

EVICTED FROM THE AMERICAN DREAM:

# THE REDEVELOPMENT OF MOUNT HOLLY GARDENS



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## INTRODUCTION AND SUMMARY

Redevelopment can be a powerful tool to revitalize local communities and neighborhoods. It has special relevance in New Jersey, where the relative scarcity of undeveloped land focuses attention on previously developed areas whose vitality may have diminished with the forces and passage of time.

Like all governmental powers, however, the redevelopment power is susceptible to misuse. The history of post-World War II “urban renewal” projects that shattered low-income communities is an unhappy reminder of the possible consequences of the indiscriminate exercise of such sweeping powers.<sup>1</sup>

The Department of the Public Advocate has, since its restoration in 2006, argued for reform of the laws that govern the use of eminent domain for private redevelopment, in order to protect the rights of tenants and property owners. In two short years, remarkable progress has been achieved in the courts, including the landmark decision in *Gallenthin Realty Development, Inc. v. Borough of Paulsboro*.<sup>2</sup> In *Gallenthin*, the New Jersey Supreme Court reinforced the state constitutional limitation on the use of eminent domain for redevelopment to those areas that meet the constitutional definition of “blight.” The Court made clear that this definition is not broad enough to include properties simply because the municipality believes that they can be put to a more productive use. The courts have also interposed significant procedural protections that require meaningful notice and a fair hearing before a municipality attempts to designate an area as “blighted.”<sup>3</sup>

The New Jersey Constitution’s requirement of “blight” has provided an authoritative basis for

reining in the improper exercise of redevelopment powers such as eminent domain. But some have questioned the uncritical reliance on the concept of “blight” as inevitably leading to a disproportionate impact on economically disadvantaged communities.<sup>4</sup> The reasoning behind such criticism seems unimpeachable. Simply put, poor people live in blighted areas; rich people do not. Redevelopment is not only the act of creation, but also, at least in part, of deconstruction of elements of the existing community. It can involve the displacement of people from their homes and the elimination of existing businesses. Economically disadvantaged communities are inherently more susceptible to these negative effects of redevelopment when the use of redevelopment powers is linked to the existence of “blight.”

If applied in isolation, therefore, the “blight” requirement could lead to the very result that the New Jersey Supreme Court has said, in many different contexts, is anathema to our state constitutional jurisprudence: disparate treatment by government of its economically disadvantaged residents. But our Constitution is not read in a piecemeal fashion. While the famous *Mount Laurel* cases dealt with exclusionary zoning ordinances that had a disparate impact on low-income households, the Court made clear that the principle of equity applies to all exercises of governmental power, including redevelopment: “It is plain beyond dispute that proper provision for adequate housing of all categories of people is certainly an absolute essential in promotion of the general welfare required in *all* local land use regulation.”<sup>5</sup> Thus, whenever government exercises any of its redevelopment powers, including in areas that may properly be found to be “blighted,” our state constitution requires it to do so in a way that is

consistent with its obligation of fairness and equity to low-income residents.

The theme of this study is the effect of the use of redevelopment powers other than eminent domain in a residential neighborhood in Mount Holly Township. This study was triggered by our concern that a core value embedded in our state constitution—that all government powers must be exercised fairly with respect to low-income residents—has not been successfully or completely translated into the statutes and practices that govern the everyday implementation of redevelopment plans.



*The Gardens before redevelopment*

Mount Holly Gardens was built in the mid-1950s to satisfy the housing needs of enlisted military personnel and their families in the Fort Dix and McGuire Air Force Base defense area. The 379 low-rise, garden apartment-style units have provided affordable housing to the low- and moderate-income residents of the Gardens for the past fifty years. Like many older, low-income communities, the Gardens has faced a number of challenges over the years, including deteriorating building conditions caused in part by negligent absentee landlords, a significant number of vacant properties, and a crime problem.

But our visits to Mount Holly Gardens also revealed a community in every sense of the word: a close-knit collective whose residents have worked and lived together and depended on one another in all aspects of daily life. As one young resident explained, “All of us here are like family. We live with each other, basically help each other out.”<sup>6</sup> The remaining residents are fiercely loyal to, and protective of, one another, and they are determined to preserve their sense of community.

The Township’s finding of “blight” in Mount Holly Gardens, since upheld by the courts,<sup>7</sup> would justify the exercise of eminent domain for redevelopment. But thus far, the Township has mainly avoided using its condemnation powers in the Gardens. It has, however, exercised other redevelopment powers that have had drastic consequences: (1) The Township has purchased properties at set prices it has offered based on appraisals that have never been tested in court. Our research shows these prices to be insufficient to allow most former homeowners to buy decent replacement homes in Mount Holly. (2) The Township has provided relocation assistance in excess of what the law requires to some households while offering nothing to others. Even tenants who received the most generous relocation assistance, however, paid so much more in new rents on average as to far exceed the level of assistance they received. (3) Having purchased a majority of the units in the Gardens, the Township has either demolished them or boarded them up and marked them with conspicuous “No Trespassing” signs. By its own actions, the Township has thus removed any further doubt as to whether the area is “blighted;” if it wasn’t before, it is now.

The result has been the dispersal and partial destruction of the existing community. Most former residents, pressed by the boarded-up units and the ongoing demolitions, have simply moved on. Those who remain are unable to receive any assurances from the Township that they will be able to live in the redevelopment after the project is complete; the Township has said that it cannot answer that question until it knows how many residents want to come back,



*A bulldozer at the Gardens during the winter of 2008*

thus indicating that it would not be able to accommodate them if all the remaining residents wished to return.

While the negative results of the redevelopment efforts are distressing, it appears that, with a few possible exceptions, they are nevertheless permitted under existing statutes governing redevelopment and relocation. This is the most disturbing conclusion of this study, and undergirds our call for quick remedial action. Whatever their original intent may have been, the current compensation and relocation assistance laws allow a redevelopment to proceed, triggering the displacement of large numbers of residents, without ensuring that every resident is protected against the immediate and foreseeable adverse consequences of the redevelopment.

The first duty of any local government is to its existing residents. The law should not permit a municipality to proceed on the assumption that some of its residents, regardless of their economic status, will simply disappear for the convenience of those who remain or who arrive to replace those who have left. It is our hope that statutory reform will reconcile the laws governing compensation and relocation with the overriding principle that the costs of redeveloping a community should not be borne by those who can least afford it.

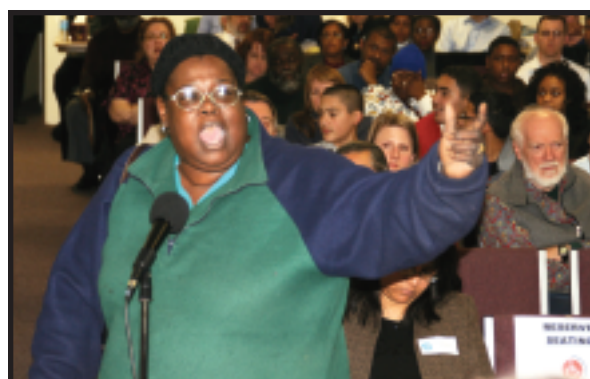
Specifically, we have identified three critical areas for reform.

- First, the law must demand that municipalities pay displaced homeowners and tenants enough to enable them to relocate to decent, safe, sanitary, and comparable replacement homes.
- Second, the laws must guarantee that residents who move away receive relocation assistance and that they can qualify for such assistance on their own timetable—when they are ready to go.
- Third, when redevelopment results in the demolition of affordable housing, the municipalities must be required to replace as much of this housing as possible so as to avoid aggravating an already dire shortage of affordable housing in the State.

Statutory reform is critical if the laws are to achieve equity for residents of areas in need of redevelopment. Without that equity, the process of redevelopment will be marked by the perverse result of harming the vulnerable constituents that the redevelopment of “blighted areas” is ostensibly intended to help.

## Methodology

In an effort to understand how the redevelopment process affects residents once a municipality designates an area as “blighted” or “in need of redevelopment,” the Department of the Public Advocate undertook an investigation of the redevelopment of Mount Holly Gardens in Mount Holly Township. Our investigation began in the fall of 2007.



*Gardens resident Phyllis Singleton speaks at a December 12, 2007, public hearing*

During the past year, we have interviewed dozens of current and former residents of the Gardens and their families and met with representatives of community groups based in Mount Holly. On December 12, 2007, more than 100 people attended a public hearing we held to hear testimony about the Gardens redevelopment. We also participated in a community forum in April 2008 with local activists and South Jersey Legal Services, which represents some Gardens residents in fighting the redevelopment in the courts. During the summer of 2008, twenty-seven former residents completed surveys detailing their individual experiences relocating from the Gardens.

We also met on several occasions with representatives from the Township; its redeveloper, Keating Urban Partners; and its relocation



consultant, Triad Associates. In addition to these meetings, we reviewed Township documents responding to our public hearing and our Open Public Records Act requests. In April 2008, we issued a subpoena to the Township and, as a result, were able to review every file maintained at the time that related to the Township's relocation efforts.

We complemented this investigative work with extensive legal and policy research: analysis of current state and federal law and various reform proposals; review of press coverage of the Gardens spanning five decades to enhance our understanding of the community; examination of government and private real estate market information to assess the real-world value of relocation assistance; and evaluation of other state agencies' relocation and compensation practices.

## A Profile of Mount Holly Gardens

During the Korean War in the mid-1950s, Mount Holly Gardens was built as part of a larger plan to create 1,800 new housing units within a twelve-mile radius of Fort Dix and McGuire Air Force Base.<sup>8</sup> Designed for rank-and-file members of the military, the more than 350 two-story, attached units in the Gardens have been a source of scarce affordable housing in the region ever since.

Various sources of data dating from the year 2000 or later reveal the recent demographics of Mount Holly Gardens. During this period, the residents fell almost entirely within the low- to moderate-income range—forty-seven percent of the households earned less than \$20,000 per year; forty-three percent earned between \$20,000 and \$40,000; nine percent earned more than \$40,000; and 0.7% earned more than \$60,000.<sup>9</sup> Fifteen percent of households were headed by senior citizens.<sup>10</sup> Of the 1,605 individuals who lived in the Gardens at the time of the 2000 census, forty-four percent were African-American, twenty-two percent were Hispanic, and twenty-eight percent were non-Hispanic White.<sup>11</sup>

For the past half century, the Gardens has been a close-knit community whose residents have repeatedly come together to respond to chal-

lenges that have arisen over the decades. In the 1980s and 90s, residents protested against absentee landlords who were not properly caring for their properties,<sup>12</sup> developed a program to assist individuals to purchase units from absentee landlords,<sup>13</sup> and worked with local police to stop drug-related crime.<sup>14</sup> Even with the challenges the community faced, residents felt strongly about the benefits of living in the Gardens: "We've never felt unsafe down here. People look out for each other. I like the neighborhood, I wouldn't live anywhere else."<sup>15</sup>

Ultimately, the Township did not view the community's efforts as sufficient to bring about the revitalization that it envisioned, and it took steps of its own to redevelop the community. In October 2002, the Township passed a resolution designating most of the Gardens as "blighted" or "in need of redevelopment," citing the poor maintenance of the buildings, the elevated crime rate, and the limited common recreation space in the area.<sup>16</sup>

The next year, the Township Council adopted a redevelopment plan, the Gardens Area Redevelopment Plan (GARP), and passed an ordinance allowing the Township to acquire property in the redevelopment area.<sup>17</sup> After the adoption of the GARP, the Township was allowed, under State law, to "proceed with the clearance, replanning, development and redevelopment of the area designated in that plan."<sup>18</sup> The redevelopment plan, officially amended and renamed the West Rancocas Redevelopment Plan in 2005, has undergone several revisions.<sup>19</sup> None of the iterations of the plan has made clear what will eventually be constructed in the redevelopment area.<sup>20</sup> To this day, current residents remain uncertain about what will replace their homes and whether there will be any place for them in the new development: As a community organizer who works with Gardens residents explained, "[The residents] liv[e] in fear . . . of their future . . . [T]he plan keeps changing. Everybody we go to, the plan's different. I understand that things have to be worked out, the plans have to change, but it's just a very fearful situation for everybody living there."<sup>21</sup>

For the past half century, the Gardens has been a close-knit community whose residents have repeatedly come together to respond to challenges that have arisen over the decades.



## Mount Holly Gardens—A Timeline

**1950s** Mount Holly Gardens was built to accommodate enlisted military personnel and their families. The Federal Housing Authority (FHA) bought and managed the attached, garden-style apartments after the builder defaulted on its mortgage. The FHA provided on-site maintenance staff and sustained what one resident called a “high quality of life” for the community. Gardens residents refer to this period as the “Golden Years.”



*“The Golden Years”*

**1960s** The FHA sold the Gardens to Mazeltuff Realty Corporation of New York City. Soon after the sale, conditions in the Gardens deteriorated. While the Township cited Mazeltuff for code violations, it took limited action to force the landlord to fix the problems it had identified. Tenants formed Citizens in Action to push the Township to do more to enforce the housing code, after which some tenant activists were evicted. In response to tenant complaints, the State investigated some properties and issued an order requiring the landlord to correct multiple violations of state housing law.

**1970s** Properties continued to deteriorate. Mazeltuff Realty sold its properties to individual buyers—both absentee landlords and owner-occupants. While the Township brought occasional enforcement actions against negligent landlords, these actions were not sufficient to arrest the decline. Community groups attempted to purchase the Gardens but were unsuccessful.

**1980s** Negligent absentee landlords continued to allow their properties to fall into disrepair. As one individual explained: “It goes in cycles. . . . The Township gets tough, the owners give token cosmetic improvements and everybody’s happy for six months. Then, the

problems start all over again.” A community organization, Strength to Love, attempted to work with absentee landlords and Township officials to improve housing conditions. Drug-related crime increased as dealers began selling drugs in certain alleys in the Gardens. According to the Township, only a very small percentage of residents were involved, and often the people arrested were from outside of the Gardens. The community worked with the police, and by the end of the decade the crime problem had lessened.

**1990s** Residents, community organizers, and Township representatives formed the Mount Holly Gardens Revitalization Association to address the enduring issue of decline. The Association commissioned a redevelopment plan which proposed that the Township acquire all 225 rental units in the Gardens and transfer them to a nonprofit organization, which would rehabilitate them. While the Township supported the plan in many ways, it did not provide the resources necessary to accomplish its goals. Mount Holly 2000, the nonprofit formed to oversee the rehabilitation of the Gardens, was ultimately able to acquire and renovate only eleven properties. Although drug-related crime persisted, the community and the police continued to fight it together. The Township opened a police substation and community center in the Gardens.

**2000s** The Township declared the Gardens to be “blighted,” acquired more than 200 properties, boarded up vacant units, and began demolitions. The police substation and community center were closed.



*The Gardens now*

The redevelopment plans also failed to discuss in any detail which residents the Township would displace or how it would help those it did displace. The financial and other assistance a municipality is required to provide to displaced residents would be included in the Township's Workable Relocation Assistance Plan (WRAP), filed in September 2006. In the nearly four years that elapsed between the blight designation in October 2002 and the filing of the WRAP in September 2006, residents had neither information about nor access to relocation assistance. During that period, however, the Township moved forward with its plan; according to press reports, it had acquired 170 properties in the Gardens by February 2006.<sup>22</sup> By the time the WRAP was filed in September 2006, 116 Township-owned units were vacant.<sup>23</sup> We do not know when or why the residents of those units left. In addition to declining to offer assistance to those who moved out of the Gardens before the WRAP was filed, the Township has informed residents who moved into the Gardens after August 1, 2006, that they are ineligible for relocation assistance,<sup>24</sup> although some seem to have been offered \$500 in moving expenses.

The WRAP identified 179 households in the Gardens as potentially eligible for relocation assistance.<sup>25</sup> As of January 2008, the Township had provided relocation assistance to sixty-two households.<sup>26</sup> Rather than forcing the members of those households to wait until the Township determined it was ready to purchase their property, as the law allows, the Township agreed to provide assistance when they were ready to relocate.<sup>27</sup> It also offered greater financial assistance than the statutorily required amounts for both homeowners and tenants.<sup>28</sup>

Unfortunately, even the more generous assistance offered by Mount Holly has been insufficient to cover the actual costs of relocation. Of those individuals with whom we have been in contact or whose relocation records we reviewed, both displaced homeowners and tenants have taken on significant additional costs following their relocation. Displaced homeowners either were not able to purchase another home or had to take on more debt than they had in the Gardens. Renters who were displaced are financially strained because the rental assistance provided by the Township has not offset the

additional costs of the more expensive apartments to which they have relocated.

Moreover, the sixty-two relocated families, once part of a close community, have scattered. Only nineteen relocated within Mount Holly; thirty-nine went to other municipalities in New Jersey; three moved out of state; and one left the country.<sup>29</sup>

Then there are those who remain in the Gardens. The Township began demolishing housing in March 2004,<sup>30</sup> and had torn down seventy-five of the 232 units it owned as of August 2008.<sup>31</sup> It has boarded up dozens of additional properties. The dismantling of the neighborhood has taken an emotional and physical toll on the families and individuals still living in the Gardens.

In 2003, a group of residents, represented by South Jersey Legal Services, challenged the blight designation and redevelopment plan and claimed an array of civil rights violations in a state court lawsuit. In 2005, the trial court upheld the designation as supported by substantial evidence and dismissed the remaining claims. The Appellate Division affirmed in 2007, and the New Jersey Supreme Court declined to hear the case.<sup>32</sup> Some of those same residents, and some others, have since filed a federal case arguing primarily that the redevelopment violates laws that forbid discrimination on the basis of race or ethnicity in housing.<sup>33</sup> This case is ongoing.

## The Scope of Our Analysis

The residents of Mount Holly Gardens have asked many questions about the redevelopment, only some of which we address in this report.

