiscal years, HOC has received $12.4 million in AWOR funds. Each federal award, ranging from $2.9-$3.5 million, has financed the purchase of 35-40 MPDUs. HOC's FY93-FY99 Capital Development and Improvement Plan includes receipt of approximately $16.7 million in federal funds over the next six years, $4.8 million for approved projects and another $11.9 million for planned projects.

HOC uses two County-funded revolving funds and/or HOC's own funds to provide the short-term financing needed to purchase MPDUs.* When the federal award to purchase the MPDUs is received through the Acquisition Without Rehabilitation program, HOC then reimburses the source of short-term financing.

b. The Home Investment Partnership Program. The County will receive Home Investment Partnership Program (HOME) funds for the first time in FY93. HOME is a federally-funded block grant program administered locally by the County's Department of Housing and Community Development (DHCD). Montgomery County receives funds directly from HUD based upon a federal formula for participating jurisdictions.

According to federal regulations, HOME funds can be used to acquire, rehabilitate, and/or construct affordable rental and homeowner housing. The principal beneficiaries must be persons of low and moderate income, as defined by HUD. When used for rental projects, at least 90 percent of HOME funds must serve households with incomes below 60 percent of the area median income. Homeownership projects are intended to serve low income, first-time homeowners, and the units are subject to certain resale restrictions.

HOME funds cannot fully fund a project, but may assist a project to serve lower income persons. Eligible applicants for HOME funds are: community groups, developers, and non-profit organizations. A portion of HOME funds are set-aside for community housing development organizations (CHDOs), which are defined as non-profit housing developers that are accountable to the low-income communities that they serve.

A number of other restrictions are placed on the use of HOME funds, including the need to commit funding within specified time periods. Depending upon the type of project, the time limit ranges between 18 and 36 months. Projects that do not meet construction start requirements lose their funding commitments.

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* See pages 35-36 for description of the MPDU/Property Acquisition Fund and HOC's Opportunity Housing Development Fund.

Table 13

Acquisition Without Rehabilitation:
Public Housing Development Funds
FY89 - FY93

Fiscal Year*	Award	Number of MPDUs Purchased
1989	$3,000,000	35
1990	0	0
1991	3,500,000	40
1992	3,000,000	40
1993**	2,900,000	40
Total FY89-FY93	**$12,400,000**	**155**

* Fiscal year is the year that the award was made by HUD to HOC.

** Starting in FY93, HUD requires that all public housing units receive a package of Family Self-Sufficiency services. No additional funds are provided for such services.

Source: HOC's Approved Budgets, FY89-FY93.

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For FY93, the County will receive a total of $1.8 million in HOME funds. According to County DHCD staff, the County expects to receive $1.2 million in FY94, with the amounts in future years to remain at approximately the same level. DHCD intends to hold an annual competition for HOME funds.

HOC is eligible to apply for HOME funds. As of December 1992, DHCD has committed $168,000 in FY93 HOME funds to serve as HOC's match for receipt of State Rental Allowance Program funds. This $168,000 appears in HOC's operating budget. (For the past four years, HOC has used the Opportunity Housing Reserve Fund as the source of the agency's match for the State Rental Allowance Program.)

HOC's approved capital development program estimates that HOC will receive $800,000 in HOME funds for the Brookside Glen (Jones Lane) project. HOC staff hope to receive additional HOME funds over the next six years. According to DHCD staff, because the allocation of HOME funds is the result of an annual competitive process at this point in time, no future HOME funds have been committed to HOC.

c. **Low Income Housing Tax Credit Program.** The Low Income Housing Tax Credit Program was established by federal tax law in 1986. Through this program, the federal government indirectly subsidizes the development of assisted housing by providing federal tax credits for certain investments in housing that serve low-income households. The federal government requires that the public purpose of these projects be maintained for 15 years.

On an annual basis, the federal government allocates an amount of Low Income Housing Tax Credits to each state. In Maryland, the State Department of Housing and Community Development is responsible for distributing the tax credits throughout the State.

Since the beginning of the program, HOC has formed six tax credit partnerships with different private sector investors, e.g., SOVRAN Bank, Giant Food, Enterprise Foundation, Potomac Capital Investments, Fannie Mae. HOC serves as the general partner and managing agent, and the investing corporations serve as limited partners. In return for investing in this partnership, the corporation receives federal tax credits over a ten year period. In addition, the corporations will receive a charitable contribution deduction at year 15, when it is expected that the projects will be donated to HOC.

Although the details of the financial agreements vary, each of HOC's tax credit partnerships has been used to purchase a group of Moderately Priced Dwelling Units (MPDUs). HOC then rents the MPDUs to people whose incomes average between 35 and 55 percent of the area median income. As of June 30, 1992, HOC's first five tax credit partnerships have purchased a total of 210 units. The FY93 budget projects that the sixth and expected seventh tax credit partnerships will provide for the acquisition of an additional 50 MPDUs.

HOC's FY93-FY99 Capital Development and Improvement Plan projects that HOC will continue to develop tax credit partnerships of $2 million each year. It is projected that each $2 million partnership will purchase 25-30 MPDUs. The private funds entry on Table 2 (page 15a) of $2.8 million for approved projects and another $16.7 million for planned projects represents the private investments associated with the tax credit partnerships.

HOC collects fees for the development and management of the tax credit partnership projects, and is responsible for covering all operating deficits in the projects. HOC charges a ten percent development fee, of which one percent is used to fund operating budget staff costs, and the other nine percent is used to cover operating deficits in the purchased properties. The one percent (projected to average approximately $20,000/year) appears in HOC's operating budget as commitment/development fee revenue. The other nine percent is allocated to the operating budgets of the individual tax credit development properties. This year (FY93), a cash flow analysis of the tax credit partnerships indicated that a portion of the nine percent fee will not be needed to fund operating deficits and could be withdrawn; accordingly, excess funds of approximately $500,000 were deposited in HOC's Opportunity Housing Reserve Fund.

HOC also charges each tax credit partnership an annual management fee equal to six percent of net rents. These management fees appear as fee revenue received by HOC's property business. In FY92, HOC collected approximately $46,000 in management fees from four tax credit partnerships.

2. <u>State Funds</u>. HOC's Strategic Plan indicates that over the next six years, HOC anticipates receiving $19.5 million in State funds from a combination of three State programs: the State Partnership Rental Housing Program, the State Rental Housing Production Loan Program, and the Maryland Housing Rehabilitation Program. This section describes HOC's use of each of these programs.

a. The State Partnership Rental Housing Program. The State Partnership Rental Housing Program (PRHP) is a State loan program that provides funds for the construction, acquisition, or rehabilitation of rental housing. Eligible forms of housing include apartment buildings, townhouses, single-family homes, single room occupancy buildings, and shared housing facilities.

The State's PRHP is used primarily by local governments and housing authorities. The applicant is required to provide a site that includes roads, water, sewer, and other infrastructure, project ownership, and management. The program provides up to $65,000 per unit, and requires that the incomes of residents does not exceed 50 percent of the statewide median income.

To be eligible for these funds, numerous program requirements must be met. The local government must approve of and contribute to each project with the specific amount determined by the Secretary of the State's Department of Housing and Community Development. As long as the property is owned by a local government or housing authority and continues to be rented to income-eligible households, the PRHP loan does not have to be repaid. However, if these conditions are not met, then the principal amount of the loan plus interest must be paid back to the State.

As indicated on Table 14 (page 34a), between FY88 and FY93, HOC received a total of $4.6 million in State Partnership Rental Housing Program (PRHP) funds. These funds have been used to support Diamond Square (120 units), and for the purchase of 42 MPDUs.

HOC's FY93 plans include two additional projects supported by the State Partnership Rental Program, each for the purchase of 20 additional MPDUs, which will then be rented to income-eligible households. The State funds for one project have been committed, and the funds for the second have been requested. In each case, the funding package combines:

- State Partnership Rental Program Funds;
- County Funds from the Housing Initiative Fund; and
- HOC funds from the Opportunity Housing Reserve Fund

b. The State Rental Housing Production Loan Program. The State Rental Housing Production Loan Program (RHPP) offers loans to non-profit and public corporations (like HOC) to assist with the construction and/or operating deficits of rental housing that serves households with incomes less than 60 percent of the area median.

Similar to the State program described above, the RHPP requires a local contribution that "materially reduces the cost of the project development or operating costs". The Secretary of the State's DHCD is delegated the authority to determine the exact amount.

RHPP funds are allocated in several different ways. In some cases, the State retains control of the principal amount of the loan, and HOC receives the interest earned on the principal to be used for operating deficits. In other cases, HOC receives both the principal amount of the loan plus the interest.

Table 14 (page 34a) indicates that between FY88 and FY93, HOC received approximately $6 million in RHPP loans. HOC has earned $365,220 in interest payments on these loans. The interest earned on RHPP funds has been used to subsidize planned operating deficits at Timberlawn and Spring Gardens, and will be used to help fund planned operating deficits at Alexander House and Sunrise at Kensington.*

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* Planned operating deficits occur in HOC's projects because with a specified number of subsidized units, rents alone do not provide sufficient income.

Table 14

State Funding for HOC Projects*
FY88 - FY93
(In $000's)

HOC Project	RHPP	PRHP	% of Project Funded by State Subsidy
Timberlawn	$1,000		100%
Spring Gardens**	1,675		67
Alexander House	1,500		27
Sunrise at Kensington Park	1,000		39
Diamond Square		$2,000	39
State Rental Partnership I		1,293	89
State Rental Partnership II		1,300	92
Tax Credit III	500		100
Total FY88-FY93	**$5,675**	**$4,593**	

* Since FY88, HOC has received funding primarily from two State DHCD programs: the Rental Housing Production Program (RHPP), and the Partnership in Rental Housing Program (PRHP).

** Includes $675,000 from a third State DHCD program, the Maryland Housing Rehabilitation Program (MHRP) for Spring Gardens.

Source: HOC Development Staff.

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c. Maryland Housing Rehabilitation Program (MHRP). Funds from the Maryland Housing Rehabilitation Program can be used to preserve and improve existing multi-family rental housing. According to the State DHCD's program guide, the intent of MHRP is to assist in bringing existing rental properties up to current building codes. Local contributions are encouraged, but not required for receipt of MHRP funds.

MHRP funds may be used to rehabilitate multi-family rental properties with five or more units. Owners of these rental properties are eligible to apply for MHRP funds. Priority is given to properties that will provide units affordable to household with income less than 60 percent of the area median income. The maximum MHRP loan is $100,000 with a maximum loan term of 30 years. The interest rate on MHRP loans varies on the project.

According to the program regulations, properties rehabilitated with MHRP funds must provide units to tenants who meet the program's income limits in the same proportion as MHRP financing to total rehab costs. For example, if a MHRP loan provides 80 percent of a project's rehabilitation costs, then 80 percent of the units must be affordable to residents with incomes less than 60 percent of the area median.

HOC has received MHRP loans of $ 675,000 which has been used to help finance the rehabilitation of the Spring Gardens apartments. This property also received State funds through the State's Rental Housing Production Program.

3. <u>County Funds</u>

a. Montgomery Housing Initiative Fund. The Montgomery Housing Initiative was established by County law (Chapter 25B, Article II) in 1988. By law, the Housing Initiative Fund (HIF) must be included in the County's Capital Improvement Program (CIP), and may be used to:

- Construct or acquire affordable housing units;
- Buy and rehabilitate existing rental units that would otherwise be removed from the supply of affordable housing; and/or
- Participate in mixed-use housing developments that will include affordable housing.

The Director of the County's Department of Housing and Community Development (DHCD) is responsible for administering the HIF in accordance with method (2) executive regulations.

Similar to other CIP projects, a Project Development Form for the HIF is included each year in the County Executive's Recommended Six-Year Capital Program. Beginning with FY91, the Executive's CIP has included a list of actual and proposed HIF expenditures by fiscal year. As a CIP project, the HIF is also subject to the public hearing and Council budget review and approval process.

HOC requests funds from the HIF on a project specific basis. Table 15 (page 36a) shows the history of HIF funds allocated to HOC between FY89-FY93. The data indicate:

- Between FY89-FY92, HOC received $7.6 million from the HIF, and the County's FY93 budget shows HOC receiving an additional $2.5 million. HOC's total allocation of $10 million will equal 46 percent of the total HIF expenditures during the past five fiscal years.

- The annual proportion of HIF funds allocated to HOC has ranged from 17 percent (FY92) to 55 percent (FY90).

- HOC has received HIF funds for 11 different projects. Individual HIF awards have ranged from $7,000 to $4.8 million.

HOC's FY93-FY99 Capital Development and Improvement Plan (Table 2, page 15a) shows HOC receiving an additional $3.0 million in County funds for approved HOC projects. The Plan projects an additional $2.1 million contribution in County funds for planned projects over the next six years. The Plan does not specify whether these funds will be from the HIF or other County revenue source.

b. County Revolving Funds. The County's Capital Improvement Program (CIP) includes two revolving funds that HOC is authorized to use as a source of short-term financing. The Opportunity Housing Development Fund (OHDF) was established in FY75, and the Moderately Priced Dwelling Unit (MPDU) and Property Acquisition Funds were established in FY80. In FY91, the County's budget consolidated the MPDU and Property Acquisition Funds into the MPDU/Property Acquisition Fund.

HOC has a loan limit of $4.5 million from the OHDF, and a loan limit of $10.4* million from the MPDU/Property Acquisition Fund. The use of either fund requires joint signature approval from the County Department of Finance and County Department of Housing and Community Development. While both funds are intended to provide HOC with a source of short-term financing, the approved Project Development Forms (PDFs) for each fund outline somewhat different parameters.

The Opportunity Housing Development Fund (OHDF) can be used as a source of short-term financing for planning, site improvements, and other capital costs. The OHDF must be repaid, with interest at the current County's portfolio rate (unless a lower rate is approved by the County) when permanent financing for the project is obtained. HOC is not allowed to use the OHDF to acquire land without explicit approval from the County Executive. In addition, HOC cannot use the OHDF to purchase MPDUs unless there are insufficient funds in the MPDU/Acquisition Fund and the County has approved the use of the OHDF for this purpose.

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* The loan limit from the MPDU/Property Acquisition Fund was reduced from $10.9 million to $10.4 million in the FY94 budget.