- *"I'm raising three grandchildren . . . I'm seventy-six years old. Where am I going to get a mortgage? . . . Where am I going to go with three children: seven, fifteen, and sixteen [years old]?"*<sup>34</sup>
- *"Who can afford a mortgage on a \$150,000 condominium, \$250,000 for a three-bedroom? Who can afford that at seventy years old?"*<sup>35</sup>
- *"How . . . [is the municipality] going to buy my house for \$50,000 or whatever and tell me [I] can buy a house . . . for \$200,000? Where am I going to get that kind of money?"*<sup>36</sup>

## Looking Back over Several Decades in the Gardens and Forward to Returning There



*Carl and Lieselotte Rich*

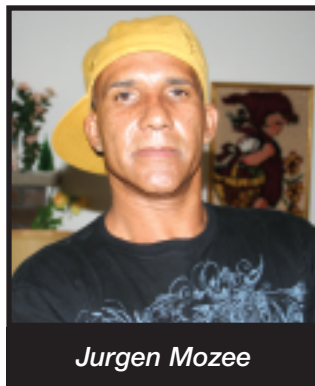
At seventy-two years of age and in reasonably good health, Lieselotte Rich said she expected to have more control over her life than she has. She and her husband, Carl, purchased their home in the Gardens in November 1969 and expected to leave it to their seven children.

Several years ago, when the Riches heard talk about blight and eminent domain in the Gardens, they were determined not to sell the home they loved. They were not willing to trade the Township anything for their little piece of this community.

Jurgen Mozee, Mrs. Rich's fifty-two-year-old son, remembers his childhood in the Gardens as a life-enriching experience. "I would leave festivities at my house to visit a number of neighbors uninvited. I never felt unwelcome by anyone in the neighborhood. In the Gardens, my family was the people who lived at home with me in addition to the people who lived with us in our community." The adults communicated with kids in a way that made him feel valued, "important and sure of myself."

In addition, Jurgen found "mentors and role models" among his neighbors. "The Gardens was a community with a wealth of skills." He lived among teachers, mechanics, roofers, and masons, among others. The many skilled residents were glad to help anyone in the Gardens who needed their skill.

Jurgen and Carl Rich, Jr., Mrs. Rich's youngest son, agreed that the Gardens started to change around twenty years ago, at about the same time that rumors and talk of blight and eminent domain began. They pointed to the actions



*Jurgen Mozee*

of some property owners as a factor in the change. "Some absentee property owners began to rent to families without a known source of income because the family was willing to pay much more than what was the typical rent." "Everyone knew there were drug dealers in the Gardens," Jurgen continued. "One of the alleys in the Gardens was known as 'Cocaine Alley.'"

Along with these changes came rumors that the Gardens was a dangerous place. Jurgen and Carl Jr. agreed that "the talk simply was not true." When he was a teenager, Carl Jr. met a teenage girl who did not live in the Gardens. When she learned he lived in the Gardens, she exclaimed, "The Gardens! Aren't there machine guns and everything down there?" Carl Jr. responded, "Where? Tell me, because I don't know anything about any machine guns."



*Carl Rich, Jr.*

Mrs. Rich said she never felt unsafe when she lived in the Gardens. She and her husband would visit her relatives in Germany for a month at a time leaving their home empty. When they returned from their trips, their home was as they had left it.

Following her husband's death about three years ago, Mrs. Rich grew more ill at ease as her community emptied, with only a fraction of the families that used to live there. Seeing the bright orange signs on vacant homes was a constant reminder of the coming demolitions. In the past, the Township bulldozed some homes before all of the families in the adjoining homes had moved. Mrs. Rich said one such demolition caused her bathroom and bedroom ceilings to collapse.

After years of talking to her, Jurgen finally convinced his proud mother to leave the Gardens. They moved from their three-bedroom home into a two-bedroom rental apartment in Lumberton. They could not afford to buy, and besides, they want to go back. Mrs. Rich hopes to become one of the first homeowners to take up residence in the new Gardens.





- *"I'm still in school. I hear I have to leave . . . I want to go to school. I want to fulfill what maybe my parents didn't do or couldn't do. I want to make something with my life. Now . . . the Township is saying that we can't fulfill this. What am I going to do?"*<sup>37</sup>
- *"Everybody has their families out here . . . I don't want to move from this area. Why would I want to move from an area where I just built my life? If they take this away from us what do the people . . . have for hope anymore?"*<sup>38</sup>
- *"What's going to happen when I have to move away? I don't want to go back out there. I don't want to go, to have to move away from my family."*<sup>39</sup>
- *"I came here five years ago thinking that I was going to have a better life and I do have it. Why do they want to take that away from me?"*<sup>40</sup>
- *"Now the Gardens is almost desolate . . . Now, should the Gardens be like that? No, [it] shouldn't be. [The Township] should have just told us what [it] can do to help us. [It] could have helped us."*<sup>41</sup>

These are important questions. In particular, it would be well worth studying what actions might have ameliorated the problems that the Township cited in 2002 as reasons for declaring the area "blighted." Those problems were not new, and both residents of the Gardens and government officials had made efforts over the years to address them as they developed. Had these or other efforts succeeded, they might have prevented a decline into "blight" and saved the Gardens from the demolition now under way.

Residents have also questioned whether their neighborhood was really "blighted" when the designation was made in 2002 or fell into this condition only afterwards, as the Township purchased, boarded up, and tore down units.<sup>42</sup> While we have criticized blight designations in other contexts,<sup>43</sup> this has not been our focus in Mount Holly. Residents have also objected that the redevelopment will force African-American and Latino families out of the Township, in violation of laws that guarantee fair and equal housing opportunities to all.<sup>44</sup> This issue, too, is beyond the scope of our current investigation.

We focus here, not on whether the redevelopment was justified at the outset, but rather on its consequences once it had begun. We have examined how the redevelopment process affects those who are displaced: Are they treated fairly? Are they kept whole? Are they better off after relocation? Do they get the assistance they need when they need it? Our investigation reveals that the answer to these questions is no.

## **PART I: PROVIDING ENOUGH ASSISTANCE TO KEEP DISPLACED RESIDENTS WHOLE**

When a public redevelopment project requires families and individuals to move out of their homes, the municipality is legally obligated to pay for the properties it takes and to assist both owners and tenants in relocating. We discuss homeowners and renters separately because they have distinct rights under the law. Unfortunately, the thread that unites them is the insufficiency of the money they receive: it is not enough to allow them to relocate to similar homes in their own communities. Our

investigation shows that residents displaced by redevelopment often end up in worse positions than they were in before.

## HOMEOWNERS

### The Mount Holly Gardens Experience

To comply with the state and federal constitutions, the government must pay a displaced homeowner “just compensation.”<sup>45</sup> Just compensation is generally calculated as the “fair market value” of the property based on a professional appraisal.<sup>46</sup>

In addition, two New Jersey statutes require the government to provide relocation assistance: the Relocation Assistance Law of 1967 (RAL)<sup>47</sup> and the Relocation Assistance Act of 1972 (RAA).<sup>48</sup> The stated purpose of these laws is to ensure “the fair and equitable treatment of [displaced] persons.”<sup>49</sup> The legislature realized that displaced homeowners and tenants might face increased housing costs from forced relocations. To offset that anticipated financial hardship, the law requires government entities that displace residents to pay up to specific dollar amounts of relocation assistance.<sup>50</sup> Beyond fair market value, relocation assistance for homeowners includes a replacement housing payment, moving costs, and costs incidental to relocation.<sup>51</sup> Unfortunately, the cap for relocation assistance was set in 1972 and has not been increased or indexed since then.<sup>52</sup> The RAA states that the replacement housing payment, which is the difference between the price paid for the property taken and the reasonable cost of a comparable replacement dwelling, shall “not [be] in excess of \$15,000.”<sup>53</sup> This amount, as illustrated by the experiences of displaced Gardens homeowners, is insufficient to enable a low- or moderate-income household to purchase a decent, safe, and sanitary comparable replacement home.

The Township offered a set range of prices to every individual homeowner in the Gardens redevelopment area: \$27,000 to \$32,000 for a one-bedroom, \$39,000 to \$40,000 for a two-bedroom, and \$49,000 for a three-bedroom. These prices were based on appraisals the Township commissioned.<sup>54</sup> In addition, although under no legal obligation to do so, the Township offered homeowners a \$20,000 no-interest loan, to be repaid when the replacement home is sold.<sup>55</sup>

Our research suggests that the Township’s appraisals were reduced because the properties were located in a redevelopment area the

Township itself had created. The Mayor explained in a Township Council meeting in May 2008 that a home similar to homes in the Gardens had sold for more because it was outside the redevelopment area.<sup>56</sup> One Township appraiser indicated, in his critique of a homeowner’s higher appraisal, that the location of the homes in question within a redevelopment zone was a relevant factor that the homeowner’s appraiser should have considered in the valuation.<sup>57</sup> Moreover, the appraisals prepared by the Township did not include comparable nearby homes outside the redevelopment area that sold for significantly higher amounts.<sup>58</sup> For example, a home just outside the redevelopment area sold recently for \$99,900, almost twice the price the Township paid for nearly identical homes inside the redevelopment area.<sup>59</sup> Two other homes within half a mile of the redevelopment area, and also similar to the housing there, recently sold for \$82,000 and \$87,000.<sup>60</sup> A municipality should not be permitted to devalue the properties it intends to purchase by relying on their location in a redevelopment area it designated. In fact, if the Township had acquired the properties in Mount Holly Gardens by eminent domain, the law would have prohibited it from reducing their value as a result of the blight designation.<sup>61</sup> Because the Township has been purchasing properties through negotiation rather than condemnation proceedings, however, there has not yet been judicial or other third-party review of its valuation practices.

Whether or not the Township’s offers to Gardens homeowners represent the fair market value of their properties, however, individual owners who sold at the prices offered have had difficulty relocating to comparable housing. We have information about six former homeowners who had left the Gardens as of May 2008. (The number is small because many owner-occupants remained in their homes; it was primarily landlords who had sold to the Township.)

Two of these homeowners could not afford to purchase replacement homes. Carole Richardson, a seventy-one-year-old retiree living on a fixed income, sold her two-bedroom home to the Township and bought a used trailer with the proceeds.<sup>62</sup>

Unfortunately, the cap for relocation assistance was set in 1972 and has not been increased or indexed since then.

## Losing a Home



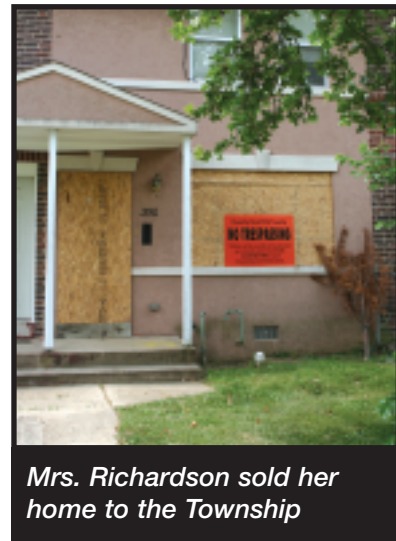
Eleven years ago, Carole Richardson became a first-time homeowner and fell in love with her renovated two-bedroom house. "Everything was brand new, everything was nice," she said. Mrs. Richardson also loved the Gardens community. "Everybody called me Ms. Carole. Little kids would say, 'Hi Ms. Carole.'"

Mrs. Richardson recalled attending a meeting called by the Township. The meeting was chaotic. There was a lot of yelling. She heard someone say, "If you don't leave when you're supposed to, a policeman will escort you from your home and you won't be able to get your belongings."

The big orange "NO TRESPASSING" signs nailed to vacant houses, the demolitions, and the silence that had fallen over evenings and nighttimes in the neighborhood were frightening to her. Mrs. Richardson kept replaying the words she had heard at the Township's meeting.

The Township offered her \$39,000 plus \$15,000 toward a replacement home. Her monthly mortgage had been \$320. After she paid off the balance of her mortgage, Mrs. Richardson had only enough to purchase a used trailer in Southamptton for \$17,000. She pays \$450 a month for the trailer pad.

Remembering her home in the Gardens, her friendships, and the community still makes Mrs. Richardson cry. "I never expected to live a life of luxury, but you get a house and you figure you'll be there until you die."



*Mrs. Richardson sold her home to the Township*

Lieselotte Rich, another senior citizen, and her adult son, Jurgen Mozee, moved from the three-bedroom home they had owned in the Gardens since 1969.<sup>63</sup> The Township purchased their home for \$49,000 plus \$15,000 in relocation assistance.<sup>64</sup> After paying off a \$30,000 mortgage, they moved to a two-bedroom apartment in Lumberton which they rent for \$1,240 a month.<sup>65</sup>

Four of the homeowner households purchased replacement homes, but at higher prices than their homes in the Gardens. All four assumed more debt. For example, Evans Jackson, a sixty-three-year-old machinist, lived in the Gardens for almost thirty years. He had purchased two two-bedroom, one-bathroom units and combined them into a four-bedroom home with two full bathrooms. After finding out that the Gardens would be demolished rather than rehabilitated,

Mr. Jackson decided to sell. The Township purchased his combined units in December 2006 for \$81,000. He used those funds, plus the \$15,000 replacement housing payment and the no-interest loan of \$20,000 (a total of \$116,000), to purchase a four-bedroom, one-bathroom home in Mount Holly for \$135,000. In the Gardens, he anticipated paying off his mortgage in three years; now, he is paying a thirty-year mortgage, and the new place needs some work.<sup>66</sup> Similarly, Hamid Ullah and his wife, Mahmuda Khanam, sold their two-bedroom unit in the Gardens to the Township for \$39,000 in May 2008. They used the proceeds of the sale, along with the \$15,000 in relocation assistance, the \$20,000 interest-free loan from the Township, and \$27,000 of their own savings to purchase a three-bedroom home in Mount Holly for \$290,000.



They now have a mortgage of \$190,000. Their monthly mortgage payments increased from \$352 in the Gardens to \$1,138 now.<sup>67</sup>

While this sample of former Gardens homeowners is too small to establish any definitive pattern, our research into the broader housing market points to the problem other Gardens owners may ultimately have to face: there is little to nothing available for the dollar amounts the Township is offering. The owner of the largest standard unit in the Gardens (a three-bedroom) stands to receive up to \$84,000 from the Township: \$49,000 in “just compensation,” \$15,000 in relocation assistance, and \$20,000 as an interest-free loan. There are virtually no homes in the community that a displaced owner can buy for \$84,000. A search on [www.realtor.com](http://www.realtor.com) for Mount Holly returned 318 listings: the average listing price for a Mount Holly area home was \$279,895; only three properties (0.94%) were listed below \$84,000.<sup>68</sup> A search of the Multiple Listing Service for actual home sales in Mount Holly between July 2007 and July 2008 returned 127 recorded sales: the average sale price was \$206,560; only four properties (three percent) sold for under \$84,000, and all four included notes indicating extreme repairs were necessary.<sup>69</sup> According to the New Jersey Association of Realtors (NJAR), the median sale price for a home in Burlington County in the

first quarter of 2008 was \$242,200.<sup>70</sup> The median sale price for a one- or two-bedroom home in South Jersey was \$167,100, for a three-bedroom home in South Jersey was \$213,100,<sup>71</sup> and for any home in South Jersey was \$232,700.<sup>72</sup> The median sale price of a home anywhere in New Jersey in the first quarter of 2008 was \$350,700.<sup>73</sup> The NJAR estimates that a family trying to purchase a median-priced home in New Jersey needs to earn \$80,928 per year to afford a mortgage at six percent interest, with principal and interest payments of \$1,686 per month.<sup>74</sup> Fewer than one percent of Gardens residents earn more than \$60,000 a year.<sup>75</sup>

Thus, even a Gardens resident who owns the largest three-bedroom unit outright will be unable to buy replacement housing for the amount offered by the Township (see sidebar). There is simply nothing that is “decent, safe and sanitary” in the \$84,000 price range. Indeed, were the sum doubled to \$168,000, only twenty-eight of the 127 homes sold in Mount Holly in the last year (twenty-two percent) fell between \$84,000 and \$170,000.<sup>76</sup> If the amount were tripled to \$252,000, the median home in Burlington County would just barely be within reach, according to the NJAR.<sup>77</sup> Even when the government pays more than its legal obligation, as Mount Holly has in some cases, homeowners are evicted from the American dream.

## The Problem Is Especially Acute for Seniors

“Now, what are we going to do? Where do I go at sixty-eight years old? . . . This is a problem for a lot of people, seventy years, sixty years, sixty-five. Where do we go? That’s my question. . . . Go buy a house for \$170,000? How am I going to pay \$170,000? I can’t pay that, another mortgage.” (Statement of Marlene Tobar, Public Hearing Tr. 102:14-25.)

“I like where I’m living. Where am I going to move? I don’t know. How am I going to pay a mortgage? I’m seventy-seven years old. I’m still working. Where am I going to find a mortgage to pay? Right now my mortgage, I can pay that. I pay my taxes, everything like that. Where is my future? Where will I go? If they buy my house, where will I go? What am I going to do?” (Statement of Lyra BadreSingh, Public Hearing Tr. 99:19-100:3.)



*Marlene Tobar at home in the Gardens*

## Homeowners Should Receive Replacement Value for Their Homes

The experiences of the residents in Mount Holly Gardens illustrate that the law must be changed. When the government displaces a homeowner for redevelopment, the law should guarantee compensation sufficient to allow him or her to purchase a comparable replacement home in the same community in the contemporary market.

Agency and court decisions already have suggested that the compensation now typically offered is too low. In *Chatterjee v. Atlantic City Board of Education*, the Appellate Division recently upheld the principle that a government entity must pay displaced homeowners the “reasonable cost, on the open market, of a comparable replacement dwelling.”<sup>78</sup> That case involved the taking of two homes by the Atlantic City Board of Education (BOE). The administrative law judge had ordered the BOE to pay the displaced families \$15,000 in relocation assistance, on top of the fair market value of their homes. The total came to far less than the cost of the replacement homes both families found. In rendering her decision in the homeowners’ appeals, the State Department of Community Affairs (DCA) Commissioner “reject[ed] the finding that the \$15,000 limitation ... [was] determinative” and held instead “that the determinative principle is that the displacing agency must provide meaningful relocation assistance, including comparable alternative housing, before it can displace the petitioners, and that it may use project funds, if necessary, for such purpose.”<sup>79</sup>

On appeal, the Appellate Division left undisturbed the DCA Commissioner’s ruling that the displacing agency must pay the actual cost of comparable replacement housing. The court concluded that, “[a]s determined by the Legislature and authorized agency [DCA], the total payment must equal the difference between the ‘reasonable cost, on the open market, of a comparable replacement dwelling, and the acquisition price.’”<sup>80</sup>

The experiences of the residents in Mount Holly Gardens illustrate that the law must be changed.

Other New Jersey state agencies, including the New Jersey Department of Transportation, New Jersey Transit, the Casino Reinvestment Development Authority, and the Schools Development Authority, regularly provide financial consideration to displaced residents beyond fair market value plus \$15,000.<sup>81</sup> They interpret the federal and state relocation laws under which they operate to allow them to exceed the statutory amounts and spend project funds when necessary to ensure that displaced homeowners receive sufficient money to purchase decent, safe, and sanitary comparable replacement housing. These agencies report smooth and relatively litigation-free relocation processes as a result.<sup>82</sup>

State agencies and courts have identified replacement value as the appropriate standard for compensation in part because it is more fair and humane to displaced homeowners. By definition, the payment of replacement value should enable homeowners to relocate to comparable housing in a non-blighted neighborhood, resulting in improved living standards for them while the redevelopment yields better housing stock in the community.<sup>83</sup> Paying replacement value also makes good business sense by reducing the costs and delays of litigation. Government studies have found that the reduced costs and delays are well worth the additional expense of paying replacement value.<sup>84</sup>

**Reform Recommendation:** When homeowners and their family members are displaced by redevelopment, the law should guarantee them enough money to buy comparable replacement homes in their own communities.

## RENTERS

### The Mount Holly Gardens Experience

Because tenants do not own the property in which they live, they are not entitled to the “just compensation” constitutionally required for owners. They receive only relocation assistance. New Jersey law requires that municipalities provide a displaced tenant “the amount necessary ... to lease or rent for a period not to exceed 4 years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in [a not less desirable area]

and reasonably accessible to his place of employment, but not to exceed \$4000.00.”<sup>85</sup> As with the \$15,000 limit on replacement housing payments to homeowners, this \$4,000 rental assistance cap was set in 1972 and has not been increased or indexed since.<sup>86</sup> Four thousand dollars over four years amounts to just \$83.33 per month to help pay the increased rent.

The Township of Mount Holly has paid tenants up to \$7,500 in relocation assistance to contribute toward the difference between rent in the Gardens and rent in the new apartment.<sup>87</sup> That is almost twice the statutory amount of \$4,000, but \$7,500 comes to only \$156.25 per month over forty-eight months. As illustrated by the experiences of those displaced from Mount Holly Gardens, this does not approach what is needed to pay their actual rent increases.

Tenants displaced from the Gardens are generally paying more for less. For example, Linwood Perry and Patricia Broy, individuals with health problems who pooled their benefits to lease various units in the Gardens over many

years, moved out of the two-bedroom apartment they had last rented for \$700 per month and into a one-bedroom apartment in Beverly for \$900 per month.<sup>88</sup> Their new rent is almost half of their entire monthly income. Some, like Kendra Dockery, who cared for both her young son and her terminally ill mother while living in

**Tenants displaced from the Gardens are generally paying more for less.**

the Gardens, now find themselves dependent on others to drive them to buy food because they are farther from basic amenities: “*If I forget something, too bad for me.*”<sup>89</sup> Others are in the position of Georgianna Jester and her adult daughter Ellen, who have had to move twice now because they cannot find a decent place to settle (see sidebar).<sup>90</sup> And there is the common refrain from almost everyone we spoke to: “*I wish I still lived in the Gardens. I miss my home and my friends.*”<sup>91</sup>

### **“I keep running into slumlords.”**

Ellen Jester, her three younger siblings, and their mother, Georgianna, rented their three-bedroom apartment in the Gardens for thirteen years.

Ellen did not find the Triad office helpful in relocating her family. She was unable to rent any of the units on the lists of possible rentals that Triad gave her. “When I called, half were already rented and the other half wanted tenants with perfect credit. Each time I called Triad for updated lists of apartments, they had nothing except places that wanted tenants with perfect credit.”

Finally, in April of 2007, Ellen found another home for her family on her own. She received \$7,500 in relocation assistance plus \$500 in moving costs.



Ellen said she and her family miss the life they had in the Gardens. Her mother's doctors are farther away. “We can't get anywhere without a car. My mother needs oxygen and her wheelchair more because everything is so far away now. . . . In the Gardens, I felt that I was part of a community.”

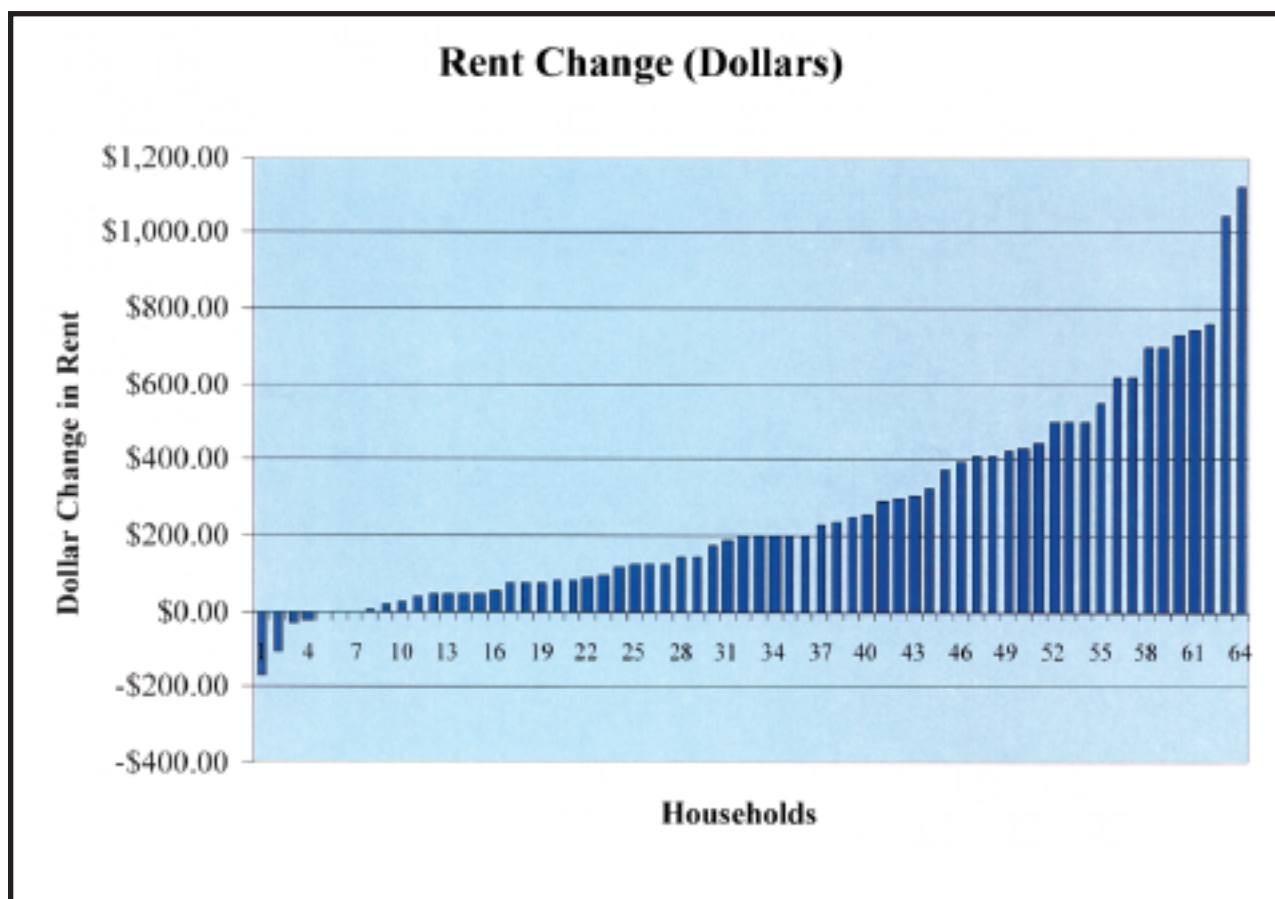
Ellen and her family have moved twice since leaving the Gardens. “We lived in our first apartment in Willingboro almost a year. The landlord wouldn't do anything so we had to move. Now we live in Burlington City. This landlord doesn't want to do anything, and it looks like we will have to move again. I keep running into slumlords.”

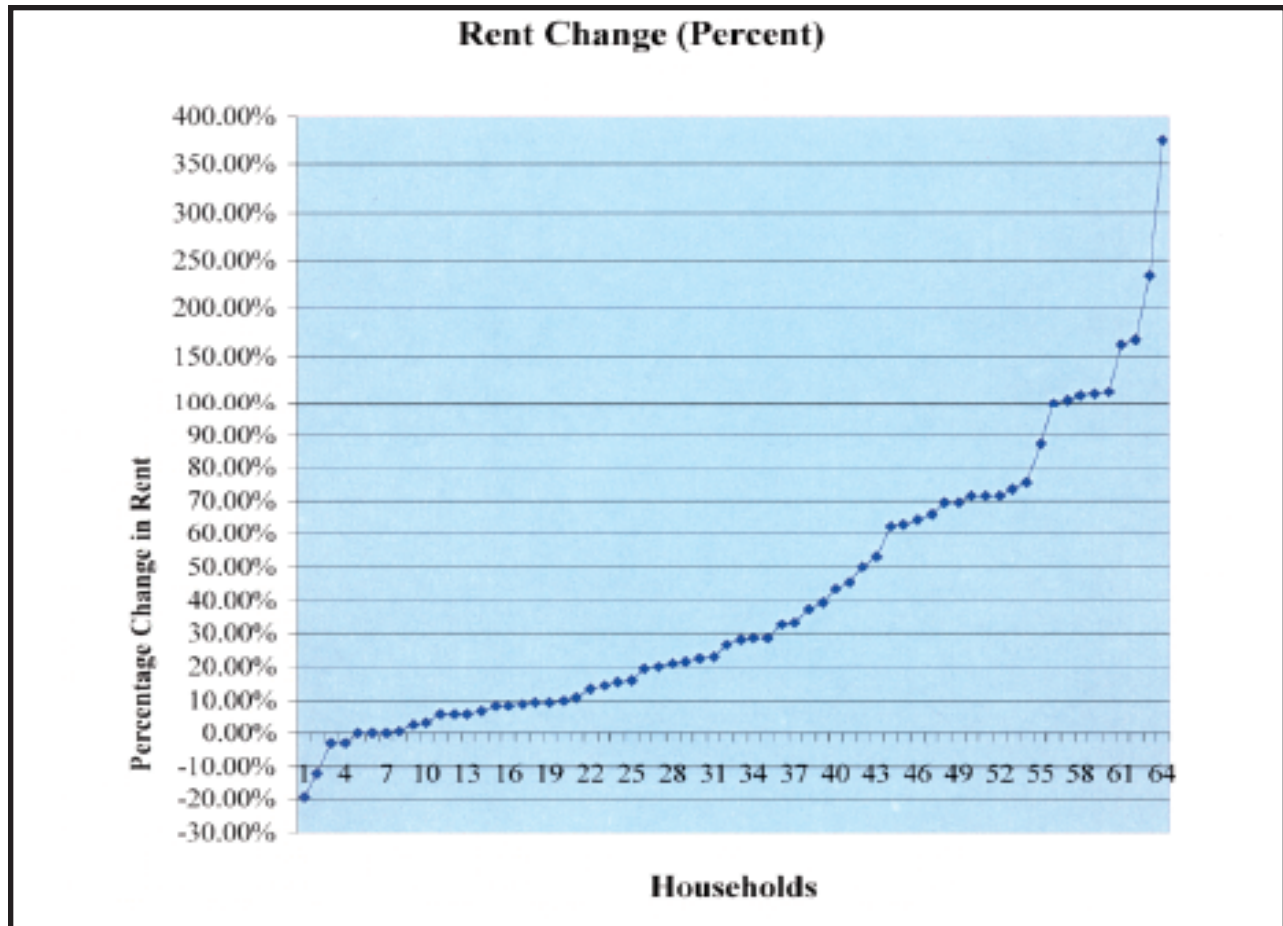


Based on the data we compiled, the Gardens' low-income residents have suffered significant costs as a result of being displaced from their affordable housing into an expensive market with little financial support (see graphs below and Rent Change Chart, Appendix). Of the sixty-four relocated tenant households for whom we had data as of June 30, 2008, four (six percent) paid less rent, three (five percent) paid the same rent, and the other fifty-seven (eighty-nine percent) paid more. The average rent increased from \$705.40 in the Gardens to \$971.53 in the new unit, a difference of \$266.13 or thirty-eight percent more each month.<sup>92</sup> This average rental increase is \$109.88 (seventy percent) more than the \$156.25 per month the Township's offer covers over forty-eight months. The rent for fifteen families (twenty-three percent) increased between fifty and one hundred percent, averaging \$476.53 more per month, or \$5,718 more per year.<sup>93</sup> This increase represents at least twenty-eight percent of the

entire income of a family living on \$20,000 or less per year (as forty-seven percent of Gardens residents do).<sup>94</sup> The increase would consume at least fourteen percent of the annual income of a family living on \$20,000 to \$40,000 (as forty-three percent of Gardens residents do).<sup>95</sup>

The Township's own relocation consultant, Triad Associates, routinely referred tenants to rental units costing hundreds of dollars more per month than they had paid in the Gardens, clearly exceeding the rental assistance provided. We compared the Gardens rent of sixty-seven tenants with the rents of comparable replacement housing Triad recommended to them. Had those residents followed Triad's suggestions (most did not actually relocate to properties Triad listed), they would have paid an average of \$218 more each month—almost forty percent more than the enhanced relocation assistance the Township offered for four years (see Triad Referrals Chart, Appendix).





While most tenants found themselves further impoverished by relocation, an occasional success story shows that relocation can have positive results. Two former tenant households became homeowners after being displaced from the Gardens. We obtained information on one of these households, and it is clear that a significant infusion of public funds enabled this desirable outcome (see sidebar, p. 16).

### **Municipalities Should Provide Renters with Enough Assistance To Pay the New Rent**

The amount of rental assistance provided under current law is too low. Adjusted for inflation, the \$4,000 in rental assistance paid in 1972 would be equivalent to \$20,965, or \$437 per month over four years, in 2008<sup>96</sup>—an amount far more likely to help displaced individuals today. Renters displaced by a redevelopment project today, however, receive less than twenty percent of the inflation-adjusted value that 1972 legislators thought was just.<sup>97</sup>

As with homeowners, limiting relocation assistance for renters to a set dollar amount makes

no sense as time will inevitably erode the value of any fixed payment. If tenants are really to be made whole, municipalities must be required to provide the entire difference between the rent paid for the original residence and that paid for the replacement residence, and for a longer period—at least seven years.

For some, even seven years of assistance only delays the day of reckoning when they suddenly cannot afford the rent.<sup>98</sup> The time-limit implicitly assumes that the displaced tenant can supplement his or her income sufficiently during that period to pay the increased rent without assistance. The merits of this assumption are at least debatable for low-income households who must pay rent increases that are as high as those now paid by most tenants displaced from the Gardens and that will continue to rise with the market. This assumption, though, is simply wrong with regard to those who live on a fixed income such as persons who are retired or disabled. They usually have no hope of an increase in their income to meet the costs of rising rents. We propose that the time-limit on rental assistance should not apply to senior citizens, people with disabilities, or others with fixed incomes.

## Becoming a Homeowner



Carmen Fernandez, her husband, Romualdo, and their young daughter had lived in the Gardens since 2001. She recalled the Gardens as a good, supportive community. The residents were neighborly and did what they could to help one another in times of need.

In December 2006, Mrs. Fernandez made her first visit to Triad, which had just opened an office in the Gardens. She and her husband had been saving money in the hope of someday becoming homeowners. With a poor credit rating, however, she did not think it could happen soon.

Her interactions with the Triad staff member assigned to her case were difficult. "Sometimes I would look at her. I knew she didn't know what it was like to be poor and to work hard for what you wanted." Nevertheless, Mrs. Fernandez persevered, and she found the help she needed to realize her family's dream of homeownership.

In collaboration with a realtor, Triad lined up \$23,726 in public funds, grants, and loans toward the down payment and closing costs, enabling the family to purchase a replacement home in Mount Holly for \$193,500: from the Township, a grant of \$7,500 in relocation assistance in a lump sum toward the down payment; from the Burlington County First Time Homebuyer Program, a loan of \$5,000 toward the down payment and a loan of \$4,000 toward closing costs; and from the State Housing and Mortgage Financing Agency Smart Start program, a second mortgage of \$7,226 toward the down payment and closing costs. Triad also helped them pay an attorney to represent them at the closing on their new house. Mr. and Mrs. Fernandez paid \$475 monthly rent in the Gardens; they now pay \$1,513 a month to cover their mortgage and property taxes.

**Reform Recommendation:** When tenants are displaced for redevelopment, the law should entitle them to receive the full difference between their old rent and their new rent in a comparable replacement dwelling for at least seven years. This time-limit should not apply, however, to senior citizens, individuals with disabilities, or others who are living on fixed incomes. These individuals should receive the full amount of their increased rent in a comparable dwelling for as long as they remain tenants and their incomes remain fixed.

## PART II: PROVIDING ASSISTANCE TO DISPLACED RESIDENTS WHEN THEY NEED IT

Because the laws governing relocation assistance are ambiguous and outdated, residents who move out of redevelopment areas are sometimes deprived of any assistance at all. Even when they receive assistance, the law leaves them at the mercy of the municipality's redevelopment schedule. Under current law, the municipality has the exclusive power to trigger a household's eligibility for relocation assistance. A municipality is free, therefore, to begin the demolition of properties it has acquired without first offering relocation assistance to residents still living in adjacent or nearby properties. These residents then find themselves watching the bulldozers dismantle the neighborhood around them. While municipalities should retain the power to move residents out of redevelopment areas, the residents themselves should also have the ability to decide to move on before demolition begins, or at any time afterwards, and to receive relocation assistance at that point.