Table 15

History of Housing Initiative Fund Allocation to HOC
FY89 - FY93*
(In $000's)

	FY89	FY90	FY91	FY92	FY93*	Total FY89–FY93
Summary						
Total HIF Expenditures	$221	$10,056	$3,243	$3,599	$5,000	$22,119
Allocation to HOC Projects	–	5,529	1,427	617	2,500	10,073
Percent of total HIF to HOC Projects	–	55%	44%	17%	50%	46%
Specific HOC Projects Funded						
Jessup Blair	–	30	205	–	–	235
Sunrise at Kensington	–	–	–	500	–	500
Timberlawn	–	1,000	–	–	–	1,000
Diamond Square	–	3,850	862	113	–	4,825
Brookview Study	–	3	–	4	–	7
Chevy Chase & Fairfax Ct.	–	646	–	–	–	646
MPDU Acquisitions	–	–	60	–	–	60
Sligo Hills	–	–	300	–	–	300
Alexander House	–	–	–	–	2,000	2,000
Damascus	–	–	–	–	500	500

* FY93 is an estimated amount.

Source: DHCD Records.

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Within the MPDU/Property Acquisition Fund, $2.5 million can be used as short-term financing for the acquisition and preservation of existing rental properties. The remainder of this fund is intended to provide short-term financing for acquisition, furnishing, and improvements of MPDUs. In contrast to the OHDF, HOC must repay loans from the MPDU/Property Acquisition Fund, (with interest at the original General Obligation bond rate) within 24 months, unless an extension has been granted by the DHCD Director.*

The Department of Finance issues quarterly reports on HOC's revolving loan activity. Table 16 (page 37a) summarizes the activity that occurred in the OHDF and MPDU/Property Acquisition Fund between September 1989 and June 1992. The outstanding borrowing column indicates the cumulative outstanding principal and interest on both funds. The data show that during this three-year period:

- The outstanding combined principal and interest ranged between $5 million and $14.2 million;

- HOC withdrew a total of $20.8 million and repaid a total of $21.9 million; and

- HOC's payments to the County included $837,666 in interest.

c. Parking District Funds. Over the years, there are additional County resources that have been provided to HOC with respect to unique situations and opportunities. A current example of this is the proposal to use Parking District Funds to support Metropolitan Place, which is a new construction project being built by HOC above a County garage in downtown Bethesda (Garage 49).

HOC's FY93-FY99 Capital Development and Improvement Plan incorporates $2.1 million in Parking District funds for this project. In March 1993, Emergency Bill 4-93 was enacted by the County Council to enable a transfer of the unencumbered balance from Parking District funds to assist in the development of mixed-use parking facility projects in the parking district. According to the Legislative Summary accompanying the bill, these funds are intended to pay operating deficits that may occur in the development. When the project has a positive cash flow, Parking District funds are expected to be paid back.

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* OLO's review of quarterly statements of the MPDU/Property Acquisition Funds from 9/30/89 through 6/30/92 indicates that not all of HOC's loans are repaid within 24 months. Although time did not permit a more indepth analysis of this, explanation of this repayment schedule likely include: the funds were issued prior to implementation of the 24-month rule; and/or the DHCD Director has approved extensions of the 24-month payback period.

Table 16

HOC Use of MPDU/Property Acquisition Fund and OHDF Funds
09/30/89 - 06/30/92

Quarter Ending	Outstanding Principal and Interest	Outstanding Principal	Repayments to Funds Principal	Withdrawals From Funds (Principal)
09/30/89	$13,477,069	$12,799,083		
12/31/89	9,565,618	8,921,266	$ 4,195,422	$ 317,606
03/31/90	5,743,719	5,476,239	4,701,540	1,256,513
06/30/90	9,533,875	9,319,975	889,724	4,733,460
09/30/90	11,287,135	10,974,108	0	1,654,132
12/31/90	11,909,683	11,579,741	984,411	1,590,044
03/31/90	13,024,394	12,757,914	1,951,084	3,129,257
06/30/91	14,294,409	13,982,413	708,530	1,933,029
09/30/91	11,457,178	11,040,622	4,039,205	1,097,414
12/31/91	9,152,607	8,851,483	3,110,828	921,689
03/31/92	11,320,503	11,161,143	661,000	2,970,660
06/30/92	11,776,283	11,604,477	734,061	1,177,395
		Totals:	**$21,975,805**	**$20,781,199**

Interest repaid during the period: **$837,666.**
Additional interest accrued during period: **$331,487.**

Source: HOC MPDU Staff; Statements of Principal and Interest for the MPDU Acquisition Fund and Opportunity Housing Development Fund, 9/30/89 - 6/30/92; Department of Finance, Montgomery County Government.

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d. Exemption from County Property Taxes. In addition to receiving direct funding assistance from the County, HOC receives indirect funding assistance through laws that exempt HOC from certain taxes. This section reviews HOC's exemption from County property taxes. Although for purpose of this report, HOC's exemption from local property taxes is discussed as an indirect revenue source for HOC's capital development program, HOC's exemption from local property taxes is also an important revenue component of the operating budgets planned for each individual property.

Legal Requirements. The State law on Housing Authorities (Article 44A, Housing Authorities, Section 1-104, Exemptions) provides that the property of a housing authority is exempt from all taxes and special assessments of the County, the State, or any political subdivision thereof.* State law requires, however, that in lieu of such taxes, the housing authority shall make a payment-in-lieu-of-taxes (or PILOT), with the amount to be set by mutual agreement between the housing authority and the County or other political subdivision. The sum of the PILOT may not exceed the amount equal to the regular taxes that would be levied upon similar property.

Based upon other provisions of the State Property Tax Article, the properties that HOC manages, but does not own, are also exempt from property tax and eligible to negotiate PILOT agreements. These exemptions provide that a payment-in-lieu-of-taxes shall be paid, with the amount to be negotiated between the owner and the governing body of the County or municipal corporation where the real property is located. The specific exemptions that apply to properties that HOC manages, but does not own, are summarized below:

- Section 7-503, Property Tax Exemption, Housing for Low Income Families, provides that real property is not subject to property tax if the owner of the real property is a non-profit corporation that is exempt from income tax or is a non-profit housing corporation that is engaged in the operation, construction, or management of a qualified low income housing project, and the property was completed or substantially rehabilitated since January 1968.

- Section 7-505, Property Tax Exemptions, Governmentally Subsidized Rental Housing, provides that real property is exempt from county and municipal property tax if the property is constructed or substantially rehabilitated under a federal, State, or local government program that either funds construction, insures financing, or provides interest subsidy, rent subsidy, or rent supplements, and is completed after July 1, 1978.

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* The State Property Tax Article, (Section 7-215, Property Tax Exemptions, Housing Authority Property) similarly provides that the property of a housing authority is not subject to property tax, and authorizes local jurisdictions to negotiate a payment-in-lieu-of-taxes.

• Section 7-202, Property Tax Exemptions, Charitable or Educational Purposes, provides that up to 100 acres of real property is exempt from property tax if the property is owned by a nonprofit charitable, fraternal, educational, or literary organization, or is a nonprofit housing corporation.

In Practice. HOC's FY93 budget indicates that, as of June 30, 1992, HOC owned and managed 3,293 housing units, and managed (but does not own) an additional 886 units. Of the units owned and managed by HOC, 1,328 are Public Housing Rental units, 66 are Public Housing Homeownership units, and 1,013 are Opportunity Housing units. (See Table 17a, page 39a, for listing of units by category.)

The County's Department of Finance, Revenue Division, with assistance from the County Attorney's office, negotiates PILOT agreements for the County Government. A review of Department of Finance files indicates that there is not a PILOT agreement for every property either owned and/or managed by HOC. Based upon discussions with HOC and Department of Finance staff, it appears that the negotiation of PILOT agreements has been complex and time-consuming because of the different ways that HOC holds property.

As of December 1992, the Department of Finance files contained four PILOT agreements that apply to properties owned and/or managed by HOC. One is an umbrella agreement for HOC's Public Housing properties, and three are agreements for Section 236 properties that HOC manages, but does not own. According to HOC and Department of Finance staff, a number of other PILOT agreements (for HOC's Tax Credit Partnerships) have been in the process of being negotiated for the past several years.

The County Government has used one approach to calculate PILOT agreements for Public Housing properties, and another approach to calculate PILOT agreements for the federally financed Section 236 projects that HOC manages, but does not own. The terms of these agreements are briefly described below:

• The PILOT Agreement for Public Housing. An umbrella PILOT agreement for all of HOC's Public Housing projects was signed by HOC and the County in February 1980. Basically, this agreement calls for PILOT payments ranging from one to ten percent of shelter rent, depending upon the level of operating reserves carried for each project. A PILOT payment is due when the operating reserve equals more than 12.5 percent of the operating expenses.

Department of Revenue files contain some worksheets and receipts of PILOT payments from HOC for their Public Housing Homeownership projects. During the past several years, the calculation of PILOT payments for all of HOC's Public Housing Rental properties has equaled zero. However, two of HOC's Public Housing Homeownership properties have been paying some property taxes, in the order of approximately $12,000/year.

Table 17a

Units Owned/Managed by HOC
as of June 30, 1992

Owned and Managed by HOC	**No. of Units**
Public Housing Rental	1,328
Public Housing Homeownership	66
Opportunity Housing	1,013
Total Owned and Managed	**2,407**
Managed (but not owned) by HOC	
Section 236	486
Tax Credit Partnership	210
Other*	190
Total Managed (but now owned) by HOC	**886**
Total Units Owned and/or Managed	**3,293**

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* Magruder's Discovery, Edinburgh, and Jessup Blair Properties.

Source: HOC's FY94 Executive Director's Recommended Budget, March 1993.

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• <u>PILOT agreements for Section 236 properties.</u> The Section 236 program was a federally-subsidized mortgage program that ended in the late 1970's. Under the Section 236 program, the federal government subsidized mortgages down to one percent. Because, according to HUD regulations, HOC cannot both own and manage Section 236 properties, these buildings are owned by non-profit boards of directors, appointed by the HOC Commissioners. HOC manages four Section 236 properties: Bauer Park Apartments (142 units), Leafy House (181 units), Town Center Apartments (112 units), and Camp Hill Square Apartments (51 units).

PILOT agreements for three of the Section 236 properties were negotiated and signed between September 1976 and December 1978. These three agreements (for Bauer Park, Leafy House, and Town Center) contain essentially the same terms. For these properties, the PILOT payment is calculated as the difference between what the property would pay in property taxes, if it were fully taxable, and what the average tax credit would be under the State's circuit breaker program, assuming all units in the property received the tax credit. Based upon this formula, the PILOT payment for each of these properties has been calculated to equal $1/year.

No PILOT agreement has ever been negotiated between the County and HOC for HOC's Opportunity Housing properties. In absence of a PILOT agreement, no payment is made to the County for any of HOC's Opportunity Housing properties, except for Pomander Court, on which HOC pays a PILOT of approximately $15,000 year.*

The data summarized in Table 17b (page 40a) indicate that the total value of the 1991 property tax subsidy from the County for HOC's Opportunity Housing was approximately $667,000. This figure was calculated by multiplying a sum of the assessed values of HOC's Opportunity Housing properties times the weighted average tax rate for 1991, as calculated by the Division of Revenue. ($2.961 per $100 of assessed value.) The total value of HOC's property tax subsidy will increase as the number of Opportunity Housing units owned by HOC increases.

The assessed value of most of HOC's multi-family Opportunity Housing properties was obtained directly from the data base maintained by the State's Assessment Office. For the scattered site and remaining Opportunity Housing units, a median assessed value was used based upon a random sample of 60 Opportunity Housing units. For the 989 Opportunity Housing units included in the calculation on Table 17B (the 1,013 total Opportunity Housing units minus the 24 units at Pomander Court), the estimated subsidy from the County Government for 1991 equaled an average property tax abatement of $676 per unit.

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* Even though HOC's pays $15,000/year for Pomander Court, no PILOT agreement was ever formally executed for this property.

Table 17b

Estimated Value of Property Tax Exemption for HOC's Opportunity Housing[1]

Opportunities Housing Properties	Units	1991 Assessed Value	Estimated Value of 1991[2] Tax Exemption
Tanglewood	83	$ 660,211	$ 19,483
Sligo Hills	50	784,520	23,151
Chevy Chase Lake	68	1,732,740	51,133
Fairfax Court	18	487,310	14,381
Timberlawn II	24	537,960	15,875
Alexander House[3]	0	1,373,780	40,540
Diamond Square	120	2,069,910	61,083
Pooks Hill	189	3,083,700	91,000
Timberlawn I	83	3,118,360	92,023
Other Opportunity Housing[4]	354	8,731,360	258,536
Totals:	**989**	**$22,579,851**	**$667,205**

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1 As listed in HOC's FY93 budget, this calculation includes all of the Opportunity Housing units that HOC owned and managed as of June 30, 1992, except for Pomander Court (24 units) because HOC pays a PILOT to the County on this property.

2 This was calculated using the weighted average tax rate for 1991, as calculated by the Division of Revenue, Department of Finance. ($2.961 per $100 of assessed value).

3 The construction of Alexander House (311 units) is almost completed. The assessed value listed here is that of the unimproved property.

4 These 354 units are 271 MPDU's and scattered site Opportunity Housing units and 83 units at Spring Gardens. The assessed value for these units was calculated based upon the median assessed value of a random sample of 60 units.

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F. HOC's Opportunity Housing Reserve Fund

HOC established the Opportunity Housing Reserve Fund (OHRF) in 1980. Initially created to address the use of revenues generated from the sale of bonds under the Single Family Mortgage Purchase Program, today the OHRF is a repository of unrestricted proceeds from various HOC activities, whose primary purpose is the production of affordable housing.*

Table 18 (page 41a) identifies the major sources of OHRF revenue between FY80 and FY92. As the table shows, most OHRF funds are related to HOC's bond activities:

- Commitment fees generated from multi-family mortgage financing activities (these are commitment fees above those designated for the operating budget);

- Multi-family loan management fees above the amount designated for the operating budget; and

- Allowed withdrawal of single-family mortgage bond funds due to excess funds generated from the spread between bond and mortgage interest rates; and

- Earnings on investments of certain bond proceeds and the OHRF itself.

In addition, the OHRF has been the repository for unencumbered proceeds from the syndication/sale of developments, and one-time opportunities related to the financing of land, e.g., Alexander House ($2 million).

The Commission makes final decisions about how funds from the OHRF are spent. By policy and through decisions made as part of the annual budget process, the Commission has chosen to use the OHRF primarily for capital development projects.

As shown on Table 18, the largest portion of the OHRF has been used for specific HOC development projects. Monies from the OHRF are generally used either for upfront planning, acquisition, or renovation costs, or to meet planned operating deficits of new development. For four years (FY89-FY92), OHRF funds were used as the required local match for a State rent subsidy program, the Rental Allowance Program. For FY93, the local match for the Rental Allowance Program is being provided through the HOME program.

HOC's FY94 Executive Director's Recommended Budget indicates that the OHRF began FY93 with a balance of $5.7 million. During this fiscal year, (FY93) it is projected that almost $2.5 million will be deposited in the OHRF, with the largest sources of funds from:

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* For accounting purposes, the OHRF was established as a separate fund in 1987; before that, OHRF activities were accounted for as part of HOC's General Fund.

Table 18

Opportunity Housing Reserve Fund Revenue and Expenses
Pre-FY87 - FY92
(In $000's)

	Actual Revenue and Expenses - OHRF							
Sources of Revenue	**Pre-FY87**	**FY87**	**FY88**	**FY89**	**FY90**	**FY91**	**FY92**	**Total**
Loan Management Fees	$	$231	$	$	$	$	$	$231
Single Family Commitment Fees	3,046							3,046
Multi-Family Commitment Fees(1)	2,530		105	307	0	361	190	3,493
Magruders Syndication	800							800
Hewitt Gardens(2)	538	41	44	44	44	44	44	799
Partners In Homeownership(3)	3	25	22	53	33	21	36	193
Single Family Drawdown						700	700	1,400
Alexander House-Land Finance							2,100	2,100
Investment Income	754	161	170	97	243	208	223	1,856
Total Revenue:	**$7,671**	**$458**	**$341**	**$501**	**$320**	**$1,334**	**$3,293**	**$13,918**
Expenses	**Pre-FY87**	**FY87**	**FY88**	**FY89**	**FY90**	**FY91**	**FY92**	**Total**
Town Center Place	$460	$	$	$	$	$	$	$460
Sandy Shore Meadow	344							344
Other-Various	157							157
RAP Match				52	67	122	164	405
A/C Public Housing		294						294
State Rental Partnership I						92		92
State Rental Partnership II							92	92
McHome		385						385
Expenditures-OP Deficit								
Spring Gardens			869					869
Tanglewood				336				336
Sligo Hills						107		107
Alexander House						2,000		2,000
Sunrise at Kensington							800	800
Total Expenses:	**$961**	**$679**	**$869**	**$388**	**$67**	**$2,321**	**$1,056**	**$6,341**
ENDING BALANCE:	**$6,710**	**$6,486**	**$5,957**	**$6,071**	**$6,325**	**$5,339**	**$7,576**	

(1) Multi-Family Commitment Fees-Shown in year bonds issued. FY87 includes Loan Mgt Fees also.
(2) Hewitt = Net mortgage payments + ground rent + net interest on loan.
(3) PIH = Interest + appreciation at payoff.

Source: HOC Finance Division

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- Multi-family commitment fees ($269,000);

- Withdrawal of excess single-family bond funds ($700,000);

- Refinancing of Hewitt Gardens which was financed with private activity bonds ($63,000);

- Financing of land from Timberlawn II ($502,000); and

- Withdrawal of excess development fees related to HOC's Tax Credit Partnership projects ($500,000).

The FY93-FY99 Capital Development and Improvement Plan (Table 2, page 15a) shows HOC spending $3.3 million from the OHRF for approved projects, and another $13 million for planned projects. Consistent with the Commission's adopted policy, almost all of the OHRF funds are budgeted to support projected operating deficits in individual capital projects. The current status and projected decline in the OHRF is depicted on Table 19 (page 42a).

G. Funding Sources for Capital Improvements

HOC's FY93-FY99 Capital Development and Improvement Plan includes funds to replace equipment and carpeting, major overhaul of large equipment, and major renovation work on buildings and grounds. The Plan indicates that funds for routine maintenance (e.g., painting) as well as for emergency replacement of equipment or carpeting are included in the operating budgets for each property.

This section reviews the federal programs that HOC applies to for funds to modernize its public housing properties, and explains how HOC budgets funds for capital improvements in the Opportunity Housing Property Reserves.

1. Federal Funds

a. Comprehensive Improvements Assistance Program/Comprehensive Grant Program. In addition to seeking funds for new development, HOC applies to the federal Department of Housing and Urban Development (HUD) for funds to modernize its public housing properties. Until September 1992, HOC competed for Comprehensive Improvements Assistance Program (CIAP) funds. CIAP is being replaced with the Comprehensive Grant Program (CGP), under which HOC is expected to receive federal funds for modernization on a formula basis. In order to obtain Comprehensive Grant Program funds, HOC must prepare a Comprehensive Plan, which identifies HOC's improvement needs.

Table 20 (page 42b) summarizes the CIAP funds received by HOC during the past six years. To date, HOC has received $3.2 million in CIAP funds. The table lists the amounts received from each federal allocation. (Federal awards of CIAP funds do not correspond to the County's fiscal years.)

Table 19

Opportunity Housing Reserve Fund Revenue and Expenses
FY93-FY98
(In $000's)

REVENUE	**FY93**	**FY94**	**FY95**	**FY96**	**FY97**	**FY98**	**TOTAL**
Multi-Family Commitment Fees[1]	$ 269	$ 619	$ 660	$ 133	$ 0	$ 0	$ 1,681
Tax Credit[2]	500	0	0	0	0	0	500
Single Family Drawdown	700	1,000	1,000	1,000	1,000	1,000	5,700
Hewitt Gardens[3]	63	900	0	0	0	0	963
Tax Credit I	321						321
Partners In Housing	40	40	40	40	40	40	240
Interest	155	180	105	25	0	0	620
Alexander House-Financing of Land	(71)						(71)
Timberlawn II - Land Financing	502	0	0	0	0	0	502
Total Revenue:	**$2,479**	**$2,739**	**$1,805**	**$1,197**	**$1,040**	**$1,040**	**$10,230**
EXPENSES[4]							
Interest to the County	$ 32	$ 0	$ 0	$ 0	$ 0	$ 0	$ 32
MPDU Rental	14	15	15	16	16	17	$93
State Partnership Rental Program	197	319	100	49	50	50	293
Brooks Farm	0	864	0	0	0	0	864
Existing Property Acquisition	0	776	803	0	0	0	1,580
Brookside Glen	841	0	0	0	0	0	841
Oakridge/Damascus	0	0	1,000	0	0	0	1,000
Montgomery Arms[5]	1,403	0	0	0	0	0	1,403
New Developments	0	0	3,269	1,692	0	0	4,961
Pond Ridge at Olney	0	151	0	0	0	0	151
Pooks Hill Apartments	478	0	0	0	0	0	478
Pooks Hill Construction	479	0	0	0	0	0	479
White Flint North	0	1,000	0	0	0	0	1,000
Total Expenses:	**$3,443**	**$3,125**	**$5,188**	**$1,807**	**$116**	**$117**	**$14,851**
Ending Balance:	**$4,697**	**$4,312**	**$ 929**	**$320**	**$1,244**	**$2,167**	

(1) Commitment fees shown in year of bond issuance.
(2) These funds are transferred from the General Fund part of the financing of Tax Credit partnerships. The remainder is held in reserve to cover any operating deficits.
(3) Hewitt Gardens is expected to be refinanced.
(4) These funds are shown in the year Commission is expected to commit the use of OHRF for a particular program.
(5) Commission has agreed to create contingent liability fund of up to $1.4 million.

Source: HOC's FY94 Executive Director's Recommended Budget, March, 1993.

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Table 20

HUD Capital Improvements Program (CIAP)
Comprehensive Grant Program (CPG)
FY88 - FY93

HUD Program Number	Allocation
CIAP MD4-912	$ 533
CIAP ND4-913	1,229
CIAP MD4-914	955
CIAP MD4-915	180
CIAP MD4-916	342
CPG FY93*	2,231
Total FY88-FY93	**$5,470**

* Beginning in FY93, the CIAP program is being replaced by the Comprehensive Grant Program.

Source: HOC Accounting Office

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In FY93, HOC will receive Comprehensive Grant Program Funds totalling $2.2 million. HOC's capital budget includes preliminary estimates of how these funds will be spent: $1.8 (81%) is allocated for physical improvements to HOC's public housing units (both multi-family developments and scattered site units); the remaining $400,000 is allocated for management improvements, professional services, and administrative costs.

HOC's FY93-FY99 Capital Development Plan (Table 2, page 15a) projects that HOC will continue to receive approximately $2 million in CPG funds each year, for a total of $12 million during the seven year period. Approximately $2.2 million is allocated to approved projects, with the remaining $9.8 million allocated to projects in the planning stages.

b. Community Development Block Grant: Modernization Funds. Another source of federal funds to support capital improvements in public housing has been the Community Development Block Grant (CDBG) program.

Under the federal Community Development Block Grant (CDBG) program, HUD awards funds to local jurisdictions for the general purpose of implementing community development activities. As stated in federal regulations, the purpose of the CDBG program is to provide local governments with:

> . . . the opportunity to develop viable communities by funding activities that provide decent housing and a suitable living environment and by expanding the economic opportunities for low and moderate income persons.

The County's Department of Housing and Community Development (DHCD) is responsible for administering the CDBG funds awarded to the County.

Like other agencies and organizations in the County, HOC applies each year to DHCD for CDBG funds. Table 21 (page 43a) summarizes the distribution of CDBG funds to HOC for the past five years, CDBG Years 14-18 correspond to the County's FY89-FY93. The data indicate:

- Between FY89 and FY93, HOC was awarded $1.5 million in CDBG funds. Each year, HOC received between five and seven percent of the County's total CDBG allocation.

- The allocation of CDBG funds to HOC is less in FY93 than in each of the four previous years. This reflects both the decrease in total CDBG funds available, and the County's award of CDBG funds to other applicants.

Over the five year period, HOC used CDBG funds for a number of different projects, with the largest amount allocated for capital improvements of public housing. However, the most significant trend in HOC's expenditures of CDBG funds is the relative decrease in HOC's use of CDBG funds for these modernization projects and the relative increase in HOC's use of CDBG funds for other activities, such as: skills training, the reconstruction of Jessup Blair, and the construction of tot lots.

Table 21

Distribution of CDBG Funds to HOC
Block Grant Years 14 - 18*
FY89 - FY93
(In $000's)

CDBG Year	Total County Grant	HOC Allocation	Percent of Total to HOC
14	$6,170	$395	6%
15	4,882	245	5
16	4,992	404	7
17	4,044	273	7
18	4,361	236	5

Distribution of CDBG Funds to HOC by Project Category
(In $000's)

CDBG Year	Housing Modernization	Skills Training	Resident Services	Other**
14	$350	$25	$20	0
15	225	20	0	0
16	250	5	84	25
17	189	35	0	49
18	88	50	25	73

Percent of CDBG Funds to HOC by Project Category

CDBG Year	Housing Modernization	Skills Training	Resident Services	Other**
14	89%	6%	5%	0%
15	92	8	0	0
16	69	1	23	7
17	69	13	0	18
18	37	21	11	31

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* Data for block grant years 14-17 are actual allocations; CDBG 18 based on allocations approved in FY93 budget.

** This category includes projects such as: Jessup Blair reconstruction, van purchase, construction of Tot Lots.

Source: DHCD Records.

According to County DHCD staff, the allocation of CDBG funds for HOC's capital improvement needs has declined because HOC has access to other sources of federal dollars for such improvement projects. With the beginning of the federally-funded Comprehensive Grant Program in FY93, HOC's FY93-FY99 Capital Development and Improvement Plan does not project receiving any CDBG funds for public housing modernization over the next six year period.

2. **HOC Funds: Opportunity Housing Property Reserves.** HOC's Opportunity Housing Property Reserve Fund is a special fund developed specifically for funding capital improvements to HOC's Opportunity Housing properties. As stated in an analysis of the Opportunity Housing Property Reserve Fund (contained in HOC's FY93-FY99 Capital Development and Improvement Plan), "Reserves insure the economic and physical health of a property as it ages . . . determining the appropriate level of reserves is critical for maintaining the real estate assets of this agency over the long term."

Based upon a 20-year capital replacement plan, (e.g., frequency of replacing kitchen appliances, roofs, bathroom fixtures, etc.) each Opportunity Housing property contributes a dollar amount per unit per year to the Property Reserve Fund. Each year, the capital needs of each property are re-evaluated, and the property's contribution to the Property Reserve Fund adjusted as necessary. For FY93, the average reserve deposit per unit is $414.

At the beginning of FY93 (July 1, 1992), the Opportunity Housing Property Reserve fund balance was approximately $5 million. The FY98-FY99 Capital Improvement Plan projects that during FY93, the Property Reserve fund will receive $7.6 million in contributions from properties and will spend $8.8 million for capital improvements. The flow of funds projected for FY93 will leave the Opportunity Property Reserve fund balance at $3.7 million going into next fiscal year. (See Table 22, page 44a.)

HOC's 20-year plan for capital improvements projects that the total balance in the Opportunity Housing Property Reserve fund will remain at a fairly constant level, and never fall below $2.5 million. HOC's staff analysis of the Property Reserve fund indicates that, for the next 20 years, HOC's newer properties will positively impact the total reserve balance because they are proportionately adding more to the reserves than they are projected to withdraw. When planning for appropriate reserve levels, HOC's staff analysis concludes that the property reserves must be adequate to withstand a time when HOC is no longer adding to its stock, and withdrawals from the reserve fund will likely exceed reserve contributions.

VI. HOC'S OPERATING AND GRANTS BUDGETS

A. Overview of Operating Budget

1. **General.** As adopted by the Commission in June 1993, HOC's FY94 operating budget totals $59.9 million. In addition, HOC maintains a separate multi-year grants budget, which is reviewed later in this chapter.

Table 22

Opportunity Housing Property Reserves
Projected Reserve and Capital Expenses
FY93-FY98
(In $000's)

Fiscal Year	Contribution to Reserves	Capital Expenses	Difference
1993*	$851	$890	$(31)
1994	833	731	102
1995	862	1,002	(140)
1996	875	634	241
1997	1,027	817	210
1998	1,042	749	293
Total FY93-FY98:	**$5,490**	**$4,823**	**$675**
Beginning Balance FY93:		**$4,955**	
Projected Ending Balance FY98:		**$5,630**	

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* FY93-FY98 data are projected.

** Replacement reserves for current Opportunity Housing Properties under management.

Source: HOC's FY94 Strategic Plan

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Table 23 (page 45a) summarizes the funding for HOC operating budget into six major sources: the federal government, the State government, the County government, mortgage finance activities, rents and fees, and management/overhead fees.

Approximately 40 percent of HOC's operating budget consists of Housing Assistance Payments (HAP), which are passed on as rent subsidy payments to private sector landlords.* Because Housing Assistance Payments constitute such a significant portion of HOC's operating budget, Table 23 shows each of HOC's major sources of revenue as a percent of total funding, including and excluding Housing Assistance Payments.

Second to Housing Assistance Payments, the largest source of HOC's operating budget is rents and related fees, which provide almost 38 percent of HOC's FY94 operating budget. The other sources of revenue each constitute significantly smaller percentages of the total operating budget:

- The County Government provides $2.7 million, or 4.5% of the budget.

- Mortgage finance activities provide $2.7 million, or 4.5% of the budget.