### **The Mount Holly Gardens Experience**

The experiences of present and former residents of Mount Holly Gardens illustrate several problems with the timing of relocation assistance. The threat of displacement has loomed over Gardens residents since October 2002, when the Township designated the area as "blighted."<sup>99</sup> That threat grew more concrete a year later when the Township adopted a redevelopment



plan and passed an ordinance that authorized the Township to acquire the properties in the redevelopment area through “voluntary agreement or, if necessary, condemnation.”<sup>100</sup> By September 2006, when the Township filed its Workable Relocation Assistance Plan, its intentions were clear: “In order to permit the redevelopment of the area in accordance with the goals of the redevelopment plan, the Township intends to acquire all the units in the Mount Holly Gardens, which will necessitate the relocation of its residents.”<sup>101</sup>

At our public hearing, Ms. Vadiz, a senior citizen who used to live in the Gardens and still visits and looks after friends there, explained their distress at living under the constant threat of losing their homes: *“The feeling of the depression is very bad for everybody in the Gardens because they always fear that somebody would come and tell them that they just have thirty days to leave. They ask me, ‘Where are we going to go with so less money from this?’ with their social security. It’s very low. . . . All of them are very depressed, and they tell me that they don’t want to leave.”*<sup>102</sup>



**Former Gardens resident Carmen Vadiz speaks at public hearing**

The Township began to purchase units early in the process, and the vacancy rate climbed as the acquisitions progressed. The Township purchased its first unit in the Gardens in November 2000.<sup>103</sup> The largest single purchase came in 2005, when the municipality bought sixty-two units from an absentee landlord.<sup>104</sup> At the time of the blight designation in October 2002, the planner whose report the Township adopted estimated that approximately fifty-nine units (eighteen percent of the 327 units in the proposed redevelopment area) were vacant.<sup>105</sup> Four

years later, when the Township filed its WRAP, it represented that there were 123 vacant units in the Gardens, 116 of which the Township owned and had boarded up.<sup>106</sup> These documents indicate that more than sixty Gardens units were vacated after the blight designation but before the WRAP was filed.

The residents who left in those early years received no relocation assistance.<sup>107</sup> The WRAP announces that “tenants and homeowners in residence on August 1, 2006 shall be deemed eligible for relocation assistance.”<sup>108</sup> Apparently, those who moved out before, or in after, that date were deemed ineligible.

Because the Township did not provide assistance to or keep track of residents who left the Gardens before August 2006, we know little about them. We managed, however, to learn about a few. Georgeanna Grey is a senior citizen who worked at General Motors in Moorestown and raised her children in and adjacent to the Gardens for thirty years before moving out in 2005. She received no benefits, and moved because *“I was afraid that I would become homeless after hearing some of the Township people talk at meetings.”*<sup>109</sup> Alandia Warthen had lived in the Gardens since she was ten years old and was raising her two sons there before she was forced to move. She was a renter, able to afford a home with the help of federal subsidies, and she had *“hoped I could continue living in the Gardens and buy a house there someday.”* Ms. Warthen’s lease expired on April 1, 2005, and her landlord told her that she had to move out—the Township was buying the house. *“No one told me I could receive any relocation assistance or get any other help to move out.”*<sup>110</sup>



**Former Gardens resident Alandia Warthen**

The Township has also informed residents who moved into the Gardens after August 2006 that they are ineligible for any assistance other than \$500 in moving expenses. Edda Lugo, a young single mother who supports herself and her two daughters working on the housekeeping staff at a nearby hospital, moved into her own apartment in the Gardens in March 2008. Before finally settling into her apartment in the Gardens, Ms. Lugo had moved five times over the past few years. Soon, it seems, she may have to move again: *"My landlord wrote in my lease agreement that I may rent my apartment for a year unless the Township takes the property through eminent domain. I plan to go to the relocation office to fill out an application for relocation benefits. I'm not planning to move right now, but my experiences have taught me to be prepared."*<sup>111</sup> Despite her vigilance, under the Township's policy she may not qualify for relocation assistance.



**Gardens resident Edda Lugo with her daughters**

Another tenant reported that, before moving to the Gardens, he and his wife and two young children lived in a motel for two years. Although both parents worked full-time, they could not find affordable rental housing in Burlington County or save enough money for a security deposit. He found a landlord who was willing to rent them a two-bedroom home in the Gardens without a security deposit. The Township plans to take that home, and Triad told him and his wife that, although they have lived in the Gardens for more than ninety days (the period that should entitle them to full rental assistance under the law<sup>112</sup>), they will receive only \$500 for moving expenses because they have not lived in the Gardens since August 2006. Five hundred dollars is not enough for their family to pay the security deposit to rent

another affordable two-bedroom apartment, even if they could find one.<sup>113</sup>

In contrast, those who were in residence as of August 2006 had more ready access to relocation assistance than the law requires. The Township's decision to "deem" them eligible allowed at least some residents to initiate a move. They could decide to leave, and the Township would act to trigger their eligibility for assistance. The standing offer of relocation assistance had a positive impact for some residents: the Township did not make those it deemed eligible wait for relocation assistance until it decided it was ready to move them out; instead, it offered them relocation assistance when they decided they were ready to go. Between the end of 2006, when the WRAP was approved, and January 2008, sixty-two households sought and received relocation assistance.<sup>114</sup>

Other families and individuals stayed put. On August 1, 2008, there were approximately 112 households still living in the Gardens.<sup>115</sup> Although those who had been in residence two years earlier had the option to leave and to receive relocation assistance, some decided to stay and fight the redevelopment. Mr. Santos Cruz, a married father of four who has lived in the Gardens for eighteen years, is determined to keep his home.<sup>116</sup> *"I will chain myself to my house because I have been an upstanding, law abiding citizen, but I guess that does not work in the United States, or not in Mount Holly Township at least, so I will chain myself to my house and they will destroy it around me."*<sup>117</sup> Others stayed because they did not have the will or the means to move on. As of August 1, 2008, the Township owned 232 Gardens lots: seventy-five of these lots had been cleared by demolition, 148 units stood vacant, and the remaining nine were among the units still occupied.<sup>118</sup>



**Gardens resident Santos Cruz speaks at public hearing**



The experiences of those who remain illustrate the harms of living in a redevelopment area as it is dismantled. There are the most obvious dangers. Regina and Carlos Rodriguez, parents of four who both held full-time jobs, lived in the Gardens for ten years. Mrs. Rodriguez testified at our hearing that, when demolition began next door, they *"tore up my ground with the bulldozer where I park my car. The bulldozers tore up all the tar from the back of my house. They didn't care. The siding from the side of my house came down."*<sup>119</sup>



**Gardens resident Vivian Brooks speaks at public hearing**

Similarly, Vivian Brooks, a widowed retiree who has lived in the Gardens with her extended family for thirty-six years, described damage to her home so severe that it became uninhabitable: *"[T]he people that the Township hired [to demolish the house next door] hit my house with their bulldozer, shifted my roof, cracked my walls and loosened*

*the beams . . . I lived in that house when it rained. We had trash cans, buckets, plastic covering my furniture . . . The day the bulldozer hit the house my great granddaughter . . . was sitting on the bed. The bulldozer hit the side of the house [where] she was sitting and she could actually put her hand where the wall crashed and pushed in. She had sheetrock all in her hair. The ceiling fell."*<sup>120</sup> Terry Muse and her school-age grandchildren left their apartment in the Gardens when it failed inspection by a fed-



**Containers collect water from ceiling leaks**

eral agency that provides housing assistance to the family. Leaks in the adjacent vacant unit owned by the Township had caused mold and water damage in her unit.<sup>121</sup>

Other consequences are more subtle. Fifteen-year-old Heather Ridgeway explained the pain of the young people living in the ravaged community. *"Walking home and seeing your best friend's—he lived across the street—seeing your best friend's house knocked down—that's the saddest thing ever, seeing that. The Gardens was so beautiful. . . . My friends, they're not allowed to come in the Gardens because of what they hear. . . . It's bad now because like when you walk in it looks like trash. Sorry to say. To my friends, I have to say, I'm sorry where I live, it's not my fault . . ."*<sup>122</sup> Another resident described her unease as the Gardens emptied of its residents. *"It was intimidating to look out of the window at seven or eight in the morning to see workmen boarding up buildings and bulldozing. . . . Not knowing what was going to happen and when was . . . stressful. My mother and I were very anxious about when we would have to move out. . . . I would go to Triad to ask how much longer before the Gardens would be closed. They'd tell me, 'a little longer, six months, a few months'—never a definitive answer."*<sup>123</sup>

In offering relocation assistance to some Gardens residents while denying it to others, the Township acted upon its view that such assistance was then, and remains, voluntary. In response to questions posed by this Department, counsel to the Township explained its position this way:

*We do not believe State law requires the Township payment of relocation benefits at this time. Payments have been made to expedite the redevelopment process that has been slowed by litigation. While there certainly is some language within the relocation regulations that could be construed to require relocation assistance to be paid whenever any municipality makes an offer to purchase a property, we believe those regulations only apply where a person has been directed to vacate or where the property is acquired by eminent domain. . . . [T]he Township has undertaken no eminent domain proceedings and has ordered no resident of the Gardens to vacate their property.*<sup>124</sup>

The Township's view that its actions are voluntary reflects ambiguities and lapses in the law that demand correction. First, the law must be revised to make clear that relocation assistance is required when a municipality begins to acquire property for redevelopment, whether through eminent domain proceedings or through voluntary sales made under the threat of eminent domain. Second, the law should mandate a system that entitles the tenants and owner-occupants of properties marked for acquisition in a redevelopment area to sell and/or leave before demolitions begin or at any time afterwards, on their own initiative. Mount Holly adopted a policy that gave this power to some residents. The law should ensure that this power is vested in all residents.

### **Relocation Assistance Is Due Before Condemnation Proceedings Begin**

Both the enforcing agency and the courts have interpreted the Relocation Assistance Act (RAA) to require the payment of relocation assistance when a municipality displaces people or businesses for redevelopment, even before condemnation proceedings have begun. Yet some municipalities, including Mount Holly, consider themselves free of any legal obligation to provide such assistance until they attempt to take property by eminent domain. This misunderstanding is largely attributable to the definition of "taking agency" in the RAA. The RAA defines a "taking agency" as "the entity, public or private, including the State of New Jersey, which is condemning private property for a public purpose under the power of eminent domain."<sup>125</sup>

The history and purpose of the RAA, however, suggest a broader reach. In *Marini v. Borough of Woodstown*,<sup>126</sup> the Appellate Division noted that the RAA is intended to follow its federal counterpart, which "does not limit relocation assistance to situations where there has been a condemnation of real property in the exercise of the eminent domain power, but authorizes such assistance even when displacement results from the acquisition of real property by voluntary transfer."<sup>127</sup> Sounding this same theme, the Department of Community Affairs, the state agency responsible for enforcing the RAA, contended in *Marini* that "the New Jersey statute

was intended to have as broad an application as the federal act, which includes voluntary as well as involuntary acquisitions."<sup>128</sup> Ultimately, the court explicitly reserved this question and simply assumed that the borough was a "taking agency."<sup>129</sup>

Following the Appellate Division decision in *Marini*, the Department of Community Affairs issued a final decision that clarified the reach of the statute. In *Graff v. Township of North Bergen*,<sup>130</sup> the Commissioner explicitly held that "the acquisition of property by a governmental body by means other than a formal condemnation constitutes a taking within the meaning of the Relocation Assistance Act."<sup>131</sup> Like all agency decisions interpreting the legislation they enforce, this DCA decision "is entitled to great weight and is a 'substantial factor to be considered in construing the statute.'"<sup>132</sup>

Furthermore, the implementing regulations do not limit assistance to those displaced by eminent domain. The regulations cover those displaced by "programs of acquisition,"<sup>133</sup> not only by condemnations. Thus, the regulations contemplate that relocation assistance will be due to displaced residents when their homes are "acquired," whether or not by the power of eminent domain. These regulations, too, are entitled to deference.<sup>134</sup>

**Reform Recommendation:** To clarify the reach of the RAA, its definition of "taking agency" should be revised to conform to the case law and regulations. A "taking agency" or "acquiring agency" should be defined to include any entity that is condemning or otherwise acquiring private property for a public purpose.

### **Relocation Assistance Should Be Due When Residents Decide To Relocate**

Under current law, the municipality holds the exclusive triggers for entitling residents to relocation assistance. Only "displaced" persons are eligible. The regulations define "displaced" to mean "required to vacate any real property" by "any order or notice of any displacing agency on account of a program of acquisition . . . ."<sup>135</sup> The "displacing agency"—in the case of redevelopment, the municipality—thus has the

authority to withhold relocation assistance until it is ready to send the potential target of displacement an order or notice to vacate. If a resident moves before the municipality triggers his or her eligibility, the resident may forfeit any assistance.<sup>136</sup> A municipality's exclusive control over the timing of relocation assistance can leave residents with no recourse but to wait, sometimes for many years.

It is not clear under the law when homeowners become entitled to relocation assistance. One provision in the regulations says that they are eligible upon the municipality's "first written offer to purchase the property."<sup>137</sup> Such a written offer does not appear, however, to constitute the kind of "order or notice" to vacate that would qualify an owner as "displaced" under another provision of the regulations.<sup>138</sup> The Eminent Domain Act establishes a process through which the municipality may evict the owner and take possession of the property,<sup>139</sup> which would clearly entitle the owner to relocation

assistance. But the law does not give the owner a reciprocal right to force a sale. The municipality may make a standing offer to purchase properties, as Mount Holly did, but if the owner feels the offer is too low, or if the municipality simply is not ready to make an offer or enter negotiations over the sale price, a homeowner will usually be stuck. In order to demand that the municipality purchase his property at a fair value under current law, the owner must show that "the threat of condemnation has had such a substantial effect as to destroy the beneficial use that a landowner has made of his property."<sup>140</sup> This is a high threshold to meet.

As to renters, the regulations explicitly require them to await a "formal notice to vacate from the landlord."<sup>141</sup> In the case of redevelopment, the municipality may buy occupied rental properties and thus become a landlord itself. Mount Holly has acted as a landlord to at least some residents of the properties it purchased (see sidebar).<sup>142</sup> Under New Jersey law, a landlord

### "Railroaded Out"

Kendra Dockery and her twelve-year-old son had been tenants in the Gardens for several years when she began hearing rumors that the Township would close down the neighborhood.

During their last year, problems developed. The roof leaked into the ceiling fixture in her son's bedroom, which dripped onto the carpet and made the room smell of mildew. The exterior windows needed repair to keep out the weather. But the real problem was the front door.

The Township was Ms. Dockery's landlord. In February 2007, she informed the Township that her front door would not close or lock properly. The Township sent a maintenance person who said he could not fix the door because the closing mechanism was broken. Every time she left her home, Ms. Dockery would put the inside chain lock on her front door and leave through the back door.

It took the Township four months to replace the broken part. During that time, the apartment was robbed. "To have this happen when my landlord the Township had not fixed my door, the door I complained about and the Township did not fix for four months, seemed really,

really pitiful." She believed the Township delayed fixing her front door "to force me to move. I felt that the Township railroaded me and my family out of our home."



When Ms. Dockery finally left the Gardens in the summer of 2007, she found replacement housing herself because none of the possibilities suggested by the relocation office was affordable to her.

While she is happy in her new home in Hainesport, she and her son miss the Gardens. "My son and I don't have the independence we had when we lived in the Gardens. I don't drive and I live on the highway. When I lived in the Gardens, I could walk to the store if I wanted. . . . I can't do that now. I have

to ask someone to take me shopping or go when someone else is ready to go."

When they lived in the Gardens, her son never complained of boredom as he now does. In the Gardens, he always had some freedom. So now, when Ms. Dockery tells her son he cannot go outside, he doesn't understand. "But what mother would let her child go outside to walk around on the highway?"



may not evict a tenant or even decline to renew a lease unless the tenant has refused to pay rent, destroyed property, or otherwise given the landlord “good cause” to evict him.<sup>143</sup> But the law does allow a municipality, acting as a landlord, to issue its tenants a notice to vacate in order “to permanently retire the premises from the rental market pursuant to a redevelopment or land clearance plan in a blighted area.”<sup>144</sup> Mount Holly maintains that it has never issued any tenant such a notice.<sup>145</sup> Moreover, the Township states that it has never used any other means to move tenants out of its properties, asserting that those who left did so of their own accord.<sup>146</sup> For these reasons, it views itself as free to provide or to deny tenants relocation assistance at will.

A municipality may also trigger its relocation assistance obligations to tenants by demanding that their private landlords evict them. The regulations expressly forbid municipalities to avoid such obligations “by requiring the owner of a building to cause it to be vacated prior to the acquisition.”<sup>147</sup>

It is unclear whether Mount Holly ran afoul of this regulation. The Township maintains that it never demanded that any landlord vacate a unit. Instead, at various times in the redevelopment process, it negotiated with landlords to

convey their units empty.<sup>148</sup> The contracts of sale that we obtained under subpoena from the Township confirm such negotiations. Of the thirty-eight contracts we reviewed pertaining to fifty-four apparent rental units in the Gardens,<sup>149</sup> nineteen contained clauses guaranteeing vacancy upon sale. The most common clause reads: “The Seller is aware of the fact that the Buyer [Mount Holly] will only purchase this property if it is VACANT at the time of closing.” The Township claims to have no information about how or when the private landlords might have vacated the premises.<sup>150</sup> We have learned from some individual tenants that their landlords simply told them to leave in apparent violation of the law (see sidebar).<sup>151</sup> What remains unclear is whether the Township owed these tenants relocation assistance, regardless of whether they left before or after August 2006 when they were “deemed” eligible. While there is a strong argument that the Township incurred relocation assistance obligations when it negotiated for the transfer of vacant units, thereby in effect “requiring the owner of a building to cause it to be vacated prior to the acquisition,”<sup>152</sup> we could find no court decisions addressing this question.