- Management or overhead fees provide $1.9 million, or 3.2% of the budget; and

- The State provides $958,000, or 1.6% of the budget.

Each of these sources of revenue are reviewed in more detail beginning on page 46.

2. **By Business.** As explained earlier in this report, HOC is organized into five businesses and a "Parent Company". Table 24 (page 45b) shows the sources of HOC's FY94 operating budget revenue by business and lists the amount of revenue generated by each business including and excluding Housing Assistance Payments. The data indicate that, excluding HAP:

- The Rental Assistance business generates $26.8 million, almost 45% of the operating budget, to administer over 3,400 Section 8 and State Rental Assistance Program (RAP) units.

- The Property Management business generates $24.8 million, approximately 42% of the operating budget, to manage over 3,600 units that the agency owns.

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* HOC's FY94 budget includes federal Section 8 Housing Assistance Payments totalling $24 million, and State Rental Assistance Program payments of $113,000.

Table 23

HOC Operating Budget
FY94
(In $000's)

Sources of Funding	Amount	Percent of Total	Amount Without HAP*	% Total Without HAP
A. Federal Government	$28,925	48.3	$4,778	13.4
B State Government	958	1.6	845	2.4
C. County Government	2,698	4.5	2,698	7.6
D. Mortgage Finance Activities	2,712	4.5	2,712	7.6
E. Rents & Related Fees/Private Funds	22,682	37.9	22,682	63.6
F. Management/Overhead Fees	1,921	3.2	1,921	5.4
TOTAL REVENUE FY94	**$59,896**	**100%**	**$35,636**	**100%**

* Federal Housing Assistance Payments (HAP) are rent subsidy payments that HOC passes on to landlords of Section 8 recipients/participants. The State also provides funds for a similar Rental Assistance Program.

Source: HOC Budget Office, June 1993.

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Table 24

Source of HOC Operating Revenue by Business
FY94
(In $000's)

Source of Funds by Business	Amount	% of Total	Amount Without HAP*	% Total Without HAP
Parent Company				
Overhead Fees & Interest	$1,921	3.2%	$1,921	5.4%
Surplus Bond Withdrawal	126	0.2	126	0.3
County Grant	219	0.4	219	0.6
Total Parent Company	**$2,266**	**3.8%**	**$2,266**	**6.3%**
Real Estate Development				
County Grant	$147	0.2%	$147	0.4%
Total Real Estate Development	**$147**	**0.2%**	**$147**	**0.4%**
Mortgage Finance				
Loan Management Fees	$994	1.7%	$994	2.8%
Commitment Fees	675	1.1	675	1.9
Surplus Bond Withdrawal	917	1.5	917	2.6
Total Mortgage Finance	**$2,586**	**4.3%**	**$2,586**	**7.3%**
Property Management				
Rent	$18,623	31.1%	$18,623	52.2%
Fees/Interest/Reserve	3,482	5.8	3,482	9.8
Federal	2,211	3.7	2,211	6.2
State	459	0.8	459	1.3
County	98	0.2	98	0.3
Total Property Management	**$24,873**	**41.6%**	**$24,873**	**69.8%**
Rental Assistance				
HOME	$113	0.2%	$ 0	0.0%
HAP & Section 8 Admin Fees	26,547	44.3	2,513	7.1
Interest/& Misc Income	10	0.0	10	0.0
State RAP	113	0.2	0	0.0
Total Rental Assistance	**$26,783**	**44.7%**	**$2,523**	**7.1%**
Social Services				
County	$2,244	3.7%	$2,244	6.3%
State	386	0.6	386	1.1
Federal	45	0.1	45	0.1
User Fees	566	1.0	566	1.6
Total Social Services	**$3,241**	**5.4%**	**$3,241**	**9.1%**
TOTAL REVENUE FY94	**$59,896**	**100%**	**$35,636**	**100%**

* Federal Housing Assistance Payments are rent subsidy payments that HOC passes on to landlords of Section 8 recipients/participants. The State also provides funds for a similar Rental Assistance Program.

Source: HOC's Budget Office, June 1993.

- The Social Services business generates $3.2 million, 5.4% of the operating budget, to provide support services to HOC residents.

- The Mortgage Finance business generates $2.6 million, 4.3% of the operating budget, to monitor 36 multi-family rental properties with over 8,000 units and 3,600 single family loans.

- The Real Estate Development business generates $147,000, less than 1% of the operating budget.

In addition, the table shows the Parent Company providing $2.3 million, or 3.8% of the operating budget. The Parent Company generates most of its revenue through overhead fees charged to the five businesses.

Table 25 (page 46a) shows the total revenue and expenses attributed to the five businesses and the Parent Company. For FY94, only the Mortgage Finance business and the Rental Assistance business are budgeted to generate a surplus of revenue over expenses. The Real Estate Development Social Services businesses and the Parent Company are budgeted to spend more funds than they generate. These operating deficits are offset from the excess revenue generated by the Mortgage Finance and Rental Assistance businesses. The Property Management business is budgeted to break even in FY94.

3. **Funding Sources**. This section explains in detail the six major sources of funding for HOC's operating budget: the federal government; the State government; the County government; mortgage finance activities, rents and related fees; and intra-agency funds. Table 26 (page 46b) summarizes the funding source data, with and without Housing Assistance Payments.

a. Federal Funds: $28.9 million in FY94. Federal funds have consistently been the largest single source of revenue for HOC's operating budget. As indicated earlier, this year federal Housing Assistance Payments account for approximately half of HOC's total operating budget.

In general, HOC has limited discretion over how federal funds are spent. To comply with federal auditing requirements, HOC accounts for federal funds in a separate accounting entity known as the HUD Fund. Federal law requires that HOC perform financial and program audits on all funds received from HUD. These audits are described beginning on page 57.

The programs through which HOC receives federal funds are briefly described below.

- **Public Housing Operating Subsidy: $2.2 million in FY94.**

Each year, HOC receives an annual grant for operating rental and homeownership public housing units. The federal Department of Housing and Urban Development (HUD) allocates public housing operating subsidy funds to local housing authorities on a formula basis.

Table 25

Revenue and Expenses by HOC Business
FY94

	Total Revenue (A)	Total Expenses (B)	Net Income (A) - (B)	Use of HOC Funds
Real Estate	$ 146,720	$ 342,890	$ (196,170)	$ 196,170
Mortgage Finance	2,586,110	1,107,620	1,478,490	
Property Management	24,873,640	24,873,640	0	
Rental Assistance	26,783,470	25,680,680	1,102,790	
Social Services	3,240,880	3,491,950	(251,070)	251,070
Parent Company	2,265,750	4,204,620	(1,938,870)	1,938,870
Total	**$59,896,570**	**$59,701,400**	**$ 195,170**	**$2,386,110**

Source: HOC Budget Office, June 1993.

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Table 26

HOC Operating Budget
FY94
(In $000's)

SOURCES OF FUNDING	Amount	% of Total	Amount w/o HAP*	% Total w/o HAP
I. FEDERAL GOVERNMENT				
a. HAP* and Section 8 Administration Fees	$26,670	44.5	$2,523	7.1
b. Public Housing Property Management	2,211	3.7	2,211	6.2
c. Social Services	44	0.1	44	0.1
Total Federal Funding:	**$28,925**	**48.3**	**$4,778**	**13.4**
II. STATE GOVERNMENT				
a. Rental Housing Production Program	$459	0.8	$459	1.3
b. Rental Assistance Program (RAP)*	113	0.2	0	0.0
c. Social Services	386	0.6	386	1.1
Total State Funding:	**$958**	**1.6**	**$845**	**2.4**
III. COUNTY GOVERNMENT				
a. County Grant	$2,656	4.4	$2,656	7.5
b. Other County Funds**	52	0.1	52	0.1
Total County Funding:	**$2,708**	**4.5**	**$2,708**	**7.6**
IV. MORTGAGE FINANCE ACTIVITIES				
a. Surplus Bond Withdrawal	$1,043	1.7	$1,043	2.9
b. Multi-family Commitment and Loan Mortgage Fees	1,669	2.8	1,669	4.7
Total Mortgage Finance Revenue:	**$2,712**	**4.5**	**$2,712**	**7.6**
V. RENT, FEES, RESERVES AND PRIVATE FUNDS				
a. Rents	18,623	31.1	18,623	52.2
b. Management Fees/Managed Property Fees	1,214	2.0	1,214	3.4
c. Interest/Reserves/User Fees/Private Income	2,834	4.8	2,834	8.0
Total Rents, Fees, Reserves & Private Revenue:	**$22,671**	**37.9**	**$22,671**	**63.6**
VI. INTRA-AGENCY FUNDS				
Total HOC Overhead Fees & Interest Income:	**$1,921**	**3.2%**	**$1,921**	**5.4**
TOTAL REVENUE FY94:	**$59,896**	**100.0%**	**$35,636**	**100.0%**

* Federal Housing Assistance Payments (HAP) are rent subsidy payments that HOC passes on to landlords of Section 8 recipients/participants. The State also provides funds for a similar Rental Assistance Program. This line item includes $113,000 in HOME funds used to match State RAP allocation.

** This represents direct funding that HOC receives from other County departments, e.g., DAVMHS and DSS.

Source: HOC's Budget Office, June 1993.

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According to HOC staff, the dollar amount that HOC receives from HUD is less than the actual expenses incurred for operating public housing facilities. The subsidy is calculated by combining a three percent rental increase to existing rental income even though actual rents are based on incomes and affected by economic conditions. An allowable expense level (not equal to actual expenses) is then subtracted from this amount to generate the level of subsidy that the federal government provides to local housing authorities for operating expenses.

• **Housing Assistance Payments (HAP): $24 million in FY94.** HOC receives federal HAP in the form of Section 8 rent subsidy payments, which HOC passes on to private sector landlords. HOC administers three different Section 8 programs: the certificate program, the voucher program, and the moderate rehabilitation program. In accordance with federal regulations, Section 8 recipients must have a gross household income below 50 percent of the area median income.

HOC's budget indicates that the agency plans to administer 3,432 units for the Section 8 certificate and voucher programs in FY94. In the Section 8 certificate program, the rent subsidy remains with the tenant. The tenant is permitted to rent any unit provided that the rent is less than a maximum fair market rent established by HUD. The program requires that tenants contribute 30 percent of their household income towards rent, with the Section 8 program providing the balance up to the federally determined rent maximum.

In the Section 8 voucher program, the rent subsidy also moves with the tenant. In contrast to the Section 8 voucher program, the Section 8 certificate has no fair market rent restrictions. With a voucher, the tenant is allowed to rent any unit, but is responsible for any difference between the voucher amount and the actual rent.

In the moderate rehabilitation program, the rent subsidy remains with the unit. In FY93, there were 185 units in this program. Tenants pay a rent which equals 30 percent of their gross household income.

• **Section 8 Administration Fees: $2.5 million in FY94.** In addition to Section 8 rent subsidy dollars, HOC receives Section 8 administrative fees, which are intended to cover HOC's costs of managing the Section 8 programs. The amount of administrative fees that HOC receives from HUD is calculated on a formula basis by taking a percent of the fair market rent of a two-bedroom unit.

Historically, HOC has received more Section 8 administration fees than it costs the agency to administer the Section 8 programs. According to HOC staff, this excess amount is intended by HUD as an additional operating subsidy for local housing authorities.*

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* One use of these excess Section 8 administrative fees is the federal mandate for local housing authorities to operate a Family Self-Sufficiency program for recipients of federal rent subsidies. HUD has not provided local housing authorities with any additional funds to operate this program.

Internally, HOC identifies a portion of Section 8 administrative fees as "restricted". These restricted funds cover HOC's actual administrative costs associated with the Section 8 Program. These costs include the Section 8 intake staff, accounting staff, waiting list staff, and HOC's overhead fee. The remaining Section 8 administrative fees are identified as "excess" or unrestricted funds. These fees can only be used for "other housing purposes" after certain determinations are made by HUD concerning the adequacy of Section 8 program administration.

In HOC's FY94 operating budget, of the $2.5 million in Section 8 administrative fees, HOC has earmarked $1.4 million as "restricted" revenue, with the remaining $1.1 million identified as "excess" administrative fees.

b. State Funds: $958,000 in FY94. The $958,000 in State funds represents approximately 1.6 percent of HOC's total FY94 operating budget. The State programs that will provide operating budget funds to HOC in FY94 are listed on Table 26 (page 46b) and briefly described below.

- **Rental Housing Production Program (RHPP): $459,000 in FY94.** The RHPP is a loan program administered by the Community Development Administration, located within the State Department of Housing and Community Development. In addition to providing capital funds for rental housing production, interest income on Rental Housing Production Program funds can be used on a property specific basis as an operating subsidy. The amount of the investment is reflected in the capital development plan as subsidy; the operating budget reflects the use of the interest income from that investment. All projects which receive RHPP funds must serve tenants with gross household income below 60 percent of the area median income.

- **State Rental Allowance Payment Program: $113,000 in FY94.** The State's Rental Allowance Payment (RAP) program is a rent subsidy program also administered by the Community Development Administration. The State RAP program provides a fixed rent subsidy payment to eligible families, who have emergency housing needs. The State provides no management fee to HOC for administering this program.

Eligible residents for State RAP are low-income families who are homeless, or are in danger of becoming homeless. The incomes of assisted households cannot exceed 30 percent of the State's median income. The State requires RAP recipients to participate in social service programs, that are structured to assist them move towards self-sufficiency.

In order to be effective in high-cost areas such as Montgomery County, State RAP funds must be matched with local dollars. In previous years, this match had been provided from HOC's Opportunity Housing Reserve Fund. In FY94, the County Government is allocating federal HOME funds as the County's match for this program.

- **Social Services Program $386,000 in FY94.** HOC's FY94 budget includes State funds to support three specific social service programs: day care, senior assisted housing and two nutrition programs. These programs also receive funding from other sources, including the County Government.

- **Day Care:** HOC operates three day care centers. In FY94, the State is providing $134,800 in tuition assistance for children in HOC operated day care centers. These funds are similar to the County's Working Parents Assistance (WPA) program, which provides child day care tuition assistance subsidies to eligible families through a voucher system.

- **Senior Assisted Housing Program:** In FY94, the State is providing approximately $160,000 to HOC's Sheltered Housing program. The State's contribution to HOC's Sheltered Housing supplements the payments from program participants, which are determined on a formula basis based upon adjusted gross income. According to HOC staff, the administrative fees received from the State do not cover the actual administrative costs associated with the program.

- **Nutrition Program:** Under a contract with the County's Department of Family Resources, Division of Elder Affairs, HOC staff provide on-site management for nutrition programs that serve senior citizens and children at HOC properties, e.g. Arcola Towers, Elizabeth House, Holly Hall Apartments, and Waverly House. In FY 94, HOC's budget includes $67,890 from the State for these nutrition programs.

- **Day Care Nutrition Program:** HOC staff provide a lunch program to clients in day care funded by the State Board of Education. HOC's FY94 budget includes $24,020 for this program.

c. County Government: $2.7 million in FY94. Most of the direct funding that HOC receives from the County Government is in the form of an annual grant. HOC also receives grants for special populations from the County's Department of Family Resources, Department of Social Services, and Department of Addiction, Victim, and Mental Health Services. In FY94, total direct funding* from the County constitutes approximately 4.5 percent of HOC's operating budget.

• **County Grant:** HOC has received an annual grant from the County since 1976. Initially, this grant was intended to provide tenant services for residents in HOC's housing programs. The use of the County's grant to HOC has expanded since the original allocation in 1969.

For FY94, the County is providing HOC with a grant of $2.6 million. This represent a reduction of $150,000, or 5.3 percent from the FY93 County Grant of $2.8 million. The $2.6 million grant represents 4.4 percent of HOC's total FY94 operating budget of $59.9 million, and 7.5 percent of HOC's operating budget, excluding Housing Assistance Payments.

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* As noted earlier in this report, the County also provides HOC with indirect funds in the form of property tax exemptions.

Approximately 80 percent of the FY94 County grant is allocated to provide services for residents in assisted housing. The remaining funds are budgeted as follows:

- $164,830 (6%) to support Affordable Housing Development.
- $211,840 (8%) to provide support for management of scattered site public housing units.
- $73,880 (3%) to support the Housing Information Center.
- $49,450 (2%) to support Operation Match.

Table 27 (page 50a) describes the different HOC programs funded by the County grant and the total allocation for each of these programs for the five year period FY89 through FY93. Compared to prior years, the FY94 County Grant provides increased support for resident services, and reduced support for other programs.

- <u>**Other County Funds:**</u>

  - **Working Parents Assistance Program: $20,000 in FY94.** HOC operates three day care centers. As a day care provider, the agency receives tuition assistance payments through the County-funded Working Parents Assistance program.

  - **Resident Services (DAVMHS): $150,000 in FY94.** Through funding from the federal McKinney Act, the County Department of Addiction and Victim Mental Health Services (DAVMHS) and HOC provide single apartment units for 10 homeless adults with chronic mental illness. Mental health treatment services, including case management and psychiatric treatment, are provided through DAVMHS.

d. **Mortgage Finance Activities: $2.7 million in FY94.** HOC's mortgage revenue activities generate operating revenue from loan management fees and multi-family commitment fees. As explained earlier in this report, HOC's mortgage finance activities are also an important revenue source for HOC's capital budget.

- <u>**Multi-family Loan Management Fees $994,360 in FY94**</u>**:** As described in Chapter V, HOC charges an ongoing loan management fee on multi-family mortgage loans that HOC makes to private and non-profit developers. In HOC's operating budget, multi-family loan management fee revenue is allocated to cover the administrative costs of running the multi-family loan management program. According to HOC staff, any remaining multi-family loan management fees are considered "excess" and are used to support other HOC operations.

Table 27

History of County Grant to HOC
FY89 - FY93

Total Amount FY89-FY93	Program	Description
$7,820,280	Resident Services	Maintains core social services to residents in HOC units, and provides staffing to fulfill Family Social Service requirements
$1,543,170	Opportunity Housing	Supports Development Staff efforts to obtain Opportunity Housing
$729,770	Community Relations	Provides liaison between HOC and community to facilitate development of affordable housing
$485,320	Operation Match	Matches people seeking housing with people who have housing to share.
$776,640	Housing Information Center	Provides information and referrals to people seeking affordable housing.
$765,100	Scattered Site Public Housing	Defers costs of managing Housing scattered site public housing throughout County.
$180,000	Public Housing Security	Provides drug prevention efforts at public housing properties.
$216,780	Day Care	Supports day care services for residents of public housing.
$318,000*	Settlement Expense Loan Program	County Council program to provide loans for first time home owners.
$72,400	Housing Market Specialist	Facilitates integration of Section 8 participants into private market units.

* To date this program has not been implemented; these funds were subsequently returned to the County.

Source: HOC Budget Office, June 1993.

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HOC's FY94 operating budget indicates that $103,490 (11% percent of total loan management fee revenue) will be used for administrative expenses of the multi-family loan management program. Costs include monitoring all Federal, State and local requirements as well as the financial condition of 36 rental properties in the County with over 8,250 units. The remaining $890,870 in "excess" loan management fees are allocated as HOC Funds to support other agency activities.

- **Multi-family Commitment Fees: $675,090 in FY94.** As described earlier in this report, multi-family commitment fees are the largest single-source of discretionary HOC Funds. Multi-family commitment fees fund both operating and capital activities. Commitment fee revenue in the operating budget is used to cover administrative costs of issuing multi-family bonds. "Excess" commitment fees are allocated as HOC Funds and used to defer operating deficits in other businesses.

Although commitment fees above the costs for direct administrative expenses are treated as "excess" in HOC's budget, an indirect cost study prepared in FY93 indicates that these funds are approximately equal to the indirect costs of operating the mortgage finance and development and acquisition programs. These programs have particularly high indirect costs because of the substantial involvement of high level management staff in their operation.

HOC's FY94 operating budget indicates that commitment fees will provide operating budget revenues of $675,000. $87,470 (13% of total commitment fee revenue) is budgeted to cover administrative costs associated with the Multi-family Mortgage Finance Program. Costs include monitoring all Federal, State and local requirements as well as the financial condition of 36 rental properties in the County with over 8,250 units. The remaining $587,620 in "excess" commitment fees is allocated to support other HOC activities.

e. HOC's Management Fee: $1.9 million in FY94. HOC's Parent Company collects an overhead or management fee from each of HOC's five businesses. Management fees are used to support the Parent Company's administrative costs, which include the Offices of the Executive Director, Commission Support and Records Management, Equal Opportunity, Facilities, Training, Policy, Finance, Budget Accounting, Purchasing, Management Information Systems, Public Affairs, and Personnel.

HOC calculates the overhead or management fee based upon an indirect cost study of central administration that was first conducted by HOC in 1990 and updated in 1992. In addition to the overhead fee which is paid to the Parent Company, each individual property that HOC manages pays a management fee to cover the direct costs for management of those buildings.

f. Rents, Related Fees and User Fees: $22.7 million in FY94. Developments that HOC owns generate significant revenue from rents and fees. In HOC's FY94 operating budget, rents and fees are budgeted to generate $22.7 million, which represents 64 percent of HOC's operating budget excluding Housing Assistance Payments.

HOC generates rent revenue from all of the properties that the agency owns. The FY94 operating budget shows rent income of $18.6 million, which is approximately half of HOC's operating budget excluding Housing Assistance Payments. All of the rent revenue is maintained on a project specific basis and used directly for the continued operation of individual properties. Prior years' operating reserves for each property are a source of funding, if needed, to cover planned losses.

In addition to rent revenue, HOC collects approximately $3 million in related fees and revenue. These include resident fees associated with services such as day care, senior assisted housing, and summer camp; and miscellaneous other private fund donations, and interest payments.

g. Use of HOC Fund Balance. HOC's fund balance is not being used as a source of revenue for the FY94 operating budget. HOC's fund balance represents carryover dollars from previous years, and is maintained in three separate funds:

- The HUD Fund accounts for revenue that HOC receives from the federal government. Any carryover remaining in the HUD fund is restricted to use on federal programs. At the end of FY93, the HUD Fund showed an estimated balance of $1.1 million. This amount includes security deposits, public housing homeownership reserves, and funds from the sale of homeownership units.

- The Opportunity Housing Property Reserves (OHPR) is a part of the General Fund that accounts for all transactions related to the non-public housing properties owned by HOC. The carryover balance at the end of FY93 in the OHPR was $12.6 million; this included $7 million earmarked for planned future operating deficits.

- The General Fund is the accounting entity in which other HOC revenue is deposited, including any operating surplus that remains at the end of a fiscal year. At the end of FY93, the General Fund had a carryover balance of $1.6 million.

- The Opportunity Housing Reserve Fund (OHRF) is a capital development fund that is used by the Commission in conjunction with other subsidies to produce affordable housing in the County. At the end of FY93 the OHRF had a carryover balance of $5.6 million.

B. HOC'S GRANTS BUDGET

The majority of HOC's grant funds are maintained in a separate multi-year grants budget. In FY94, the only grant included in HOC's operating budget is the grant from the County Government. In keeping with HOC's budget, this section summarizes HOC's grant funds that are maintained separately from HOC's operating budget.

HOC's grants budget indicates that HOC will expend approximately $2 million in grant funds in FY94, with cumulative grant funds through FY94 totaling $9.0 million. HOC receives grant funds from the federal government, State government, County government, and private sources. Most grants are multi-year and fund specific programs or services. The FY94 grants budget will fund approximately 16 HOC staff workyears.

HOC's federal grants are primarily in the form of Community Development Block Grant funds (CDBG), and McKinney Grant funds. State funds are from the Department of Housing and Community Development and the Department of Economic and Employment Development. In addition to the main County grant (which is incorporated into HOC's operating budget), HOC receives some grant funding through the County's health and human services departments. A number of private organizations, such as United Way, IBM, and United Black Fund, also provide grant funds to HOC.

Table 28 (page 53a) summarizes HOC's grants budget by functional categories. The data show that the largest source of grant revenue for HOC is the federal government, which provides 87 percent of the $2 million in grants expected to be spent in FY94. HOC receives grants primarily for transitional housing and services for specialized populations. In FY94, the largest allocation of grant funds is for HOC's homeless/transitional housing programs ($1.3 million), with the second largest allocation for self-sufficiency services programs ($444,000), and the third largest allocation for community organization/youth services programs ($310,000).

C. HOC's Restricted vs. Unrestricted Funds

HOC's operating budget classifies funds as either "restricted" or "unrestricted". Restricted funds are those that HOC can use only for a specific purpose. While spending restrictions are most often defined by the funding source (e.g., federal government), in some cases, spending restrictions are imposed by Commission policy. When restrictions are imposed by the Commission, a change in Commission policy can free-up restricted funds for other uses.

Unrestricted funds are those that do not have any specific spending requirements placed upon them. Within HOC's operating budget, most of HOC's unrestricted or discretionary funds are labeled as "HOC Funds". In general, there is no direct correlation between funding source and expenditures of "HOC Funds". Revenue goes into the "HOC Funds" and is allocated among HOC's activities based upon funding needs and HOC policy. Unrestricted funds are also allocated to HOC's Opportunity Housing Reserve Fund (OHRF), which is considered part of HOC's capital budget (see page 41).

Table 29 (page 53b) shows the sources and amounts of HOC's unrestricted funds, which total $6.1 million in HOC's FY94 budget. These funds include both HOC Funds and other discretionary funds placed in the OHRF. For FY94, sources of HOC's discretionary revenue are:

- Surplus commitment fees generated by issuance of tax-exempt bonds;
- Excess loan management fees charged to private and non-profit developers;
- Excess administration fees received from HUD for the Section 8 program;

Table 28

Federal, State, County Government and Private Grants Awarded to HOC FY 94 Budget (In $000's)

Grant Programs	Estimated FY94 Expense	Total Grant Award
A. Transitional/Homeless Housing		
Federal		
McKinney I-V	$982	$6,134
CDBG 18	48	48
CDBG 19	49*	49
County		
DAVMHS: Alternative to Hospitalization	141	846
DAVMHS: Abused Spouse Program	14	14
DFR: Furniture for Homeless	10	10
State		
Emergency Shelter Grant	30	165
Private		
United Way (Jessup Blair)	18	30
Total Homeless/Transitional Housing:	$1,291	$7,295
B. Self-Sufficiency Services		
Federal		
Economic Empowerment Demonstration Program	$120*	$ 120
Technical Assistance Self-employment	200	200
CDBG Year 18 (EED)	40	50
CDBG Year 19 (EED)	50*	50
CDBG Year 18 (Family Self-Sufficiency)	25	25
Private		
Fannie Mae (Partner in Change)	10	25
Total Self-Sufficiency Services:	$444	$470
C. Community Organization/Youth Services		
Federal		
Drug Elimination Grants I & II	$277	$542
CDBG Year 18 (Sandy Spring Rec Van)	9	25
Private		
United Black Fund	24	24
Total Community/Youth Services:	$310	$591
Total FY94 Grants to HOC:	**$2,047**	**$8,357**

* Pending funding approval.
Source: HOC Budget Office, June 1993.

Table 29

Source and Use of HOC Discretionary Funds
FY94
(in $000's)

Revenue Source	Amount
Commitment and Development Fees	$1,206
Excess Loan Management Fees	891
Excess Administration Fees	1,103
Overhead Fees/Interest to HOC	1,921
Surplus Single Family Bond Withdrawal	1,000
Total Revenue	**$6,121**

Allocation of HOC Funds	Amount
Parent Company	$3,860
Real Estate Development	196
Social Services	251
Contingency	195
Opportunity Housing Reserve Fund	1,619
Total Allocation	**$6,121**

Source: HOC Budget Office, June 1993.

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- Interest income from HOC's investments; and

- Funds from HOC's Single Family surplus bond withdrawal.

NOTE: In this context, HOC uses the term "surplus" or "excess" to mean that the funds are in addition to those needed to cover direct administrative costs associated with each revenue source.

Table 29 also shows how HOC's discretionary funds are allocated. The data indicate that in the operating budget, HOC Funds are used primarily to support administrative costs of the Parent Company and to provide subsidies to the HOC businesses that do not collect sufficient revenue to cover their operating costs. In FY94, the Mortgage Finance and Rental Assistance businesses are budgeted to generate the excess revenue that will be used to subsidize the Social Services and Real Estate businesses. In the capital budget, HOC's discretionary funds serve as a source of revenue for the Opportunity Housing Reserve Fund (OHRF) and the Opportunity Housing Property Reserves (OHPR).

VII. THE BUDGET OVERSIGHT ROLES OF THE HOC COMMISSION AND THE COUNTY GOVERNMENT

This section discusses the budget oversight roles of the HOC Commission and the County Government, and describes the annual audits of HOC's expenditures.

A. The HOC Commission

1. **General.** As established by State law, the HOC Commission consists of seven volunteer Commissioners appointed by the County Executive and confirmed by the County Council. Commissioners serve five-year terms, and the law does not impose a limit on the number of terms an individual can serve.

HOC's mission statement for the Parent Company describes the Commission with five roles to fulfill: policy direction, resources allocation, accountability, advocacy, and selection of certain professionals. The Commission generally meets in public session the first and third Wednesday evenings of each month. Each of the four Section 236 properties that HOC manages but does not own has one Commissioner as a Board member. In addition, the following eight standing Commission committees, (each composed of 2-3 Commissioners*), meet as often as necessary:

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* Except the MPDU Selection Committee which consists of four Commissioners and can act on behalf of the Commission to purchase MPDUs if the four are unanimous.