Whether or not the Township failed to pay relocation assistance to some tenants who were entitled to it, the larger problem lies in the law’s

### “My landlord told me to move, so I did”

Yubelkis Fernandez moved into a two-bedroom rental apartment in the Gardens with her husband and two children in 1998. She went to the early meetings the Township and developer had with community residents. She felt “they were not there to help, just there to get us out to construct new expensive homes.”

Ms. Fernandez and her family watched the bulldozers come to demolish vacant units. They watched workers post orange “NO TRESPASSING” signs on the buildings as families moved out.

It was clear to Ms. Fernandez that she and her family would have to leave eventually. But she thought there would be some time to search for the best replacement housing they could afford.

Then in 2006, before the Township began to offer relocation assistance, her landlord told her he was



going to sell his rental unit to the Township for the redevelopment project. He said that she and her family would have to leave. “We had to move out fast due to the sale to the Township. We had to look for money for a new place to live without any help.”



failure to guarantee such assistance to all who should receive it. Mount Holly has been able to set its own terms for providing and denying relocation assistance in part because the law does not adequately protect those who leave “voluntarily,” without an order or notice to vacate. Yet in the redevelopment context, when a neighborhood is slated for demolition, no departure can truly be considered voluntary.

The redevelopment law gives the municipality the power to clear the land it acquires at any time after the redevelopment plan is adopted,<sup>153</sup> and before it is required to trigger the residents’ eligibility for relocation assistance through the mechanisms described above. The result is that residents may be trapped in their homes while clearance and demolition take place around them. By offering relocation assistance to all residents who lived in the Gardens in August 2006, Mount Holly ameliorated the effects of this system for some. Nevertheless, the residents—whether or not deemed eligible for assistance—have faced a mounting pressure to leave. This pressure has resulted, not from the direct orders of the Township, but from the deteriorating condition of their community (see sidebar).

**Reform Recommendation:** Residents of redevelopment areas need more control over their own departures. They need the right to initiate their own moves, before demolition begins or at any time thereafter, and they should be entitled to relocation assistance when they go. We propose a three-part solution:

- The law should require municipalities to give owners and tenants in redevelopment areas at least six months’ notice before beginning clearance, demolition, site preparation, or similar redevelopment activities. The notice should inform them that, at any time after its receipt, they are entitled to initiate a sale of their property under the Eminent Domain Act and they are eligible to receive relocation assistance.
- The Eminent Domain Act should be amended to permit property owners in redevelopment areas to initiate sales of their properties to the municipality at any time after receiving the notice described above.

### “I’m not safe there anymore”

Lyra BadreSingh, a seventy-seven-year-old who lived in Mount Holly Gardens for eighteen years before finally moving out in the summer of 2008, explained the creeping unease this way: “When I went there, the



Gardens was a nice place to live. There were neighbors. There were children running around, playing around. Everything was nice. Now it’s not looking nice anymore. There are whole lots of boarded up houses on my block. I’m the only one there with my

house open and my little lights. All the other houses on that block are nailed up. There is a sign on them. All the rats and the roaches and all of them contained in there. They make holes in the house which make water run down and everything. I was quite content

to live here, but now I’m not. This place, like vagrants can come in. They can live next door to me and I don’t know. They know I’m there by myself. They can break in my house. I’m not safe there anymore.”

- The definition of “displaced person” in the Relocation Assistance Act should include owners and tenants in redevelopment areas upon their receipt of the notice described above, so as to entitle them to assistance at any time after that point.

The proposed amendments would not deprive the municipalities of the triggers they now possess; towns and cities would retain their powers to initiate condemnations or to order properties vacated in the same manner and within the same timeframes provided under current law. But property owners and tenants would have their own triggers, enabling them to leave with the full protection of the relocation assistance laws at least six months before, or at any time after, the bulldozers roll.

### **PART III: STEMMING** **THE LOSS OF AFFORDABLE** **HOUSING**

Without a requirement to replace affordable housing demolished in the course of redevelopment, that housing is lost and an already severe affordable housing crisis deepens.

In addition to the losses suffered by individuals, the State loses a significant amount of affordable housing in the course of redevelopment. The New Jersey Constitution limits the use of eminent domain for redevelopment to “blighted areas.”<sup>154</sup> Residential areas that are truly “blighted” are almost always poor neighborhoods. Affordable housing in any given municipality is likely to be concentrated

in these neighborhoods. Without a requirement to replace affordable housing demolished in the course of redevelopment, that housing is lost and an already severe affordable housing crisis deepens.

#### **The Mount Holly Gardens Experience**

At the time of the blight designation, there were 327 units in the Mount Holly Gardens redevelopment area,<sup>155</sup> which accounted for approximately seven percent of Mount Holly

Township’s total housing stock.<sup>156</sup> Nearly all of these units were in fact affordable to low- and moderate-income families, as evidenced by the population in the Gardens which consisted almost entirely of families with incomes below \$60,000 per year.<sup>157</sup> Eleven homes were “deed-restricted” (subject to pricing controls that kept them affordable to low- and moderate-income families).<sup>158</sup> The remaining units were affordable at private market rates; they were simply inexpensive enough for lower-income families to buy or rent. This private, market-rate housing was not supported or maintained by any government program. In fact, barely one percent of Mount Holly Township’s total housing stock consists of government-subsidized housing.<sup>159</sup>

Mount Holly’s most recent redevelopment plan indicates that there will be a dramatic reduction in the number of units actually affordable to low- and moderate-income households when the new development is built. According to the September 2008 plan, the development will include a maximum of 520 residential units.<sup>160</sup> Of these, only fifty-six will be affordable to low- and moderate-income families: the redeveloper will build forty-five new deed-restricted units and, in accordance with the law, will replace the eleven that will be torn down as a result of the redevelopment.<sup>161</sup>

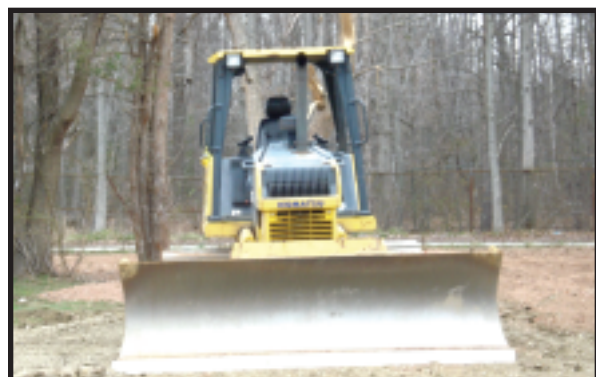
Aside from these, there will be no market-rate housing affordable to low- and moderate-income households in the redevelopment if the Township’s projections are correct. The market prices of the new housing will be far too high for current residents. At the time of the redevelopment study in 2002, the median rent in the Gardens was \$705 per month.<sup>162</sup> The 2008 fair market rent for a one-bedroom apartment in Burlington County is \$781 per month,<sup>163</sup> which is slightly more expensive than what renters who make the average wage in Burlington County can afford according to a national study.<sup>164</sup> The Township estimates that the rent for one- and two-bedroom units in the new development will range from \$1,248 to \$1,840 per month, twice the median rent of an apartment in the Gardens.<sup>165</sup> The Township’s estimated cost of purchasing a market-rate unit will be equally out of reach. The “price points” will range from \$210,000 to \$240,000 for two- and three-bedroom townhouses in the redeveloped

area.<sup>166</sup> According to the Township's appraisals, the property values of the two- and three-bedroom units now in the Gardens range from \$39,000 to \$49,000, just twenty percent of the projected cost of the new homes.<sup>167</sup> At these anticipated market prices, the newly constructed units will be unaffordable to people who are being displaced from the Gardens.

Based on the Township's estimates, when this project is over, more than 300 homes that were affordable to low- and moderate-income households will have been demolished, and fifty-six such units will be built. The result will be a loss of more than 250 affordable housing units.

### **Redevelopment Should Not Exacerbate the Loss of Affordable Housing**

The importance of affordable housing is reflected in the New Jersey Constitution's demand that each municipality provide meaningful opportunities for low- and moderate-income families to live there. In the *Mount Laurel cases*, the state Supreme Court held that each municipality must address both the present affordable housing needs of low- and moderate-income people already living in the geographic region and the future housing needs of those who might seek housing as the municipality grows.<sup>168</sup> In response to these rulings, the Legislature passed the Fair Housing Act, which created the Council on Affordable Housing (COAH) to help municipalities comply with the constitutional mandate to provide affordable housing.<sup>169</sup> COAH sets voluntary municipal targets for the creation and rehabilitation of such housing.



*Bulldozer at the Gardens during the winter of 2008*

Municipalities that satisfy the obligations COAH has defined are thereby protected from certain lawsuits, and Mount Holly has elected to participate in this process.

COAH has recently revised its regulations to require participating municipalities to ensure that one in five of all new units constructed be affordable to low- and moderate-income households.<sup>170</sup> This twenty-percent rule applies town-wide, and not to any particular site, but it can influence the proportion of affordable housing built in a redevelopment area. The current redevelopment plan in Mount Holly does not call for twenty percent affordable units in the redevelopment; the planned proportion will be closer to eleven percent.<sup>171</sup> Mount Holly relies on a 2006 court ruling holding that it has shown compliance with its COAH obligations through the year 2014.<sup>172</sup>

Notwithstanding the constitutional guarantee of affordable housing in New Jersey, the State has been in the midst of an affordable housing crisis for the past thirty years and still "faces the toughest housing challenges of any state in the nation."<sup>173</sup> The lack of affordable housing is literally pushing low-income residents out of the State. A recent Princeton University report found that the driving force behind the migration of residents out of state is low-income individuals seeking places with lower costs of living.<sup>174</sup> It concluded that "[t]he most important step to reducing out-migration would be to improve the affordability of housing in the state, particularly for low-income residents."<sup>175</sup>

Most affordable housing is private, market-rate housing rather than government-subsidized housing, and most of this housing is located in low- and moderate-income communities.<sup>176</sup> According to the Department of Community Affairs, approximately 700,000 (more than sixty percent) of all low- and moderate-income households in the State are "cost-burdened," meaning they pay more than thirty percent of their pre-tax income toward housing.<sup>177</sup> More than forty percent of all low- and moderate-income households pay over half of their income toward housing.<sup>178</sup>



Adding to these longstanding pressures, the foreclosure crisis will make the already tight rental market even tighter. Many owners who have lost their homes will become renters.<sup>179</sup> Indeed, after averaging just 0.7% annual growth nationally between 2003 and 2006, the number of rental households increased by 2.8% in 2007, even before the full extent of the foreclosure crisis had materialized.<sup>180</sup>



Redevelopment can greatly exacerbate these already challenging conditions through the demolition of affordable housing. According to the New Jersey Supreme Court, the “essential characteristic” of blight is “deterioration or stagnation that negatively affects surrounding properties.”<sup>181</sup> Unfortunately, poor neighborhoods often exhibit such deterioration or stagnation for a variety of reasons: absentee landlords may fail to maintain properties, and low-income owners may be unable to do so;<sup>182</sup> rentals, generally less well maintained, may prevail over owner-occupied homes;<sup>183</sup> and crime problems may go unresolved.<sup>184</sup> It is not surprising then that “[b]lighted [residential] areas are almost always poor neighborhoods.”<sup>185</sup> In fact, the Township of Mount Holly and the courts cited each of the factors above as indicia of blight in the Gardens.<sup>186</sup> By virtue of the very meaning of blight, poor neighborhoods in distress will be the areas targeted for residential redevelopment projects in New Jersey.

In *Berman v. Parker*, U.S. Supreme Court Justice William O. Douglas wrote, “Miserable and disreputable housing conditions may . . . suffocate the spirit by reducing the people who live there to the status of cattle.”<sup>187</sup> Scholars have noted the implication “that blight condemnations will make way for the creation of new, more livable housing and social conditions for the poor who

had lived in blighted housing.”<sup>188</sup> Unfortunately, redevelopment projects often fall far short of this goal. As in Mount Holly Gardens, such projects often end up destroying affordable housing and forcing displaced residents into less desirable and less affordable living situations. The *Mount Laurel* cases hold that a municipality may not use exclusionary zoning to deny low-income families a realistic opportunity to move into the community<sup>189</sup>; in many ways, it seems even more compelling to prevent municipalities from using their redevelopment powers to force *existing* low-income residents to move out.

Various national studies have identified the negative effect of redevelopment on the stock of affordable housing.<sup>190</sup> For example, city and state governments devastated affordable housing stocks throughout the country with their use of eminent domain during the “urban renewal” period in the twentieth century, demolishing low-cost housing and replacing it with high-cost, middle-to-upper-income housing.<sup>191</sup> Ironically, the stated purpose of these takings was often to develop new affordable housing.<sup>192</sup> Between 1950 and 1960, urban renewal projects demolished 126,000 housing units and erected only 28,000 in their place, almost all of which commanded much higher rent.<sup>193</sup> Studies examining more recent periods of gentrification have found that the associated displacement caused an “exacerbat[ion of] already dire low and moderate income housing shortages.”<sup>194</sup> This should come as no surprise. It only makes sense that where affordable housing is demolished or converted into housing for those with higher incomes and not replaced, there is less housing affordable to low- and moderate-income households.<sup>195</sup>

When affordable housing is lost, people are forced to move and their “shelter costs almost always [rise] after displacement . . . [L]ower income residents bear particularly heavy shelter cost increase burdens in relation to their ability to pay.”<sup>196</sup> The loss of affordable housing often forces residents to live in overcrowded conditions after displacement.<sup>197</sup>

There are limited data about how redevelopment affects affordable housing in New Jersey, in large part because there is no requirement for data collection. There is evidence, however, that New Jersey’s experience follows the nationwide and common-sense trend that redevelopment

reduces the stock of affordable housing. Beginning in 2000, there was a significant increase in the amount of development and redevelopment in cities in New Jersey.<sup>198</sup> Unlike in the early 1980s, when the availability of federal funds led to the construction of subsidized rental housing, housing production in cities is currently market-driven and results in housing that is unaffordable to lower-income households.<sup>199</sup> Along with the increase in development, there has been a related increase in the price of housing. Although real estate prices in New Jersey cities decreased between 1994 and 2000, they increased by forty-nine percent between 2000 and 2004.<sup>200</sup> This increase has not been limited to new housing; prices of existing homes have also increased.<sup>201</sup> Not surprisingly, where there has been a significant increase in the price of homes, the percentage of lower-income homebuyers (those who make less than eighty percent of the region's median income) has dropped.<sup>202</sup> New Jersey must identify ways to stem this tide.

**Reform Recommendation:** The Legislature must set clear requirements for replacing affordable housing that is demolished as part of a redevelopment project. The requirements should provide for the construction or rehabilitation of as much affordable housing as possible. The recently passed affordable housing law ensures the replacement of some affordable housing lost to redevelopment. We believe that the law should go further in protecting the affordable housing stock. We therefore recommend amendments to strengthen the obligation to replace affordable units that are demolished for redevelopment.

## PART IV: PROTECTING THE COMMUNITY

The experiences of the residents of Mount Holly Gardens are not unique. The intrinsic value of communities is well documented.

### **“Everybody here’s family”**



**Charlie Mae Wilson**

“People are really nice to me. Anywhere I go, they want to know, ‘Can I help you?’ ‘Can I help you?’ A lot of them call me mom and want to know if they can help me. I mean, people—I don’t know—just want to know if they can help me.” *Public Hearing Tr. 85:10-16 (statement of Charlie Mae Wilson, 78-year-old homeowner).*

“I want you to understand one thing. It’s just not about the houses. All these people, they’re all my family. My grandparents, both my mother’s and father’s parents, are here. They had kids. Their kids are my friends. Everybody here’s family.” *Public Hearing Tr. 106: 12-18 (statement of Jules Brooks, resident and businessperson).*

“I brought up my children here . . . I did it with the help of my neighbors, too. They watch out for my kids. Everybody knew each other.” *Public Hearing Tr. 19:6-11 (statement of Nancy Lopez, resident since 1987).*

“It’s just hard to think about everything that has happened. All of us here are like family. We live with each other, basically help each other out.” *Public Hearing Tr. 50:25-51:3 (statement of Garrick Rodriguez, twenty-year-old resident).*

“I never left the Gardens because I have family here and a lot of people that I know. For tonight, I invited a lot of people and talked to them about this meeting. A lot of them that are here, I met them from at least thirty years ago. I have always tried to help them out to survive. Now almost all the time I’m here in Mount Holly Gardens . . . I helped my neighbors and I helped my family members that are looking for information for how to get to the store . . . I have a family member, too, who is very sick and sometimes I take care of him and his wife. I also have an elderly lady [neighbor] who doesn’t drive. She can’t read. She can’t drive. I do everything for her.” *Public Hearing Tr. 55:14-56:13 (statement of Carmen Vadiz, former resident).*



**Former Gardens resident Carmen Vadiz and current Gardens resident Pedro Arocho**

Especially among the poor, the existence of a matrix of mutually shared values and . . . concern and support is a necessary condition, not just to psychic well-being, but to physical survival itself . . . The poor must often depend on a web of mutual support . . . with each individual contributing to the others whatever . . . special talents he might have. [Such] exchanges . . . reinforce [one another], creating a milieu the value of which far exceeds what the physical reality might suggest. When this milieu is destroyed and its members scattered, it is irretrievably lost.<sup>203</sup>

As it has been conducted in Mount Holly, redevelopment forces people to relocate. This displacement disregards the value of a community and causes a breakdown in neighborhood social structures, scattering former neighbors who have relied on one another. Research on the massive dislocations caused by urban renewal in the 1960s and 70s and more recent experiences with gentrification demonstrate that displacement has “consistent negative effects on . . . neighborhood stability” that go beyond the community directly affected.<sup>204</sup>

**Reform Recommendations:** One way to address this issue is to engage the community in a meaningful way throughout the entire redevelopment process, from the blight designation to the redevelopment plan and throughout the relocation and rebuilding processes.

1. *Engage Members of the Community.* Engaging members of the community in the redevelopment process from the beginning will increase community support and the likelihood of success. Community members can be engaged in project and neighborhood planning through the use of advisory committees as well as community-wide discussions.<sup>205</sup> For example, Atlanta Beltline, Inc., an affiliate of the Atlanta Development Authority, has established a multi-tiered system to ensure community engagement. Included in its Community Engagement Framework is an affordable housing advisory board, quarterly public briefings, study groups used to gain community input, a board position for a community member, and a

staff member designated as the Citizen Participation advocate.<sup>206</sup> The City of Atlanta has required redevelopment projects to “reflect through development agreements or funding agreements . . . certain community benefit principles,” such as prevailing wages for workers, hiring people from the community, and apprenticeship programs.<sup>207</sup>

Similarly, East Baltimore Development Incorporated (EBDI), a public-private partnership redeveloping eighty-eight inner-city acres in East Baltimore, Maryland, has actively engaged the community throughout the process. Its efforts have included early community input into the design of the redevelopment plan, ongoing meetings regarding the relocation process, creation of a resource center for the community, inclusion of two community representatives on the EBDI Board of Directors, and regularly distributed monthly newsletters since 2004.<sup>208</sup>

2. *Empower Displaced Individuals.* Redevelopment, in addition to being an opportunity to improve a place—better housing, safer streets—is also an opportunity to improve the lives of individuals. For example, EBDI approaches redevelopment in a way that “combines economic, community, and human development strategies” to benefit area residents, businesses, and the surrounding communities.<sup>209</sup> The foundation of EBDI’s relocation strategy rests on providing each affected individual with a Family Advocate to coordinate a range of services, including financial literacy counseling, special services for senior residents, employment training and referral, health services, day care, and other assistance as needed. This assistance is in addition to the services of a Relocation Counselor who helps residents find appropriate replacement housing using the relocation benefits to which they are entitled by law as well as supplemental benefits provided by EBDI.<sup>210</sup> An independent survey found that most of the individuals displaced were satisfied with their experiences with EBDI. Eighty-one

Redevelopment, in addition to being an opportunity to improve a place—better housing, safer streets—is also an opportunity to improve the lives of individuals.



percent of homeowners and eighty percent of renters felt their compensation and relocation benefits allowed them to relocate to homes that met their needs. A majority of respondents stated that they were better off after the relocation than before.<sup>211</sup>

3. *Give Priority Bidding to Community Development Corporations.* Community development corporations are “non-profit, community-controlled real estate development organizations dedicated to the revitalization of poor neighborhoods.”<sup>212</sup> In addition to building physical structures, CDCs also focus their efforts on economic development and social services.<sup>213</sup> Because of the nature and structure of CDCs, they can create a redevelopment plan that addresses the various needs of community members as well as the needs of the municipality.<sup>214</sup> For example, Newark-based New Community Corporation (NCC) is one of the largest community development corporations in the nation, and over the past thirty years it has engaged in a variety of initiatives in support of its community. NCC currently manages more than 3,000 units of affordable housing for families and seniors. NCC has not only developed and managed affordable housing but has connected the residents of that housing with needed services.<sup>215</sup>

4. *Adopt Community Benefit Agreements.* A Community Benefit Agreement (CBA) is a legally enforceable contract between the redevelopers and a coalition led by members of the neighborhood being redeveloped and others representing their interests.<sup>216</sup> CBAs may require that the redeveloped area include affordable housing for current residents, local hiring and training for jobs, and community services such as health centers.<sup>217</sup> CBAs have been used across the country, including in Los Angeles, New Haven, San Diego, San Jose and Denver.<sup>218</sup>



5. *Offer Tenants the Option to Return to the Community.* Displaced residents should be offered an opportunity to return to their community once the redevelopment is complete. This can be accomplished by giving the original tenants an option to buy or rent in the redeveloped community before soliciting new tenants. However, the new housing offered to the original tenants should not be priced in a way that places the tenants in a worse financial position than they were in prior to the redevelopment. EBDI has taken special measures to ensure that displaced residents have the opportunity to return to affordable housing in their community.<sup>219</sup> The redeveloped area is a mixed-income community with properties priced to ensure equal representation of households in three income categories: low-income, moderate-income, and market rate. A “pre-public” marketing phase gives relocated residents an opportunity to apply to rent or purchase the new units. Returning residents receive moving expenses to defray the cost of returning to the area, in addition to closing costs for homeowners (not to exceed \$5,000) and security deposits for renters (not to exceed \$2,500).<sup>220</sup>

## Conclusion

The redevelopment of the Mount Holly Gardens has dismantled a neighborhood while people still live there, dispersed most of its residents, undermined the support systems that had sustained the community, and placed greater financial strain on dozens of already struggling low-income families. Meanwhile, the new development promises no discernible benefit to the majority of present and former Gardens residents. We believe these results were not what the legislature intended when it authorized municipalities to redevelop blighted communities.

Redevelopment reform cannot prevent disruption and displacement, but it can minimize the trauma visited upon individuals and neighborhoods that are the sites of redevelopment projects. The remaining residents of the Gardens deserve better treatment than they and those who left before them have received so far. And the New Jersey Legislature must take steps to ensure that those who live in “blighted areas” do not become the casualties of our efforts at revitalization.



## Endnotes

<sup>1</sup>For one of the most influential critiques of the “slum clearance” techniques of the 1950s and 1960s, see Jane Jacobs, *The Death and Life of Great American Cities* (1961). In particular, Jacobs argued for urban revitalization programs that preserved the uniqueness inherent in individual neighborhoods, rather than clearance and attempts to create new communities.

<sup>2</sup>191 N.J. 344 (2007).

<sup>3</sup>*Harrison Redevelopment Agency v. DeRose*, 398 N.J. Super. 361 (App. Div. 2008).

<sup>4</sup>See, e.g., Amanda W. Goodin, *Rejecting the Return to Blight in Post-Kelo State Legislation*, 82 N.Y.U. L. Rev. 177, 199-200 (2007) (citations and footnotes omitted):

Some commentators have argued that “justifying eminent domain on a finding of blight invariably targets low-income communities. . . .” This seems to be a particularly accurate prediction regarding restrictive definitions of blight, because the factors that constitute blight are more likely to be found in low-income areas—for example, the less-valuable buildings in low-income neighborhoods are far more likely to be “dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by statute or an applicable municipal code” than buildings in upper-and middle-income neighborhoods.

<sup>5</sup>*South Burlington County NAACP v. Mount Laurel*, 67 N.J. 151, 179 (1975) (emphasis added).

<sup>6</sup>Public Hearing on the Redev. of Mount Holly Gardens, Dep’t of the Public Advocate, Tr. 51:1-3 (Dec. 12, 2007) (statement of Garrick Rodriguez) [hereinafter “Public Hearing”] (on file with Dep’t of the Public Advocate).

<sup>7</sup>*Citizens in Action v. Twp. of Mount Holly*, No. A-1099-05T3, slip op. at 32-34 (N.J. App. Div. 2007), cert. denied, 193 N.J. 275 (Dec. 4, 2007).

<sup>8</sup>Ileen Schwartz-Henderson, *Mount Holly Gardens: Yesterday, Today, and Tomorrow*, *The Burlington Gazette*, September 9, 1987, at 1.

<sup>9</sup>*Citizens in Action*, No. A-1099-05T3, slip op. at 5 (N.J. App. Div. 2007); THP, Inc., *Neighborhood Issues Analysis: The Gardens Redevelopment Study 2* (Oct. 9, 2000) (on file with Dep’t of the Public Advocate).

<sup>10</sup>Triad Associates, *Workable Relocation Assistance Plan: Township of Mount Holly, West End Redevelopment Project 3* (2006) [hereinafter “WRAP”] (on file with Dep’t of the Public Advocate).

<sup>11</sup>*Citizens in Action*, No. A-1099-05T3, slip op. at 3 (N.J. App. Div. 2007).

<sup>12</sup>Ileen Schwartz-Henderson, *Township, Gardens Residents Meet in Forum*, *The Burlington Gazette*, October 14, 1987; Christopher Quinn, *Renters, Key Landlord at Odds Over Who To Blame*, *Burlington County Herald*, December 10, 1981, at 3.

<sup>13</sup>Patricia Parente, *Mount Holly Housing Group Showcases Its Efforts*, *Burlington County Times*, December 4, 1996.

<sup>14</sup>Schwartz-Henderson, *Township, Gardens Residents Meet in Forum*, *supra* note 12.

<sup>15</sup>Tina Kelly, *Seeds of Hope in Mt. Holly Development*, *The Philadelphia Inquirer*, Nov. 8, 1989, at 28-BR.

<sup>16</sup>Mount Holly, N.J., Resolution 2002-217 (Oct. 28, 2002); accord *Citizens in Action*, No. A-1099-05T3, slip op. at 6-9 (N.J. App. Div. 2007).

<sup>17</sup>Mount Holly, N.J., Ordinances 2003-12 (Sept. 8, 2003), 2003-37 (Nov. 10, 2003) (both on file with Dep’t of the Public Advocate); Janice E. Talley, *The Gardens Area Redevelopment Plan* (May 2003), Pls.’ App. Vol. II at 164a, *Citizens in Action*, No. A-1099-05T3 (N.J. App. Div. 2007).

<sup>18</sup>N.J. Stat. Ann. § 40A:12A-8.

<sup>19</sup>H2M Associates, *West Rancocas Redevelopment Plan* 23 (rev. Feb. 21, 2005) (on file with Dep’t of the Public Advocate); *Statement of Mount Holly Township in Response to Questions of the Public Advocate* 1 (Jan. 24, 2008) [hereinafter January 24, 2008, Mount Holly Statement] (on file with Dep’t of the Public Advocate).

<sup>20</sup>The latest version of the plan, amended as of Sept. 8, 2008, remains indefinite. It calls for “a maximum of 520 dwelling units” and states that, “[u]p to 75% of the residential units may be townhouses” and that “[a]partment units may comprise up to 50% of the total residential units.” H2M Associates, *West Rancocas Redevelopment Plan* 4, 5 (rev. Sept. 8, 2008) [hereinafter September 2008 Redevelopment Plan] (on file with Dep’t of the Public Advocate); see also Mount Holly, N.J., Ordinance 2008-25 (Sept. 22, 2008) (adopting amended plan) (on file with Dep’t of the Public Advocate).

<sup>21</sup>Public Hearing, *supra* note 6, Tr. 34:24-35:6 (statement of Doris Pulone).

<sup>22</sup>Carol Comegno, *Mount Holly Signs Deal on the Gardens*, *Courier-Post*, Feb. 16, 2006, at 1G.

<sup>23</sup>WRAP, *supra* note 10, at 3.

<sup>24</sup>WRAP, *supra* note 10, at 5; Letter from M. James Maley, Jr., Township of Mount Holly Redevelopment Counsel, to Ronald K. Chen, Public Advocate (July 16, 2008) (on file with Dep’t of the Public Advocate).

<sup>25</sup>WRAP, *supra* note 10, at 3.

<sup>26</sup>January 24, 2008, Mount Holly Statement, *supra* note 19, at 8.

<sup>27</sup>WRAP, *supra* note 10, at 4-5.

<sup>28</sup>WRAP, *supra* note 10, at 6.

<sup>29</sup>January 24, 2008, Mount Holly Statement, *supra* note 19, at 8.

<sup>30</sup>The Township demolished the first seventeen Gardens homes in March 2004. Carol Comegno, *Demolition of Gardens Homes Will Continue*, *Courier-Post*, March 16, 2004, at 2G.

<sup>31</sup>Certif. of Kathleen Hoffman ¶ 2 (undated), Dfs.’ Br. Opp. Mot. Prelim. Inj., *Mt. Holly Citizens in Action, Inc. v. Twp. of Mount Holly*, No. 1:08-cv-02584 (D.N.J. Aug. 19, 2008).



<sup>32</sup>*Citizens in Action v. Twp. of Mount Holly*, No. A-1099-05T3, slip op. at 32-34 (N.J. App. Div. 2007), *cert. denied*, 193 N.J. 275 (Dec. 4, 2007).

<sup>33</sup>Am. Compl., *Mt. Holly Gardens Citizens in Action, Inc.*, No. 1:08-cv-02584 (D.N.J. June 10, 2008).

<sup>34</sup>Public Hearing, *supra* note 6, Tr. 80:20-81:15 (statement of Rosemary Roberts, seventy-six-year-old homeowner in the Gardens raising three grandchildren).

<sup>35</sup>Public Hearing, *supra* note 6, Tr. 94:14-17 (statement of Jurgen Mozee, former resident who lived in the Gardens for decades until he and his mother relocated in April 2008).

<sup>36</sup>Public Hearing, *supra* note 6, Tr. 23:13-17 (statement of Nancy Lopez, a single mother who raised her five children in the Gardens).

<sup>37</sup>Public Hearing, *supra* note 6, Tr. 115:2-3; 116:8-13 (statement of Justin Rodriguez, seventeen-year-old resident).

<sup>38</sup>Public Hearing, *supra* note 6, Tr. 53:2-10 (statement of Garrick Rodriguez, twenty-year-old resident).

<sup>39</sup>Public Hearing, *supra* note 6, Tr. 60:21-24 (statement of Taisha Tirado, renter who moved to the Gardens in 2004).

<sup>40</sup>Public Hearing, *supra* note 6, Tr. 120:8-11 (statement of Alexander Molina, sixteen-year-old resident).

<sup>41</sup>Public Hearing, *supra* note 6, Tr. 46:1-6 (statement of Carlos Rodriguez II, fourteen-year-old former resident).

<sup>42</sup>*Citizens in Action*, No. A-1099-05T3, slip op. at 13, 23-35 (N.J. App. Div. 2007).

<sup>43</sup>*See, e.g.*, Brief for Dep't of the Public Advocate as Amicus Curiae Supporting Petitioners, *Gallenthin Realty Dev., Inc. v. Borough of Paulsboro*, 191 N.J. 344 (2007); Brief for Dep't of the Public Advocate as Amicus Curiae Supporting Appellants, *City of Long Branch v. Anzalone*, No. 0067-06T2 (N.J. App. Div. 2008); Brief for Dep't of the Public Advocate as Amicus Curiae Supporting Respondents, *LBK Associates, LLC v. Borough of Lodi*, No. A-1829-05T2 (N.J. App. Div. 2007); Dep't of the Public Advocate, *In Need of Redevelopment: Repairing New Jersey's Eminent Domain Laws, Abuses and Remedies, A Follow-Up Report* (2007); Dep't of the Public Advocate, *Reforming the Use of Eminent Domain for Private Redevelopment in New Jersey* (2006). To view any of these documents, visit the Public Advocate's webpage on eminent domain at <http://www.state.nj.us/publicadvocate/public/issues/eminentdomain.html>.

<sup>44</sup>Am. Compl., *Mt. Holly Gardens Citizens in Action, Inc.*, No. 1:08-cv-02584 (D.N.J. June 10, 2008).

<sup>45</sup>N.J. Const. art. I, ¶ 20; U.S. Const. amends. V, XIV.

<sup>46</sup>This is the standard measure of compensation for takings under the United States and New Jersey Constitutions. *Kimball Laundry Co. v. United States*, 338 U.S. 1, 5-6 (1949); *State by Roe v. Nordstrom*, 54 N.J. 50, 53 (1969) ("A condemnee must be made whole as a result of the condemnation proceeding. Although a sum of money equal to 'fair market value' cannot always be a perfect measuring stick for determining the worth of property to a landowner, the State must

try as nearly as possible, employing objective standards, to replace the land which has been earmarked for public use with equivalent public funds.").

<sup>47</sup>N.J. Stat. Ann. §§ 52:31B-1 to -12.

<sup>48</sup>N.J. Stat. Ann. §§ 20:4-1 to -22. The RAA does not replace the RAL but rather complements it. *In re Relocation Claim of Berwick Ice, Inc.*, 231 N.J. Super. 391, 396 (App. Div. 1989). Because the RAA is the more comprehensive and generous of the two statutes, litigants and agencies generally rely on the RAA to determine relocation assistance in cases where both statutes cover the government activity in question. Thus, while both statutes apply to governmental programs of land acquisition, we will refer mainly to the RAA.

<sup>49</sup>N.J. Stat. Ann. § 20:4-2; *accord* N.J. Stat. Ann. § 52:31B-2.

<sup>50</sup>N.J. Stat. Ann. §§ 20:4-4 to -6.

<sup>51</sup>N.J. Stat. Ann. §§ 20:4-4, 20:4-5; N.J. Admin. Code §§ 5:11-3.2, 5:11-3.7.

<sup>52</sup>N.J. Stat. Ann. §§ 20:4-5 (effective Jan. 1, 1972).

<sup>53</sup>N.J. Stat. Ann. §§ 20:4-5(a); *accord* N.J. Admin. Code § 5:11-3.7(a).

<sup>54</sup>*See* Appraisal from Todd and Black, Inc., Real Estate Appraisers and Consultants, to Kathleen Hoffman, Acting Mount Holly Township Manager, at 39 (June 29, 2007) (appraising 376 S. Martin Ave., a one-bedroom Gardens home) ("the unadjusted and adjusted range [of identified one-bedroom homes] is from \$27,000 to \$32,000"); Appraisal from Todd and Black, Inc., to Kathleen Hoffman, Acting Township Manager, at 40 (June 29, 2007) (appraising 259 Levis Dr., a two-bedroom Gardens home) ("the unadjusted and adjusted range [of identified two-bedroom homes] is from \$39,000 to \$40,000"); Appraisal from Todd and Black, Inc., to Kathleen Hoffman, Acting Township Manager, at 40 (June 29, 2007) (appraising 327 N. Martin Ave., a three-bedroom Gardens home) (similar three-bedroom homes "sold for a sale price of \$49,000") (all on file with Dep't of the Public Advocate).

At least one absentee landlord received more. Harry W. Fry, principal of Fry Realty Co., was an absentee landlord who owned the largest number of units in the Gardens. He sold sixty-two units to the Township for approximately \$3.25 million, an average of about \$52,400 each. *See* Carol Comegno, *Mount Holly Buys 63 More Homes in Gardens Section*, *Courier-Post*, March 30, 2005, at 1G.

<sup>55</sup>WRAP, *supra* note 10, at 6.

<sup>56</sup>*See Minutes for the Regular Meeting of Township Council 4* (May 27, 2008) (on file with Dep't of the Public Advocate).