- Strategic Planning Committee
- Agenda Formation Committee
- Legislative Committee
- MPDU Selection Committee
- Audit Committee
- Hearing Board Committee
- Housing Honor Roll Committee
- Resource Sharing Committee

The Commission is responsible for determining HOC's policies and work program. The Commission adopts the annual operating, capital, and grants budgets, the personnel complement, and the salary and fee schedules.

The Commission also reviews and approves plans and expenditures for individual capital projects. Throughout the development process, the Commission is consulted for guidance and approval. The Commission approves all construction documents, site plans, and contracts for individual capital projects. In addition, the Commission sets the amount of public purpose required in each development.

The Commission has an active role in overseeing HOC's mortgage finance activities. Before tax-exempt bonds can be issued for a development project, the Commission must induce the bonds. The Commission sets the interest rate for the tax-exempt bonds and approve the total amount of the bond issue for each capital development project.

The specific role of the Commission in the MPDU purchase process and capital development process are described in Appendices C and D.

2. **Perceptions of Role.** Interviews with HOC Commissioners (current and former) indicated a general consensus that the appropriate analogy is for the seven volunteer Commissioners to serve as the "Board of Directors" for the agency. However, there are differences of opinion as to what that means in terms of the level of Commissioner involvement in certain aspects of HOC's decision-making.

Almost all of the Commissioners interviewed described their primary role as "setting policy" for HOC. In addition, most perceived the Commissioners' key responsibilities as establishing procedures for HOC business; setting priorities for the agency; and exercising general oversight of the agency's activities. All of the Commissioners interviewed agreed that the day-to-day management of the agency should be delegated to the Executive Director and other professional staff of HOC.

All of those interviewed acknowledged that the HOC Commissioners are deeply dependent upon the HOC staff for information. There was, however, some differences of opinion as to how information flows from the HOC staff to the Commission. The majority view was that the HOC staff performs an excellent job of keeping the Commission well informed about all aspects of HOC's activities. However, several of the former Commissioners interviewed noted that during their tenure, there had been times when Commissioners were not always kept adequately informed in a timely manner about potentially controversial matters, and that certain information provided to the Commission was inappropriately "filtered".

Those interviewed also voiced different opinions as to the attributes of "effective" HOC Commissioners. One view is that in order to exercise effective oversight, the Commission should consist of professionals with expertise in the various aspects of HOC's business, e.g., housing finance, real estate development, housing management. It is argued that without this expertise, the Commission is not in a position to oversee the recommendations/decisions of the HOC staff.

The alternate view is that because professional experts are represented on the HOC staff, it is not essential for the Commission to duplicate that talent. Instead, it is argued, the Commission should consist of intelligent representatives of the community, who are in a position to understand and react to HOC's activities and make policy decisions without necessarily being in a position to second-guess the professional staff of HOC on what could be considered more technical issues.

Based upon the interviews conducted, it appears that the average Commissioner spends 15-20 hours/month of his/her time on HOC business. The individual serving as HOC Chair devotes considerably more time to the job. Several of those interviewed commented that because of the significant time commitment, consideration should be given to reducing the HOC Commissioner term from five to three years.

B. Budget Oversight Exercised by the County Government

State law establishes HOC as an independent agency that is separate from the traditional lines of County Government authority. Although significantly different from an operating department of County Government, by law and through the appointment and budget process, the County Council and County Executive are afforded the opportunity to exercise both direct and indirect budget oversight over HOC.

As reviewed above, State law provides that the seven volunteer HOC Commissioners are appointed by the County Executive and confirmed by the Council. The authority to appoint HOC Commissioners provides the County Executive and Council with control over the composition of the Commission, which is the entity that exercises the most direct oversight of the agency.

The County Government exercises direct oversight over HOC's bond activity in a number of specific ways. In accordance with federal law, all of HOC's tax-exempt bond issues are required to include a letter from the County Attorney that reaffirms HOC's legal authority to issue tax-exempt bonds. In addition, HOC's issuance of private activity tax-exempt bonds require a written statement from the County Executive that affirms the public purpose of the bond issue. (This approval is given after a public hearing process has been completed.)

The annual budget process provides the County Government with another type of oversight. Although the County Government provides a relatively small percent of HOC's capital and operating budget, the County Government funds provided are significant and important to HOC. The review of HOC's capital and operating budget requests adhere to the annual budget review process of the County Government, which provides the Executive and Council with a forum to discuss HOC's budget and spending priorities.

The County Government also exercises a budget-related type of oversight of HOC with respect to federal and County grant funds (e.g., CDBG, HOME, HIF) that are administered by the County's Department of Housing and Community Development. In these cases, HOC applies to the County Government for use of grant funds, and if approved, HOC's receipt of grant funds is subject to the same oversight as other grant recipients.

Finally, many State and federal program subsidies require HOC to obtain formal County Government project approval before funding is allocated. Often this approval is in the form of a County match of funds. Examples of this include State Rental Assistance Program funds and certain State grants. County approval is most often sought in the form of a Council resolution endorsing the project.

C. The Audit of HOC's Expenditures

1. **Overview.** In accordance with the Federal Single Audit Act and Federal and State regulations, HOC has numerous audits performed each year. The audits are performed by certified independent auditors.

HOC's combined financial statements are evaluated during the annual audit to ensure that there are no material misstatements and that funds have been expended appropriately. This audit also assesses HOC's accounting principles and the agency's overall financial statement presentation. HOC's combined statements contain the statements of the agency's five funds (General Fund, Opportunity Housing Reserve Fund, HUD Fund, Multi-Family Program Fund, and the Single Family Mortgage Purchase Program Fund); stand-alone statements are also issued of the two the multi-family housing open indentures and the single family open indenture.

Federal funds received by HOC are evaluated separately during the single audit. The single audit consists of both a financial and a compliance audit. The single audit evaluates the following programs:

- Community Development Block Grant
- Housing Assistance Payments
- Capital Improvement Assistance Program
- Social Services Block Grant-Tenant Opportunities program
- Special Programs for the Aging-Nutrition Services
- Child Care Food Program
- County Grant Funds
- State of Maryland Sheltered Housing Program

According to HOC's accounting staff, in addition to the scheduled audits, federal Housing and Urban Development staff periodically perform unannounced site visits, management audits, equal opportunity compliance reviews, and request access to HOC financial statements and other pertinent documents. HOC's audit is performed primarily for HUD; HUD's Inspector General has to accept the audit and requires that HOC prove that any findings are responded to.

HOC also conducts individual audits for properties that it manages and for the six tax-credit partnerships for which HOC is the managing partner. The results of the audits are presented to each properties' Board of Directors, (each of which include one HOC Commissioner) and to the partners of the tax credit partnerships. Finally, the Maryland State Office on Aging requires a separate annual audit of the funds that HOC receives from the State for the senior assisted housing program.

2. **HOC Audit Committee.** One of the Commission's standing subcommittees is the Audit Committee. The Audit Committee, which consists of three Commissioners, is responsible for ensuring that actual expenditures are in keeping with the overall direction of the agency.

The Audit Committee receives a draft version of all completed audits. The Audit Committee reviews the audit, asks questions, and may request additional data or information. In addition, the Committee develops recommendations for certain Commission policies, regarding issues such as purchasing, investment, and policies governing the Executive Director's authorization to expend funds.

The Audit Committee also receives regular updates primarily from HOC's Finance Division staff concerning HOC's financial status. The updates typically contain: a quarterly financial report, interim combined financial statements, cash and investment reports, and analysis of the single family mortgage purchase program.

According to HOC Staff, questions from bond investors, underwriters and the rating agencies have been received regarding the audits and financial statements for either specific developments, one of the indentures, or the agency's combined financial statements. Copies of the audit are distributed to HUD, the State, the County Government (County Executive, County Council, and OLO), and relevant bond raters, trustees, underwriters, and investors. According to HOC Staff, neither the State nor the County routinely provide responses to HOC's annual audits.

HUD also evaluates the audit to determine if there were any deficiencies in the method of the audit. HUD retains the right to later revisit the audit if questions or issues arise at some future time.

HOC's combined financial statements, management letter and compliance audit are submitted each year to the HUD Inspector General for review and acceptance. HUD accepts the audit on behalf of any other federal agency that may provide funds to HOC. All audit findings must be cleared to the satisfaction of the Inspector General's office before they can be closed.

VIII. HOC'S BUDGET PROCESS

1. **Documents.** There are several important documents which explain HOC's allocation of resources: the Executive Director's recommended budget, the approved budget, and HOC's Strategic Plan.

The Executive Director's recommended budget is presented to the HOC Commission as a decision document. The Commission holds several public worksessions on the proposed budget, during which budget issues are discussed and questions answered. Any changes that the Commission makes to the recommended budget are reflected in the approved budget document.

The Strategic Plan is a policy document approved by the HOC Commission that articulates HOC's mission and vision, and outlines HOC's long-term budget direction. The Strategic Plan evolved out of HOC's strategic long-range planning process, and last year replaced HOC's Long-Range Plan. According to HOC staff, the Strategic Plan is an evolving document that is adjusted to reflect current circumstances as needed.

2. **The Annual Budget Process.** Since the advent of HOC's Strategic Plan, HOC's budget process begins each summer with an update of HOC's mission and vision statements. The mission and vision statements set forth the mission of the agency (by business), and the long term goals that HOC hopes to achieve in the coming years.

After updating these statements, staff begins work on the Strategic Plan. By the end of the summer, the development staff and the budget office have completed the capital budget requests to be sent to the County Government. After completion of the Strategic Plan, the document is presented to the Commission for review and approval.

In September, HOC staff prepare individual strategic plans for each business, which detail expectations for the upcoming fiscal year. Simultaneously, a three-year financial plan for the operating and grants budget and a five-year capital budget is developed.

In early October, work begins on the County grant submission to the budget office. Those business which receive funds from the County grant are involved in this process. By mid-October, the Commission approves revisions to each businesses' mission and vision statement and individual strategic plans. During their first meeting in November, the HOC Commission approves the County grant request.

From November to January, each business develops its two-year operating budget plans. These budget plans are submitted to HOC's Budget Office. By mid-January, the Budget Office provides senior HOC staff with a draft of the proposed budget document. Between January and February, senior staff and the Executive Director review the budget document by business. Between February and March the Executive Director's Recommended budget is printed and transmitted to the Commission and the County Government. During March and May, the Commission and Council hold worksessions on the proposed budget. Final action on the budget is taken before June.

IX. DEPARTMENT/AGENCY COMMENTS

Comments from the Housing Opportunities Commission are provided in two parts. The memo from Commissioner Goldberg-Goldman (p. 61-63) responds to Chapters I-V, which were first circulated in March 1993. The September 27, 1993 letter from Mr. Tetreault, Executive Director of HOC (p. 64) responds to the rest of the report, which was circulated in August 1993. (A list of technical corrections, which was attached to Mr. Tetreault's letter is not included.)

This final report reflects the technical corrections recommended by HOC and Executive Branch staff. Again, OLO thanks staff members for the time they took to review the details of this report.

M E M O R A N D U M

TO: Karen Orlansky, Office of Legislative Oversight

FROM: Barbara Goldberg-Goldman, Housing Opportunities Commission

RE: Response to "Profile of the Housing Opportunities Commission: Part I"

DATE: April 16, 1993

HOC welcomes the opportunity to respond to the first part of the Office of Legislative Oversight's report on our activities and programs. The report is an accurate and fair representation of the Housing Opportunities Commission and its capital development and improvements program and provides a factual base for discussion of the activities of the Commission. The report recognizes and describes in a comprehensible manner the complexity of the agency's financial structure. Given this complexity, we want to take this opportunity to briefly shed additional light on three aspects of HOC's capital program.

I. We are proud of the picture painted by the OLO report. The report describes how HOC has:

- leveraged dollars it earns from its financing operation to obtain funding for affordable housing production from Federal and State sources
- generated revenue to fund its operations and provide subsidy for additional development of affordable housing
- produced property reserves sufficient to maintain its Opportunity Housing stock at or above neighborhood norms
- developed high quality new developments that provide a positive housing environment in a mixed-income setting
- maximized its organizational structure as a Public Corporation chartered by State and County Government to carry out its difficult mission.

In an era where calls for a reinvented and entrepreneurial government are often made, we believe the record of the Housing Opportunities Commission, as described in the OLO study, is a good one. The Commission as refashioned by the

County Government in 1974 serves as a model for housing authorities who seek to meet the needs of their customers without the necessary level of Federal assistance. Indeed the State enabling legislation for housing authorities was amended in 1988 to mirror Montgomery County's vision of what housing authorities could be. Nationally, Montgomery County's housing efforts have been recognized and emulated.

II. The report also describes who is served in HOC developments. The Commission has addressed its rationale for mixed-income developments in other forums and it is described in the report. It is worth reiterating in some detail here:

- There are declining housing resources. The Federal Government has withdrawn from deep subsidy public housing programs. The multi-family financing fees that flowed to the Commission in the early 1980s were severely curtailed due to the 1986 tax law changes. In addition, in that funding for the Housing Initiatives Fund and state affordable housing production programs have been cut due to recent fiscal constraints, the availability of local or state funds in lieu of federal programs has also been severely reduced.

- Not only is HOC interested in the production of affordable housing, but it is interested in the production of those affordable housing units in a positive housing environment, ie. Timberlawn Crescent (66 assisted units at a range of income levels, 41 market-rate) and Alexander House (80 percent assisted at a range of income levels, 20 percent market-rate).

- Larger developments take only incrementally more time to produce and yet they result in proportionately more low and moderate income units. We have been able to produce more affordable units under our mixed-income development approach than we were able to develop in the past when we developed affordable or assisted units almost exclusively.

- Low interest rates and low construction costs make development of affordable housing particularly attractive at this time, especially in light of the private sector's inability to produce multi-family housing due to problems obtaining financing, the lack of subsidies, difficulty in getting credit enhancements, among other reasons.

- o Even the market-rate units produced by HOC typically serve households below median income.

- o The production of affordable units today with relatively shallow subsidies offers opportunities in the future for those same units to serve much lower income residents.

III. The report describes how difficult it is for the private sector to produce affordable housing at this time. As noted above, the declining availability of housing subsidies, the problems obtaining financing, (i.e., credit crunch in the aftermath of the savings and loan crisis), the change in the tax law with regard to housing; (i.e., passive losses), and the uncertainty in the economic environment today have all contributed to this difficultly. Some of those difficulties are particular to the private sector and not applicable to the Housing Opportunities Commission. With changes, the agency could return to its facilitator role of the early- and mid-80s. There is a distinction, however, in the long-term affordability of those units depending upon its ownership. The Housing Opportunities Commission retains the public purpose of these units for an indefinite period. When it finances for the private sector, the public purpose usually has a much shorter time period, 10-20 years.