<sup>57</sup>Appraisal from Todd and Black, Inc., Real Estate Appraisers and Consultants, to Patty Clayton, Township of Mount Holly (July 30, 2007) (appraising 112 Levis Drive, a two-bedroom home) ("The fact that this is a redevelopment zone should have been discussed in [the 'neighborhood'] section. It is alluded to by the appraiser, where he says '... the twp. commitment to demolish the development ...'") (homeowner's appraiser had valued the two-



bedroom home at \$64,000; Township appraised it at \$39,000 to \$42,000, *id.*) (on file with Dep't of the Public Advocate).

<sup>58</sup>E.g., compare Appraisal from Todd and Black, Inc., Real Estate Appraisers and Consultants, to Patty Clayton, Township of Mount Holly (July 30, 2007) (appraising 112 Levis Drive) with Appraisal from Leo J. Solomon to Pamela and Nelson Hayspell, owners of 112 Levis Drive, at 2 (May 2, 2007) (both on file with Dep't of the Public Advocate).

<sup>59</sup>Appraisal from Leo J. Solomon to Pamela and Nelson Hayspell, *supra* note 58, at 2.

<sup>60</sup>New Jersey Association of County Tax Boards, <http://www.njactb.org> (follow "Record Search" hyperlink; submit search for owner name "Diamond" in Mount Holly, Burlington County) (154 Grant Street sold for \$82,000 on October 30, 2007, and 124 Brown Street sold for \$87,000 on October 30, 2007) (last visited Sept. 26, 2008).

<sup>61</sup>*See Housing Auth. v. Ricciardi*, 176 N.J. Super. 13, 18-22 (App. Div. 1980) (citing N.J. Stat. Ann. §§ 20:3-30, 20:3-38) ("[W]hen there is an eventual taking of property in an area which has been declared blighted, the property owner is entitled to no less than the value of his land on the date of the declaration.").

<sup>62</sup>Interview with Carole Richardson in Vincentown, N.J. (June 13, 2008).

<sup>63</sup>Deed between Lieselotte Rich, Administrator for the Estate of Carl Daniel Rich, and Lieselotte Rich (July 29, 2005), available at <http://co.burlington.nj.us/departments/countyclerkrecords/search.htm> (search first name "Lieselotte" last name "Rich"; then follow "4201465" hyperlink; then follow "View Document" hyperlink).

<sup>64</sup>Deed between Lieselotte Rich and Township of Mount Holly (April 10, 2008), available at <http://co.burlington.nj.us/departments/countyclerk/records/search.htm> (search first name "Lieselotte" last name "Rich"; then follow "4544470" hyperlink; then follow "View Document" hyperlink); Memorandum from Gerard Velazquez, III, Triad Associates, to Karen M. Donnelly, Vice President, Keating Urban Partners, LLC (April 14, 2008) (on file with Dep't of the Public Advocate).

<sup>65</sup>Telephone Survey with Lieselotte Rich (July 14, 2008); Interviews with Jurgen Mozee and Carl Rich, Jr. in Lumberton, N.J. (July 30, 2008); Lease between Lieselotte Rich and Jurgen Mozee and East Coast Lumberton (April 10, 2008) (on file with Dep't of the Public Advocate).

<sup>66</sup>Telephone Survey with Evans Jackson (Sept. 5, 2008); Certif. of Evans Jackson ¶¶ 1, 3, 13 (April 25, 2004), Pls.' App. Vol. III at 500a-501a, 502a, *Citizens in Action*, No. A-1099-05T3 (N.J. App. Div. 2007); Deed between E.F.&C. Corp. and Evans Jackson (July 18, 1980); Memorandum from Gerard Velazquez, III, Triad Associates, to Karen M. Donnelly, Vice President, Keating Urban Partners, LLC (November 26, 2007) (on file with Dep't of the Public Advocate); Deed between Evans Jackson and Township of Mount Holly (November 27, 2007), available at <http://co.burlington.nj.us/departments/county>

clerk/records/search.htm (search first name "Evans" last name "Jackson"; then follow "4513688" hyperlink; then follow "View Document" hyperlink); Deed between Leonard and Donna Jeffries and Evans Jackson (November 29, 2007), available at <http://co.burlington.nj.us/departments/countyclerkrecords/search.htm> (search first name "Evans" last name "Jackson"; then follow "4509229" hyperlink; then follow "View Document" hyperlink).

<sup>67</sup>Deed between Hamid Ullah and Mahmuda Khanam and the Township of Mount Holly (May 14, 2008), available at <http://co.burlington.nj.us/departments/countyclerkrecords/search.htm> (search first name "Hamid" last name "Ullah"; then follow "4561464" hyperlink; then follow "View Document" hyperlink); Contract of Sale between Hamid Ullah and Mahmuda Khanam and Tamzrian Investment Ent., Addendum (April 11, 2008) (on file with Dep't of the Public Advocate); Memorandum from Gerard Velazquez, III, Triad Associates, to Karen M. Donnelly, Vice President, Keating Urban Partners, LLC (April 25, 2008) (on file with Dep't of the Public Advocate); Telephone Survey with Hamid Ullah (Aug. 4, 2008).

<sup>68</sup>[www.realtor.com](http://www.realtor.com) (last visited July 24, 2008) (search results for terms: "City: Mount Holly, State/Province: New Jersey" retrieved on Thursday, July 24) (to arrive at the average listing price, the individual entries were averaged; duplicative addresses were omitted, as were addresses that failed to list both the street address and the town) (on file with the Public Advocate).

<sup>69</sup>TREND Multiple Listing Service (July 2007–July 2008) (on file with Dep't of the Public Advocate):

- 359 Washington St. sold for \$65,500: "Buyer Responsible for ALL REPAIRS and [Certificate of Occupancy]. Extensive Termite Damage";
- 153 Washington St. sold for \$70,000: "Property needs work! Property being sold 'as is' condition";
- 319 Mount Holly Ave. sold for \$75,000: "HUD case # 351-390612. Property sold AS-IS"; and
- 154 Grant St., a Gardens home just outside the redevelopment area, sold for \$82,000: "Buyer responsible for all repairs required by lender and township."

<sup>70</sup>New Jersey Ass'n of Realtors, *New Jersey Home Sales Report* tbl.10 (2008), available at [http://www.njar.com/research\\_statisticspdf/quarterly\\_stats/2008Q1.pdf](http://www.njar.com/research_statisticspdf/quarterly_stats/2008Q1.pdf).

<sup>71</sup>*Id.* at tbl.6.

<sup>72</sup>*Id.* at tbl.2.

<sup>73</sup>*Id.* at tbl.1.

<sup>74</sup>*Id.* at tbl.9.

<sup>75</sup>*Citizens in Action*, No. A-1099-05T3, slip op. at 5 (N.J. App. Div. 2007).

<sup>76</sup>*See* TREND, *supra* note 69.

<sup>77</sup>New Jersey Ass'n of Realtors, *supra* note 70, at tbl.10.

<sup>78</sup>*Chatterjee v. Atlantic City Bd. of Educ.*, No. A-2334-06T1, slip op. at 21 (N.J. App. Div. 2008) (citations omitted).

<sup>79</sup>*Id.* at 5-6 (quoting *id.*, OAL No. CAF 4507-04, Agency No. OCA-276-04 (Feb. 23, 2005)).

<sup>80</sup>*Id.* at 20-21 (quoting N.J. Admin. Code § 5:11-3.7(b); N.J. Stat. Ann. § 20:4-5). The Appellate Division also concluded that, because the homeowners did not present evidence to establish what comparable replacement housing of the same size would have cost, they had not shown their entitlement to any additional payment. *Id.* at 22.

<sup>81</sup>Because their projects are financed primarily with federal funds, the New Jersey Department of Transportation (NJDOT) and New Jersey Transit follow federal relocation standards and have adopted them by regulation. N.J. Admin. Code § 16:6-3.4; N.J. Admin. Code §§ 16:6-1.1 to -3.4. These standards permit the payment of replacement value, and such payment is the standard practice of these agencies. *Id.*; Telephone Interview with Kevin Rittenberry, Counsel, New Jersey Transit (June 6, 2008). The NJDOT follows these same regulations when it handles property acquisitions and relocations for the Economic Development Authority. Telephone Interview with Kevin Rittenberry, *supra*. The Casino Reinvestment Development Authority (CRDA) and Schools Development Authority (SDA) apply the Relocation Assistance Act and its regulations, but ensure displaced residents can secure decent, safe and sanitary comparable replacement housing. *Id.*; Telephone Interview with agency representative of CRDA (July 2008); Memorandum from Sandra Vieser, Associate Counsel, SDA to Brian Weeks, Dep't of the Public Advocate (Sept. 2008) (on file with Dep't of the Public Advocate).

<sup>82</sup>*See, e.g.*, Memorandum from Bob Cunningham, Manager, Technical Support, NJDOT Right of Way Acquisition, to Victor Akpu, Director, NJDOT Right of Way Acquisition (June 13, 2008) (from 2002 through 2007, NJDOT resolved seventy-four percent of 1,997 property acquisitions by agreement, including sixty-six percent of the 712 acquisitions that involved relocating a resident or business).

<sup>83</sup>Congress expressed its intention almost forty years ago, when it enacted the Federal Relocation Act, 42 U.S.C. §§ 4601 to -4655 (effective Jan. 2, 1971), that public projects that displace residents should improve the housing conditions of economically disadvantaged persons. 42 U.S.C. § 4621(c)(3).

<sup>84</sup>Memorandum by Susan B. Lauffer, Director, U.S. Dept. of Transportation, Federal Highway Administration, Office of Real Estate Services, *Information: Policy and Guidance for Acquisition and/or Relocation Incentive Programs—Voluntary* (April 26, 2006), available at <http://www.fhwa.dot.gov/realestate/acqincentguid.htm> ("Recent studies on the use of incentive payments on transportation projects demonstrate that they can be effective in decreasing the time needed to acquire and clear needed rights-of-way. . . . An incentive payment could . . . expedite the completion of a project; and result in significant cost savings.").

<sup>85</sup>N.J. Stat. Ann. § 20:4-6(a).

<sup>86</sup>N.J. Stat. Ann. § 20:4-6(a) (effective Jan. 1, 1972).

<sup>87</sup>WRAP, *supra* note 10, at 6.

<sup>88</sup>Telephone Interview with Linwood Perry (Oct. 7, 2008).

<sup>89</sup>Telephone Interview with Kendra Dockery (July 14, 2008); Interview with Kendra Dockery in Hainesport, N.J. (July 23, 2008).

<sup>90</sup>Telephone Interview with Ellen Jester (July 24, 2008).

<sup>91</sup>Telephone Survey with Georgeanna Grey (July 14, 2008).

<sup>92</sup>These figures are derived from the total rents for the units, although some tenants received rental subsidies in the Gardens, the new unit, or both. The contribution of each household to the total tent varied with the rules governing each subsidy program. *See* Rent Change Chart, Appendix.

<sup>93</sup>In addition, the rent for eight families (thirteen percent) increased more than one hundred percent.

<sup>94</sup>*Citizens in Action*, No. A-1099-05T3, slip op. at 5 (N.J. App. Div. 2007).

<sup>95</sup>*Id.*

<sup>96</sup>Inflation calculated using the calculator provided by the United States Department of Labor, Bureau of Labor Statistics, based on its Consumer Price Index for All Urban Consumers, U.S. City Average. *See* [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm) (last visited Sept. 26, 2008).

<sup>97</sup>\$4,000 is nineteen percent of \$20,965.17.

<sup>98</sup>The problem of the delayed "day of reckoning" has been recognized since the initial enactment of time-limited relocation assistance legislation. *See* Chester W. Hartman, *Relocation: Illusory Promises and No Relief*, 57 Virginia Law Review 745, 775-76 (June 1971).

<sup>99</sup>Mount Holly, N.J., Resolution 2002-217 (October 28, 2002) (on file with Dep't of the Public Advocate).

<sup>100</sup>Mount Holly, N.J., Ordinances 2003-12 (Sept. 8, 2003), 2003-37 (Nov. 10, 2003) (both on file with Dep't of the Public Advocate).

<sup>101</sup>WRAP, *supra* note 10, at 1.

<sup>102</sup>Public Hearing, *supra* note 6, Tr. 57:23-58:9 (statement of Carmen Vadiz).

<sup>103</sup>*Responses of Mount Holly Township to Issues Raised at Public Advocate Meeting, December 12, 2007* at 10 (January 25, 2008) (Township Response [sic] column, reply to comment by Mr. Mo[zee]) (on file with Dep't of the Public Advocate).

<sup>104</sup>The Township bought sixty-two homes in the Gardens from one private owner for more than \$3 million. Carol Comegno, *Mount Holly Buys 63 more homes in Gardens Section*, *supra* note 54, at 1G.

<sup>105</sup>Janice E. Talley, *Redevelopment Area Determination Report: Township of Mount Holly, Burlington County, New Jersey* 1, 2 (September 3, 2002) [hereinafter Talley, *Determination Report*] (on file with Dep't of the Public Advocate).

<sup>106</sup>WRAP, *supra* note 10, at 3.

<sup>107</sup>January 24, 2008, Mount Holly Statement, *supra* note 19, at 9 (Question: "Did the Township offer relocation assistance to those displaced from The Gardens before August 2006? If not, why not?")

Answer: "Relocation assistance was offered to residents at the end of 2006, following DCA's [the Department of Community Affairs'] approval of the WRAP, in an effort to spur the redevelopment of the area.")

<sup>108</sup>WRAP, *supra* note 10, at 5 (emphasis omitted).

<sup>109</sup>Interview with Georgeanna Grey in Lumberton, N.J. (January 23, 2008); Telephone Survey with Georgeanna Grey (July 14, 2008).

<sup>110</sup>Decl. of Alandia Warthen ¶¶ 1, 2, 4, 6, 9, 10 (July 9, 2008), Pls.' Br. Supp. Mot. Prelim. Inj., *Mt. Holly Gardens Citizens in Action, Inc.*, No. 1:08-cv-02584 (D.N.J. July 18, 2008).

<sup>111</sup>Certif. of Edda Lugo (July 16, 2008) (on file with Dep't of the Public Advocate).

<sup>112</sup>N.J. Stat. Ann. § 20:4-6; N.J. Admin. Code § 5:11-3.5.

<sup>113</sup>Interview with anonymous resident (August 6, 2008).

<sup>114</sup>January 24, 2008, Mount Holly Statement, *supra* note 19, at 8, 9.

<sup>115</sup>Certif. of Kathleen Hoffman, *supra* note 31, ¶ 2.

<sup>116</sup>Decl. of Santos Cruz ¶ 4 (July 17, 2008), Pls.' Br. Supp. Mot. Prelim. Inj., *Mt. Holly Gardens Citizens in Action, Inc.*, No. 1:08-cv-02584 (D.N.J. July 18, 2008).

<sup>117</sup>Public Hearing, *supra* note 6, Tr. 7:10-13 (citation is to separate transcript from early part of meeting captured on DVD, before court reporter arrived) (on file with Dep't of the Public Advocate).

<sup>118</sup>Certif. of Kathleen Hoffman, *supra* note 31, ¶ 2.

<sup>119</sup>Public Hearing, *supra* note 6, Tr. 40:10-15 (statement of Regina Rodriguez).

<sup>120</sup>Public Hearing, *supra* note 6, Tr. 6:9-7:5 (statement of Vivian Brooks).

<sup>121</sup>Telephone Survey with Terry Muse (July 17, 2008); Telephone interview with her former landlord, Josephine Pogue (Sept. 18, 2008); Letter from Burlington County Dep't of Econ. Dev. and Reg'l Planning, Housing and Cmty. Dev. Office to Josephine Pogue (June 27, 2007) (on file with Dep't of the Public Advocate), *see also* Letter from Burlington County Dep't of Econ. Dev. and Reg'l Planning, Housing and Cmty. Dev. Office to Kendra Dockery (July 12, 2007) (Ms. Dockery would lose her housing assistance if she remained in her Gardens apartment because it did not meet minimum housing standards) (on file with Dep't of the Public Advocate).

<sup>122</sup>Public Hearing, *supra* note 6, Tr. 83:5-18 (statement of Heather Ridgeway).

<sup>123</sup>Telephone Survey with Robin Williams (Aug. 4, 2008).

<sup>124</sup>Letter from M. James Maley, Jr., Township of Mount Holly Redevelopment Counsel, to Catherine Weiss, Director, Division of Public Interest Advocacy, Department of the Public Advocate, (Jan. 24, 2008) [hereinafter January 24, 2008, Letter from M. James Maley] (on file with Dep't of the Public Advocate).

<sup>125</sup>N.J. Stat. Ann. § 20:4-3(a) (emphasis added).

<sup>126</sup>146 N.J. Super. 235 (App. Div. 1976).

<sup>127</sup>*Id.* at 240 (citing 42 U.S.C. § 4621 *et seq.*)

<sup>128</sup>*Id.* at 241.

<sup>129</sup>*Id.*

<sup>130</sup>DCA No. 75-13 (July 26, 1976) (final agency decision).

<sup>131</sup>*Id.*

<sup>132</sup>*In re Relocation Claim of Berwick Ice, Inc.*, 231 N.J. Super. at 396-97 ("It is a fundamental maxim that the opinion as to the construction of a regulatory statute of the expert administrative agency charged with enforcement of that statute is entitled to great weight and is a 'substantial factor to be considered in construing the statute.'" (quoting *New Jersey Guild of Hearing Aid Dispensers v. Long*, 75 N.J. 544, 575 (1978)).

<sup>133</sup>N.J. Admin. Code § 5:11-2.2.

<sup>134</sup>*In re Freshwater Wetlands Prot. Act Rules*, 180 N.J. 415, 430 (2004) ("As with any administrative regulation, we begin with the settled principle that [this regulation] must be 'accorded a presumption of validity.'" (citing *New Jersey State League of Municipalities v. Dep't of Cmty. Affairs*, 158 N.J. 211, 222 (1999); *In re Twp. of Warren*, 132 N.J. 1, 26 (1993)); *see also In re Relocation Claim of Berwick Ice, Inc.*, 231 N.J. Super. at 396-97.

<sup>135</sup>N.J. Admin. Code § 5:11-1.2; *see also* N.J. Stat. Ann. § 20:4-3(c).