HOC works in partnership with the private sector on any number of fronts. New developments, for example, require a partnership with the private sector from early engineering work to construction completion. HOC supports private construction through tax exempt bond issuance for multi-family and single-family loans. Through its Section 8 program, HOC has relationships with approximately 1,200 private landlords in the County. And, for example, HOC's procurement policy requires that Maryland subcontractors receive at least 50 percent of the dollar value of contracts for all new construction projects undertaken by the Commission.

Again, the Commission appreciates the opportunity to respond to the draft of this first of two parts of the OLO study of HOC. The Commission and Staff appreciate the work that has gone into this undertaking and look forward to working with OLO and the County Council as this study proceeds, and to have the opportunity to review and comment on the full report.

HOC HOUSING OPPORTUNITIES COMMISSION
OF MONTGOMERY COUNTY, MD

10400 Detrick Avenue
Kensington, Maryland 20895
(301) 929-6700
Fax numbers:
(301) 929-8523 - Development
(301) 929-8499 - Client Services

September 27, 1993

Ms. Karen Orlansky
Office of Legislative Oversight
Montgomery County Council Office Building
5th Floor
Rockville, Maryland

Dear Karen:

Thank you for giving the Housing Opportunities Commission staff the opportunity to make some technical corrections to both Parts I & II of your excellent report: "A Profile of the Housing Opportunities Commission". I have enclosed a marked up copy with all the suggested changes. These changes are also typed for your convenience.

All of these changes are technical for clarification or correction. I have just a few questions or points that I would like clarified in Part II that are not technical, please see page 9.

If you have any questions about any of these suggestions, please contact Mary Jo Zenk at 929-6742 or Donna Boxer 929-6782.

Again, thank you for all your work in preparing this report.

Sincerely,

Bernard L. Tetreault
Executive Director

OFFICE OF THE COUNTY ATTORNEY
MONTGOMERY COUNTY, MARYLAND

M E M O R A N D U M

April 16, 1993

TO: ANDREW MANSINNE, Director
Office of Legislative Oversight

VIA: JOYCE R. STERN, County Attorney Joyce R. Stern

FROM: CHRISTOPHER HITCHENS, Assistant County Attorney ch

RE: COMMENTS ON DRAFT OLO REPORT #92-6
PROFILE OF THE HOUSING OPPORTUNITIES COMMISSION, PART 1

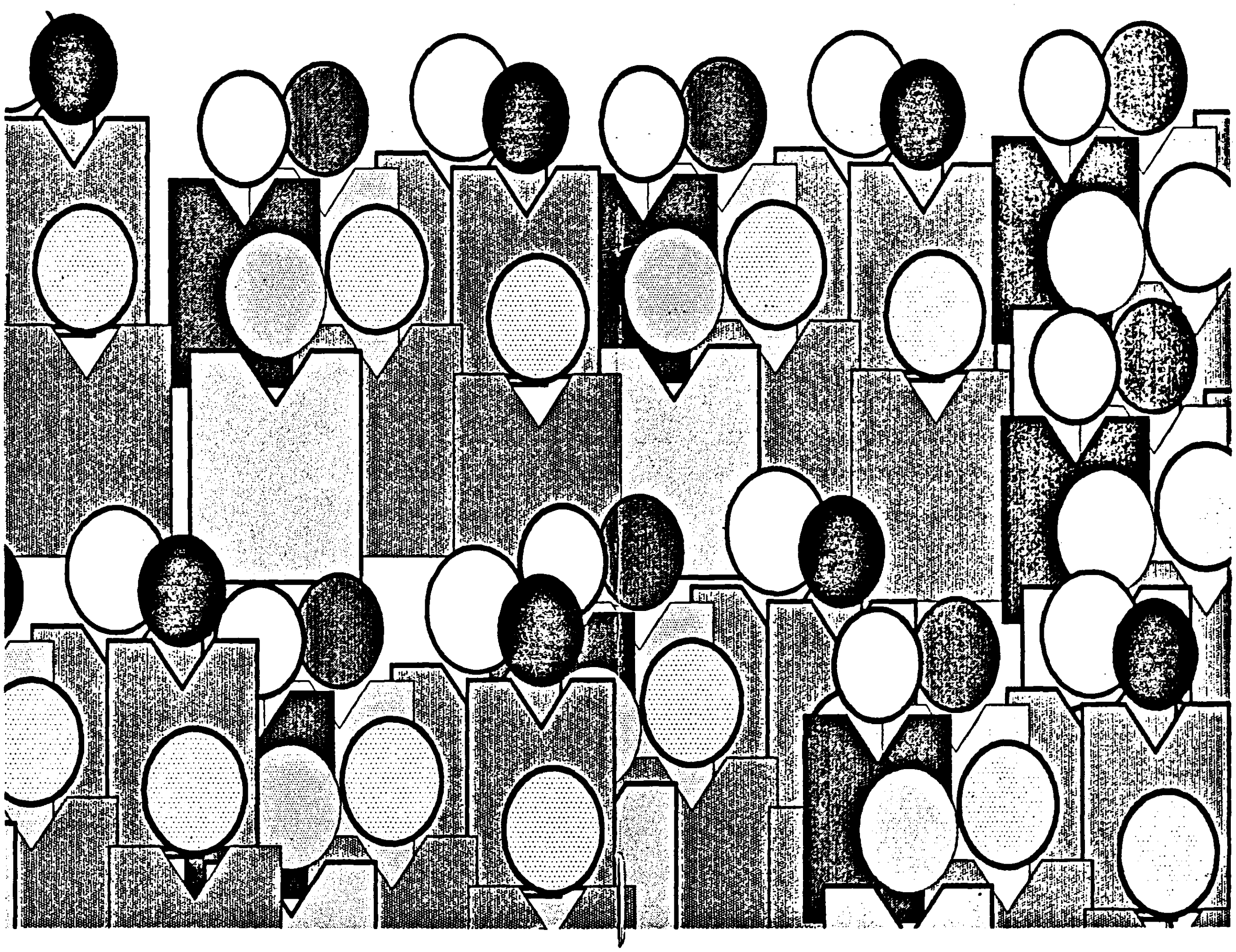
The Office of Legislative Oversight report on the Housing Opportunities Commission (HOC) is, as usual, a very thorough and useful compilation of information.

In addition to the responsibilities identified in the report, HOC is also required by the Annual Growth Policy (AGP) to certify certain developments seeking exemption from the AGP ceiling capacities as "affordable housing." This information could be added to the report in Section III, regarding County laws applicable to HOC.

JRS/CEH/bsh
wp0201.ceh

HOUSING OPPORTUNITIES COMMISSION
OF MONTGOMERY COUNTY, MD

PUBLIC PARTICIPATION & DEVELOPMENT PROCESS



10400 Detrick Avenue
Kensington, MD 20895

(301) 929-6700

EQUAL HOUSING OPPORTUNITY

HOUSING OPPORTUNITIES COMMISSION
OF MONTGOMERY COUNTY, MD

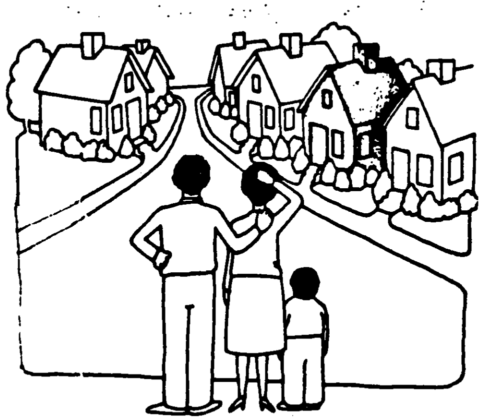
Guiding Principles

The Housing Opportunities Commission (HOC) builds, finances, owns and manages housing that provides affordable, well managed residences for people with limited incomes. HOC also finances, builds and manages income-integrated properties.

Montgomery County has a notable and longstanding commitment to promoting citizen participation in the formulation of public policies and regulations.

HOC develops and acquires housing in the context of Montgomery County's existing statutes and policies and in open forums that provide opportunities for public input during the process.

The Housing Opportunities Commission believes its development decisions benefit from public participation.



Public Participation

The following information is provided to help you get information about HOC activities and to describe the opportunities for public participation during HOC's development process.

- ***How you can reach the Commission:***

*HOC Commissioners are citizen volunteers. They do not maintain private offices at HOC, however, they can be reached through the Clerk to the Commission at **301-929-2380** or by letter to HOC Central Offices at 10400 Detrick Avenue, Kensington MD 20895.*

- ***HOC Meeting Schedule and Agenda Call-In Line:***

*The Housing Opportunities Commission generally meets the first and third Wednesday evening of each month at 7 pm. However, the schedule is subject to change. It is therefore suggested you call the Clerk or the HOC Agenda Line at **301-929-6777**. The HOC Agenda Line provides information about the time and the agenda of the next HOC meeting. The Agenda Line provides a report of Commission actions following each meeting.*

*To receive the agenda on a regular basis, please call **301-929-2380**.*

The Public and the HOC Development Process

You can participate in HOC's development process three ways: (1) Formal participation at a Commission meeting, the agenda of which includes a key development decision (2) Providing information and suggestions to staff at community meetings to be scheduled prior to two strategic points in the development process or (3) Informal contact with the Commission and the staff.

1. Formal Participation at Commission Meetings

During the development process of a new housing facility, the Commission must make a series of key decisions. Except for land acquisition and legal issues made in Executive Session, all other development decisions are discussed in open session at regularly scheduled public meetings of the Commission. Interested members of the public are welcome to attend and comment on the particular item as well as other items on the agenda.

Public Notification of Meeting and Decision Item

At the very beginning of the development process, and before

submission of an item for public deliberation of the Commission, a Public Notification List (The List) is established for the particular property. It includes the nearby and affected associations listed in the Planning Board's Association list, school Principals and PTA Presidents of affected schools, elected officials representing the area electorate, and identified community leaders. An interested citizen who wants to receive notification can be added to the list by calling the Public Affairs Office at 301-929-2382.

Notification will be provided for each of the key decision items placed on the Commission's agenda for a particular property. In most cases, notification will be in the form of the Commission's agenda which clearly identifies items by property and nature of decision. If needed, a cover letter providing additional explanation will be provided.

■ *HOC Minutes*

Typed minutes of HOC meetings are available to the public. To obtain a copy of the minutes, call the Clerk's office at 301-929-2380. A charge to cover the cost of copies is imposed.

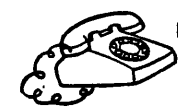
Participating in HOC Meetings

A public forum is scheduled for each HOC Commission meeting, providing time for people to address the Commission on any subject not listed on the agenda. Anyone may address the Commission on agenda items when that particular subject is under discussion.

Those who wish to participate in the Public Forum or in the discussion of a particular agenda item are asked to complete a registration form, available at the entrance to the Commission Hearing Room. The completed form should be given to the Clerk to the Commission prior to the agenda item. The Chair may limit time for comments.

■ ***Information about HOC Activities:***

Call HOC for information any time during working hours. If you do not have the telephone number, the operator at the main switchboard, 301-929-6700, will direct your call.



■ ***How to reach staff to get information about development activities:***

HOC Public Affairs Office
301-929-2382

Public Affairs can answer questions directly or refer you to the appropriate staff person

Director of Development
301-929-2371

Assistant Director of Development
301-929-6735

Director of Management
301-929-2358

Directions to HOC's offices
301-929-6711, ext. 121

Briefing Materials

Briefing materials developed by HOC staff are provided to the Commissioners and are available to the public at HOC's offices the Monday prior to a Commission meeting. A copy of the full briefing book is available in the lobby of HOC's offices.

Timing of Notification

When a decision item for a particular property is scheduled for a Commission meeting, staff will attempt to schedule the decision so that it can be listed on the prior meeting's agenda as an "Information for Future Action" item. This provides at least two week's notification prior to actual Commission deliberation or action.

In a limited number of situations, external timing constraints prevent the advance notice of "Information for Future Action". In these circumstances staff will attempt to provide adequate notice through other means.

Key Decision Items

The process for formal participation at Commission meetings, as outlined above, will be followed for each property at each of the following key decisions:

Public Participation

Acquisition Phase

YES	NO	
☐	☑	Initial consideration of site purchase: the Commission typically meets in Executive Session to consider the site and authorize purchase subject to public action.
☑	☐	Formal consideration of the purchase takes place at a Commission meeting.
☑	☐	Public Hearing for Assisted Family Housing is currently required by County law. The Commission receives staff testimony related to the "over-concentration of assisted family housing" in the census tract.

Planning Phase

YES	NO	
☑	☐	Development Program (number and type of housing units and who lives in the units) and how the Commission intends to finance
☑	☐	Selection of Development Consultants
☑	☐	Authorization to File Preliminary Plan (if required)
☑	☐	Authorization to File Site Plan

Public Participation

YES NO

Development and Construction Phase

☑ ☐ *Design Review & Authorization to Bid Construction Contract*

☑ ☐ *Issuance of Bonds (if required)*

☑ ☐ *Award of Construction Contract*

Rent Up and Management Phase

☑ ☐ *Selection of Management Agent (if not HOC) and Approval of Marketing Plan*

2. Community Meetings

HOC has learned that the community is particularly interested in the following key decisions during the development process: (1) acquisition of site and (2) filing of preliminary plan or site plan with Park and Planning. In preparing for the Commission to make these decisions, community input prior to the actual time of decision is essential.

To seek information from the community in a comprehensive manner, HOC staff holds one or more community meetings. These meetings occur at least several weeks in advance of the Commission meeting at which each of these key decisions will be made. Meetings will be held at a location convenient to the community. Notice of meetings will be provided to those on the Public Notification List.

Information on the proposed program (the number of units and the income mix in the development) will be provided to the community.

In some circumstances the Commission may recommend formation of a community advisory committee to facilitate the flow of information to and from the community throughout the development process.

3. Informal Contact with Commission and Staff

You are always welcome to directly contact appropriate staff members and members of the Commission with questions and concerns regarding the development of a particular property. In addition to direct contact, you can attend Commission meetings to hear development status reports which are provided at least quarterly but often more frequently. A Community Forum is held at each Commission meeting to provide the public with an opportunity to address the Commission on any relevant issue.

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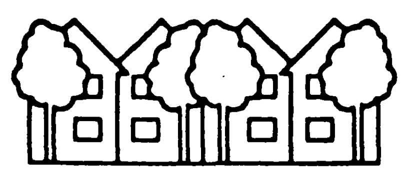

HOC Capital Development and Improvement Plan: Use of Funds
FY93–FY99
(In millions)

Use of Capital Funding	Approved Projects*		Planned Projects		Total Plan	
	Amount	% of Total	Amount	% of Total	Amount FY93–FY98	% of Total FY93–FY98
I. MULTI-FAMILY DEVELOPMENT						
A. New Construction	$68.6	74%	$230.7	68%	$299.3	69%
B. Acquisition of Existing Property	8.0	9	64.7	19	72.7	17
Total Multi-Family Develop FY93–99:	**$76.6**	**83**	**295.4**	**87**	**$372.0**	**86**
II. PURCHASE OF MPDUs	**$13.1**	**14**	**$28.6**	**8**	**41.7**	**10**
III. IMPROVEMENTS						
A. Public Housing Improvements	$ 2.2	2	$9.8	3	$12.0	3
B. Opportunity Housing Improvements	1.0	1	6.0	2	7.0	1
Total Improvements FY93–99:	**$ 3.2**	**3**	**$15.8**	**5**	**$19.0**	**4**
IV. TOTAL USE OF FUNDING FY93–99:	**$92.9**	**100%**	**$339.8**	**100%**	**$432.7**	**100%**

* HOC considers projects approved once a purchase or building contract has been signed by the Commission.

Source: HOC's FY94 Strategic Plan, adopted October, 1992

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HOC Capital Development and Improvement Plan: Sources of Funding
FY93–FY99
(In millions)

Sources of Funding:	Approved Projects*		Planned Projects		Total Plan	
	Amount	% of Total	Amount	% of Total	Amount FY93–FY98	% of Total FY93–FY98
I. NEW DEVELOPMENT AND ACQUISITION						
A. Debt						
Tax-Exempt Mortgage Revenue Bonds:	$66.2	71%	$247.4	73%	$313.6	72%
B. Subsidies/Loans/Grants						
a. County Government	3.0	3	14.6	4	17.6	4
b. State Government	4.1	5	17.4	5	21.5	5
c. Federal Government	9.5	10	8.5	3	18.0	4
d. Private Funds**	2.9	3	16.7	5	19.7	5
C. HOC Funds						
Opportunity Housing Reserve Funds:	4.0	4	19.3	6	13.3	5
Total New Development and Acquisition FY93–99:	**$89.7**	**96%**	**$324.0**	**96%**	**$413.7**	**95%**
II. IMPROVEMENTS						
a. Federal						
Public Housing Improvement Funds:	$2.2	2%	$9.8	3%	$12.0	3%
b. HOC Funds						
Opportunity Housing Prop. Reserves:	1.0	1	6.0	2	7.0	2
Total Improvements FY93–99:	**$3.2**	**3%**	**$15.8**	**5%**	**$19.0**	**5%**
III. TOTAL DEVELOPMENT/IMPROVEMENT PLAN FY93–FY99:	**$92.9**	**99%*** **	**$339.8**	**101%*** **	**$432.7**	**100%**

* An HOC project is considered approved when a building or purchase contract has been signed by the Commission.
** These represent private funds associated with HOC's Tax Credit Partnership.
*** Percent does not equal 100 due to rounding.

Source: HOC's FY94 Strategic Plan.

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HOC's MPDU Purchase Process

Legal Requirements

Chapter 25A of the Montgomery County Code provides that HOC can reserve up to 40 percent of all available MPDUs, of which 33 1/3 percent can be purchased by HOC. The remaining 6 2/3 percent are to be made available, through HOC, to approved non-profits for purchase. Non-profits also have access to any of the 33 1/3 percent of units that HOC itself does not use.

By law (Section 25A-8), the County must notify HOC of the availability of MPDU units for sale. The notice must provide HOC with a description of the types of units available and the DHCD-determined sales price. HOC has 21 days from the date of notification to reserve desired units, and 45 days to commit to purchase of those units.

HOC's Decision Process*

Once HOC is notified that MPDUs are available, the following process generally takes place during HOC's 21-day time limit:

- The MPDU STAFF gather information regarding the location of available units and details on unit features, e.g. appliances, options. The information is submitted to the HOC SELECTION GROUP for review.

- The MPDU STAFF submits a memo to the COMMISSION MPDU SELECTION COMMITTEE that contains the HOC SELECTION GROUP's recommendation on specific units for HOC to purchase and the program connections for those units.

- The MPDU STAFF send an information packet about the MPDU offering to eligible non-profits.

- The COMMISSION MPDU SELECTION COMMITTEE has five days to respond to the MPDU STAFF memo. If they do not respond, the HOC SELECTION GROUP assumes they have the COMMISSION MPDU SELECTION COMMITTEE's consent.

- After the COMMISSION MPDU SELECTION GROUP has approved unit selection, a letter is sent to the developer reserving these units for "potential" purchase by HOC. This first letter serves only to identify the units HOC wants, not to confirm that they will purchase those units.

- If changes occur anytime during this process (e.g. unit location, construction/design problems), then HOC MPDU STAFF send a memo to the HOC SELECTION GROUP explaining the changes.

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* HOC's MPDU STAFF consists of the MPDU Program Coordinator and Program Specialist, who work in the Development Division. The HOC SELECTION GROUP consists of representatives from four of HOC's five divisions: Development, Housing Management, Resident Services and Public Affairs. The COMMISSION MPDU SELECTION COMMITTEE is a four-member subcommittee of the HOC COMMISSION.

- Before the 45-day deadline, a confirmation letter is sent to the developer to identify the units which HOC will purchase, and to confirm the purchase prices.

- When contracts are received at HOC, MPDU STAFF reviews them and gives them to the Director of Finance for signature. They are then returned, with a deposit, if required, to the builder for ratification.

Short and Long-Term Financing for MPDU Purchases: Federal, State, County and HOC

HOC uses two County-funded CIP revolving funds, (the MPDU/ Property Acquisition Fund, and HOC's Opportunity Housing Development Fund) and/or HOC's own funds (The Opportunity Housing Reserve Fund (OHRF)) to provide the short-term financing needed to purchase MPDUs. HOC repays County revolving and OHRF funds used to finance initial costs once long-term financing has been secured. In practice, repayment generally takes anywhere from six months to two years.

Long-term financing arrangements are in place before actual purchase of the MPDU units. Some examples of long-term financing are the HUD Acquisition Without Rehabilitation program, the State Partnership Rental Housing Program (PRHP), and the Low Income Housing Tax Credit Program. HUD funds are disbursed after all HUD site approval and budget requirements have been met. State funds, such as the PRHP, are disbursed after HOC submits documents, required by the loan commitment letter, to the State for units already purchased by HOC.

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The Development of Sunrise at Kensington Park

I. INTRODUCTION

The following chronology describes the process that HOC followed for the development of Sunrise at Kensington Park. While recognizing that all HOC projects have different circumstances and unique problems, similar types of decisions have to be made for each project.

Sunrise at Kensington Park is unique because the land is a closed school site. A Council Resolution, passed in June 1986, stated preferential reuses for the site, and established restrictions regarding land use factors such as the amount of traffic generated, parking, and density. One of the specific preferential uses identified by the Council Resolution was elderly housing.

The decision process for HOC's development projects begins with the HOC DEVELOPMENT STAFF. Recommendations are made by the DEVELOPMENT STAFF to the HOC DEVELOPMENT TEAM. The DEVELOPMENT TEAM is made up of one representative from each of HOC's six divisions. The DEVELOPMENT TEAM makes recommendations to HOC SENIOR STAFF, which consists of the Directors of the HOC's five divisions and the Executive Director. SENIOR STAFF, in turn, makes recommendations to the HOC EXECUTIVE DIRECTOR. Once the EXECUTIVE DIRECTOR has signed the recommendation, it becomes the HOC STAFF recommendation and is sent to the HOC COMMISSION for review and approval. Most of the major decisions outlined below followed this decision pattern.

The following dates are an approximate schedule of decisions during the development and construction of Sunrise at Kensington. Because some of the events occurred concurrently, as this outline presents, the development process is not always linear. The chronology begins after HOC acquired a portion of the Kensington school site to be used for elderly housing.

II. CHRONOLOGY

July 1987

HOC DEVELOPMENT STAFF begin discussions on the feasibility of developing an assisted living elderly project for low income residents. (The term assisted living refers to life services offered to elderly residents, such as housekeeping, shopping, and some medical services.) The County Council resolution awarding the site to HOC prescribed a maximum of 165 units and a three story front/four story rear building foundation for the development.

April - September 1988

HOC COMMISSION hires two marketing research firms to study the feasibility of an elderly project in the Kensington area. The marketing report identifies development alternatives for the HOC COMMISSION to consider.

September - November 1988

HOC DEVELOPMENT TEAM works through alternatives and recommends to HOC SENIOR STAFF the development of a combination independent living and assisted living rental facility. The goal of the project would be to have 40 percent of the units affordable to residents who earn 20 percent of the area median income; the remaining units would be market rate. HOC SENIOR STAFF approve the DEVELOPMENT TEAM'S recommendation and put together the HOC STAFF recommendation, which the EXECUTIVE DIRECTOR signs and sends to the HOC COMMISSION for approval. The HOC COMMISSION approves the HOC STAFF's recommendation by resolution.

April - June 1989

Because of the complexity of assisted-living elderly development projects, the HOC COMMISSION sends out a Request For Proposals (RFP) for a "development partner" with expertise in such projects, who would serve as advisor/consultant to HOC. HOC COMMISSIONERS conduct site visits of similar projects that firms responding to the RFP had developed.

October 1989

HOC COMMISSION selects Sunrise Terrace, Inc. as HOC's development partner because of Sunrise's experience with similar projects around the country. The original plan was for Sunrise to hire its own team of architects, engineers, contractors and other professionals to design and construct the project.

May 1990

HOC STAFF make a recommendation to the HOC COMMISSION on the number of assisted living and independent units in the project.

June 1990

HOC COMMISSION approves terms of Transfer Agreement that transferred the Kensington school site to HOC.

June 1990

HOC COMMISSION decides that Sunrise will consist of two buildings of assisted living and one building for independent living, and that construction will proceed with a general contractor selected by Sunrise Terrace, Inc, under a negotiated contract. In addition, the HOC Commission approves a development agreement and marketing/management agreement with Sunrise Terrace Inc.

Early Spring 1991

HOC DEVELOPMENT STAFF meet with County DHCD staff to discuss what financial assistance the County Government can provide to Sunrise at Kensington Park. The DHCD Director agrees to provide HOC with $800,000 from the Housing Initiative Fund.

HOC DEVELOPMENT STAFF suggest that the project should borrow $1 million from the State's Rental Housing Production Program, (RHPP) and $800,000 from the County's Housing Initiative Fund (HIF). The principal amounts would be held in escrow and HOC would draw interest from the principals. HOC would match the County by contributing $800,000 from the Opportunity Housing Reserve Fund(OHRF). Interest generated from the principal amounts would subsidize the initial operating deficits of the project. HOC believes that Sunrise will eventually be self-supporting, at which time the principal amounts would be returned to the County and State. HOC's commitment of $800,000 from the OHRF would remain in the project as a further reserve.

February 1991

Having received lower than expected bids for the construction of another HOC project (Alexander House), the HOC COMMISSION reconsiders the use of the firm hired by Sunrise as the general contractor. Instead the HOC COMMISSION decides to proceed by competitive bid and instructs HOC STAFF to send out RFP's to general contractors.

February 1991

County executes deed transferring Kensington site to HOC.

Accepting the HOC STAFF recommendation, the HOC COMMISSION adopts as an occupancy and subsidy objective that 40 percent of the residents be persons requiring subsidy, and that such persons have an average income of 20 percent of the area median.

April 1991

Ads requesting expressions of interest from general contractors are placed in newspapers and journals. HOC receives 13 proposals. From these 13, HOC STAFF assembles a list of prequalified bidders based on the information each firm submitted , e.g. past work, financial information.

HOC COMMISSION selects five contractors from the prequalified list as eligible to bid. Bids are to be ranked according to two key factors: time and cost.

June 1991

HOC applies to the State Department of Housing and Community Development for $1 million from the State Rental Housing Production Program (RHPP).

June - July 1991

HOC COMMISSION passes resolution setting the schedule for bond sales to finance Sunrise in October 1991. COMMISSION makes decision to finance Sunrise with unrated and uninsured bonds.

July 1991

HOC COMMISSION instructs staff to issue a RFP to HOC's underwriting team for position of lead manager for the Sunrise bond issue. Proposals are received from three firms.

July 1991

HOC COMMISSION approves a contract increase of $6,500 for the project architects because the plans need to be reworked to make them more complete so that a true competitive bid can be obtained.

July 1991

HOC staff sends out a RFP to six national accounting firms for an in-depth financial and market analysis. HOC receives three proposals, and the HOC COMMISSION selects Ernst & Young.

August 1991

HOC COMMISSION appoints Legg, Mason, Wood, Walker as lead manager for the underwriting team for the bond financing at Sunrise. HOC's financial advisor and underwriting team makes recommendation to the HOC COMMISSION for the amount needed in the bond issue.

September 1991

HOC COMMISSION selects Glen Construction Inc. to construct Sunrise because after adjusting for proposed time of construction, they are the low bidder.

November 1991

HOC's underwriting team fixes the interest rate of the bonds at 7.8 percent.

December 1991

HOC issues tax-exempt bonds in the amount of $18.9 million. Because of difficulties selling the entire bond issue at 7.8 percent interest, $4.5 million of the bonds were issued at 7.8 percent, and $11.4 million are issued at 8 percent interest; the remaining $3 million were issued as serial bonds.

January 1992

HOC receives building permits from the County. Construction of the project begins on January 6, 1992. Initial preconstruction costs were advanced by HOC out of the OHRF. These costs were repaid to HOC from the bond issue during the bond closing.

February 1992

HOC DEVELOPMENT STAFF receives monthly requisitions from the contractors for construction costs. In the event of a discrepancy in the costs, HOC DEVELOPMENT STAFF and the contractor negotiate the problem.

Every two weeks, HOC DEVELOPMENT STAFF meet with contractor and architect on the job site to review progress of the project. Any change orders that are submitted by the contractors that are over $12,500 require HOC COMMISSION approval.

HOC COMMISSION given monthly updates on construction and marketing progress.

HOC COMMISSION approves project budget on a yearly, or possibly more frequent, basis.

May 1992

HOC and County close on $800,000 loan from the Housing Initiative Fund for Sunrise at Kensington.

September 1992

HOC and State DHCD close on $1 million dollars loan from the RHPP for Sunrise at Kensington.

October 1992

Sunrise's information center on University Boulevard begins to accept rental deposits from prospective residents of Sunrise at Kensington.

June 1993

Construction completion date of Sunrise at Kensington.

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