<sup>136</sup>N.J. Admin. Code § 5:11-4.2 (notice to displacees must inform them that they "should not vacate the property prior to being authorized to do so in order to remain eligible for payment and assistance . . .").

<sup>137</sup>N.J. Admin. Code § 5:11-2.2(c).

<sup>138</sup>N.J. Admin. Code § 5:11-1.2.

<sup>139</sup>N.J. Stat. Ann. §§ 20:3-8, 20:3-19.

<sup>140</sup>*Washington Market Enterprises, Inc. v. Trenton*, 68 N.J. 107, 122 (1975) (requiring City of Trenton to purchase a commercial building that had become untenable because of an abandoned redevelopment project).

<sup>141</sup>N.J. Admin. Code § 5:11-2.3(a).

<sup>142</sup>As of August 1, 2008, the Township was the landlord to the tenants of nine units in the Gardens. Certif. of Kathleen Hoffman, *supra* note 31, ¶ 2.

<sup>143</sup>N.J. Stat. Ann. §§ 2A:18-61.1, 2A:18-61.3.

<sup>144</sup>N.J. Stat. Ann. § 2A:18-61.1(g)(4).

<sup>145</sup>January 24, 2008, Letter from M. James Maley, *supra* note 124, at 2.

<sup>146</sup>Telephone Interview with M. James Maley, Jr., Township of Mount Holly Redevelopment Counsel (Sept. 8, 2008). Although the Township maintains that it has never refused to renew a lease for any of its tenants, some of its contracts to purchase occupied units suggest that it would only assume a lease for the duration of its term. An October 2006 contract for the sale of six Gardens units, for example, contains this provision: "The Buyer [i.e., the Township] is aware that some of the properties are tenant occupied and agree[s] to abide by the terms and conditions of said lease(s) until the expiration thereof." Contract for sale of six Gardens properties between the Township of Mount Holly and Ralph Gelber (Oct.



2, 2006) (on file with Dep't of the Public Advocate); *see also* Contract for sale of one Gardens property between the Township of Mount Holly and Angel Ramos (Jan. 31, 2006) ("The Buyer is aware the property is currently tenant occupied . . . with a lease expiration date of 2/28/06.") (on file with Dep't of the Public Advocate). Yet the expiration of a lease alone cannot be grounds to demand that a tenant vacate the property. *See* N.J. Stat. Ann. §§ 2A:18-61.1, 2A:18-61.3.

<sup>147</sup>N.J. Admin. Code § 5:11-2.2(b).

<sup>148</sup>Telephone Interview with M. James Maley, Jr., Township of Mount Holly Redevelopment Counsel (Sept. 8, 2008).

<sup>149</sup>We excluded from the fifty-three contracts we reviewed in total fifteen in which the seller's address and the address of the property sold were the same; we assumed that these were owner-occupied residences. On the other hand, we assumed that the property was a rental when the seller had a different address from the property sold.

<sup>150</sup>Telephone Interview with M. James Maley, Jr., Township of Mount Holly Redevelopment Counsel (Sept. 8, 2008).

<sup>151</sup>*See* N.J. Stat. Ann. § 2A:18-61.1.

<sup>152</sup>N.J. Admin. Code § 5:11-2.2(b).

<sup>153</sup>N.J. Stat. Ann. § 40A:12A-8(d).

<sup>154</sup>N.J. Const. art. VIII, § 3, ¶ 1; *Gallenthin*, 191 N.J. at 356-59.

<sup>155</sup>Talley, *Determination Report*, *supra* note 105, at 1.

<sup>156</sup>Alan Mallach et al., Housing and Community Development Network of New Jersey, *Cities in Transition: New Jersey's Urban Paradox* n.15 (Sept. 2006).

<sup>157</sup>*Citizens in Action*, No. A-1099-05T3, slip op. at 5 (N.J. App. Div. 2007).

<sup>158</sup>September 2008 Redevelopment Plan, *supra* note 20, at 18.

<sup>159</sup>Mallach, *supra* note 156, at 22, 23 tbl.34.

<sup>160</sup>September 2008 Redevelopment Plan, *supra* note 20, at second page 4 (misnumbered).

<sup>161</sup>*Id.* at 18; N.J. Stat. Ann. § 40A:12A-7(a)(7), as amended by P.L.2008, c.46, §2, effective July 17, 2008 (requiring replacement of deed-restricted units demolished through redevelopment).

<sup>162</sup>*Citizens in Action*, No. A-1099-05T3, slip op. at 5 (N.J. App. Div. 2007).

<sup>163</sup>Nat'l Low Income Housing Coalition, *Out of Reach 2007-2008*, <http://www.nlihc.org/or/or2008/data.cfm?getstate=on&getcounty=on&county=1749&state=NJ>.

<sup>164</sup>Nat'l Low Income Housing Coalition, *Out of Reach 2007-2008*, 124 (2008), available at <http://www.nlihc.org/or/or2008/pdf/NJ.pdf>.

<sup>165</sup>Richard B. Reading Associates, *Fiscal Impact Analysis for the West End Redevelopment: A Proposed Mixed-Use Redevelopment in the Township of Mount Holly, Burlington County, New Jersey* 21 (Sept. 8, 2008) (on file with Dep't of the Public Advocate).

<sup>166</sup>*Id.*

<sup>167</sup>*See* Appraisal from Todd and Black, Inc., to Kathleen Hoffman, Acting Township Manager, at 40 (June 29, 2007) (appraising 259 Levis Dr., a two-bedroom Gardens home) ("the unadjusted and adjusted range [of identified two-bedroom homes] is from \$39,000 to \$40,000"); Appraisal from Todd and Black, Inc., to Kathleen Hoffman, Acting Township Manager, at 40 (June 29, 2007) (appraising 327 N. Martin Ave., a three-bedroom Gardens home) (similar three-bedroom homes "sold for a sales price of \$49,000") (both on file with Dep't of the Public Advocate).

<sup>168</sup>*Toll Bros. Inc. v. Twp. of W. Windsor*, 173 N.J. 502 (2002); *In re Twp. of Warren*, 132 N.J. 1 (1993); *Van Dalen v. Washington Twp.*, 120 N.J. 234 (1990); *Hills Dev. Co. v. Twp. of Bernards*, 103 N.J. 1 (1986); *S. Burlington County NAACP v. Twp. of Mount Laurel*, 92 N.J. 158 (1983) ("Mount Laurel II"); *Pascack Ass'n v. Mayor of Washington*, 74 N.J. 470 (1977), *overruled in part by Mount Laurel II*, 92 N.J. 158; *Oakwood at Madison, Inc. v. Twp. of Madison*, 72 N.J. 481 (1977); *S. Burlington County NAACP v. Twp. of Mount Laurel*, 67 N.J. 151 (1975); *see also* Dep't of the Public Advocate, *Affordable Housing in New Jersey: Reviving the Promise* 2-5 (2007), available at <http://www.state.nj.us/publicadvocate/public/pdf/Mt%20Laurel%20report%20FINAL-10-24-07.pdf>.

<sup>169</sup>N.J. Stat. Ann. § 52:27D-301 to -329.19 (as amended by P.L.2008, c.46, §§ 7-10, effective July 17, 2008).

<sup>170</sup>N.J. Admin. Code § 5:97-2.2(d); *see also* N.J. Admin. Code § 5:97-1.4 (definition of "growth share").

<sup>171</sup>September 2008 Redevelopment Plan, *supra* note 20, at second page 4 (misnumbered), 18 (fifty-six affordable units constitute eleven percent of the maximum 520 units planned).

<sup>172</sup>*Id.* at 18 (citing *In re Twp. of Mount Holly*, No. BUR-L-002531-02 (N.J. Law Div. 2006) (Third Round Final Judgment of Compliance and Repose)).

<sup>173</sup>Bruce Katz, Vice President and Director, & Robert Puentes, Fellow, Metropolitan Policy Program, The Brookings Institution, Address at the Land Use Institute at the New Jersey Institute for Continuing Legal Education: Why Housing and Land Use Matter for New Jersey's Toughest Challenges at 2 (May 2, 2006), available at [http://www3.brookings.edu/metro/speeches/20060502\\_NewBrunswick.pdf](http://www3.brookings.edu/metro/speeches/20060502_NewBrunswick.pdf).

<sup>174</sup>Cristobal Young et al., Woodrow Wilson School of Public and International Affairs, Princeton University, *Trends in New Jersey Migration: Housing, Employment, and Taxation* 6 (Sept. 2008).

<sup>175</sup>*Id.*

<sup>176</sup>*See* Joint Center for Housing Studies of Harvard University, *America's Rental Housing: The Key To a Balanced National Policy* 13, 20-21 (2008).

<sup>177</sup>*See* N.J. Dep't of Cmty. Affairs, *Consolidated Plan FY 2007 Action Plan* 66 (May 15, 2007), available at <http://www.nj.gov/dca/dh/pubs/conplan2007/final.pdf> (calculations based on data in chart).

<sup>178</sup>*See id.* (calculations based on data in chart).



<sup>179</sup>Joint Center for Housing Studies, *supra* note 176, at 2.

<sup>180</sup>*Id.*

<sup>181</sup>*Gallenthin*, 191 N.J. at 363.

<sup>182</sup>Alexander von Hoffman *et al.*, Joint Center for Housing Studies of Harvard University, *The Impact of Housing on Community: A Review of Scholarly Theories and Empirical Research* 29-30 (March 2006).

<sup>183</sup>*Id.* at 36-37.

<sup>184</sup>*Id.* at 38-39.

<sup>185</sup>Matthew J. Parlow, *Unintended Consequences: Eminent Domain and Affordable Housing*, 46 Santa Clara L. Rev. 841, 859 (2006); see generally Wendell E. Pritchett, *The "Public Menace" of Blight: Urban Renewal and the Private Uses of Eminent Domain*, 21 Yale L. & Pol'y Rev. 1 (2003).

<sup>186</sup>*Citizens in Action*, No. A-1099-05T3, slip op. at 32-34 (N.J. App. Div. 2007).

<sup>187</sup>*Berman v. Parker*, 348 U.S. 26, 32 (1954).

<sup>188</sup>David A. Dana, *The Law and Expressive Meaning of Condemning the Poor After Kelo*, 101 Nw. U. L. Rev. 365, 379 (2007).

<sup>189</sup>E.g., *S. Burlington County NAACP v. Twp. of Mount Laurel*, 92 N.J. at 208-09; *S. Burlington County NAACP v. Twp. of Mount Laurel*, 67 N.J. at 174-75, 179.

<sup>190</sup>Adam P. Hellegers, *Eminent Domain As an Economic Development Tool: A Proposal To Reform HUD Displacement Policy*, 2001 L. Rev. M.S.U.-D.C.L. 901, 938 (2001).

<sup>191</sup>*Id.*

<sup>192</sup>*Id.*

<sup>193</sup>*Id.*

<sup>194</sup>*Id.* at 939.

<sup>195</sup>*Id.*

<sup>196</sup>*Id.* (quoting Richard T. LeGates & Chester Hartman, *Gentrification-Caused Displacement*, 14 Urb. Law. 31, 47 (1982)).

<sup>197</sup>*Id.*

<sup>198</sup>Mallach, *supra* note 156, at 18, 20.

<sup>199</sup>*Id.* at 20.

<sup>200</sup>*Id.* at 18.

<sup>201</sup>*Id.*

<sup>202</sup>*Id.* at 20.

<sup>203</sup>Barbara L. Bezdek, *To Attain "The Just Rewards Of So Much Struggle": Local-Resident Equity Participation In Urban Revitalization*, 35 Hofstra L. Rev. 37, 88 (2006) (alteration in original) (quoting, Denis J. Brion, *The Meaning of the City: Urban Redevelopment and the Loss of Community*, 25 Ind. L. Rev. 685, 702 (1992)).

<sup>204</sup>Hellegers, *supra* note 190, at 938, 936, 941.

<sup>205</sup>The Urban Institute, *The Impact of Community Development Corporations on Urban Neighborhoods* 12 (June 2005).

<sup>206</sup>BeltLine Atlanta Connected, BeltLine Basics, Community Engagement Program, <http://www.beltline.org/BeltLineBasics/CommunityEngagement/tabid/1728/Default.aspx> (last visited Sept. 25, 2008).

<sup>207</sup>Atlanta, Ga., Ordinance 05-O-1733 (Nov. 7, 2005), available at <http://apps.atlantaga.gov/citycouncil/2005/images/adopted/1107/05O1733.pdf>.

<sup>208</sup>East Baltimore Development Incorporated, *Relocation Plan for the East Baltimore Development Project* 58-61 (Nov. 2004), available at <http://www.ebdi.org/docs/Relocation%20Plan.pdf> [hereinafter *EBDI Relocation Plan*]; East Baltimore Development Inc., Board of Directors, [http://www.ebdi.org/board\\_of\\_directors.html](http://www.ebdi.org/board_of_directors.html) (last visited Sept. 26, 2008); East Baltimore Development Inc., Newsletters, <http://www.ebdi.org/newsletter.html> (last visited Sept. 26, 2008).

<sup>209</sup>*East Baltimore Development Inc.*, East Baltimore Development Inc. (EBDI), <http://www.ebdi.org/thestory.html> (follow "About EBDI" hyperlink, then "Read More" hyperlinks) (last visited Sept. 26, 2008).

<sup>210</sup>*EBDI Relocation Plan*, *supra* note 208, at 6; see also *id.* at 19-23 ex.3 (summary of relocation benefits).

<sup>211</sup>S. Rhae Parkes & Pedram Mahdavi, Abt Associates, *Final Report: East Baltimore Development Initiative Post-Relocation Satisfaction Survey, Highlight and Key Findings* 14, 15, 38, 41 (2007), available at [http://www.ebdi.org/docs/PRSS\\_Combined\\_Report\\_FINAL\\_1%2018%2007.pdf](http://www.ebdi.org/docs/PRSS_Combined_Report_FINAL_1%2018%2007.pdf).

<sup>212</sup>Christopher Walker, *The Urban Institute, Community Development Corporations and Their Changing Support Systems* 1 (Dec. 2002).

<sup>213</sup>*Id.*

<sup>214</sup>See The Urban Institute, *supra* note 205, at 13-14.

<sup>215</sup>New Community Corp., *About NCC*, <http://www.newcommunity.org/main.htm> (follow "About NCC" hyperlink) (last visited Oct. 7, 2008); New Community Corp., *What We Do*, <http://www.newcommunity.org/whatwedoframe.htm> (last visited Sept. 29, 2008).

<sup>216</sup>David A. Marcello, *Recent Developments in Land Use, Planning and Zoning Law: Community Benefit Agreements: New Vehicle for Investment in America's Neighborhoods*, 39 Urb. Law. 657, 657-58 (2007).

<sup>217</sup>See generally *id.*

<sup>218</sup>See The Partnership for Working Families, *Major Partner Organization Policy Advocacy and Community Benefits Campaign Victories*, <http://www.communitybenefits.org/article.php?list=type&type=8> (last visited Sept. 26, 2008).

<sup>219</sup>East Baltimore Development Inc., *Relocation with Right to Return and Homes Made Affordable*, <http://www.ebdi.org/relocation.html> (follow "Relocation with Right to Return and Homes Made Affordable" hyperlink) (last visited Sept. 26, 2008); see, e.g., East Baltimore Development Inc., *Residents Stories*, <http://www.ebdi.org/community.html> (follow "Residents' Stories" hyperlink) (last visited Sept. 26, 2008).

<sup>220</sup>*EBDI Relocation Plan*, *supra* note 208, at 53-54.

## APPENDIX

## RENT CHANGE CHART

| ID #            | Gardens Rent    | New Rent        | Rent Change (\$) | Rent Change (%) |
|-----------------|-----------------|-----------------|------------------|-----------------|
| Household 1     | \$850.00        | \$685.00        | -\$165.00        | -19.41%         |
| Household 2 **  | \$850.00        | \$748.00        | -\$102.00        | -12.00%         |
| Household 3 **  | \$700.00        | \$679.00        | -\$21.00         | -3.00%          |
| Household 4     | \$850.00        | \$825.00        | -\$25.00         | -2.94%          |
| Household 5     | \$850.00        | \$850.00        | \$0.00           | 0.00%           |
| Household 6     | \$750.00        | \$750.00        | \$0.00           | 0.00%           |
| Household 7 **  | \$1,000.00      | \$1,000.00      | \$0.00           | 0.00%           |
| Household 8 **  | \$675.00        | \$679.00        | \$4.00           | 0.59%           |
| Household 9 **  | \$730.00        | \$750.00        | \$20.00          | 2.74%           |
| Household 10 ** | \$750.00        | \$775.00        | \$25.00          | 3.33%           |
| Household 11 ** | \$900.00        | \$950.00        | \$50.00          | 5.56%           |
| Household 12    | \$750.00        | \$792.00        | \$42.00          | 5.60%           |
| Household 13    | \$850.00        | \$900.00        | \$50.00          | 5.88%           |
| Household 14 ** | \$867.33        | \$925.00        | \$57.67          | 6.65%           |
| Household 15    | \$600.00        | \$650.00        | \$50.00          | 8.33%           |
| Household 16    | \$600.00        | \$650.00        | \$50.00          | 8.33%           |
| Household 17 ** | \$875.00        | \$950.00        | \$75.00          | 8.57%           |
| Household 18 ** | \$1,008.44      | \$1,100.00      | \$91.56          | 9.08%           |
| Household 19 ** | \$930.00        | \$1,015.00      | \$85.00          | 9.14%           |
| Household 20    | \$773.00        | \$850.00        | \$77.00          | 9.96%           |
| Household 21 ** | \$775.00        | \$860.00        | \$85.00          | 10.97%          |
| Household 22    | \$750.00        | \$850.00        | \$100.00         | 13.33%          |
| Household 23 ** | \$525.00        | \$600.00        | \$75.00          | 14.29%          |
| Household 24    | \$825.00        | \$950.00        | \$125.00         | 15.15%          |
| Household 25 ** | \$760.00        | \$880.00        | \$120.00         | 15.79%          |
| Household 26    | \$650.00        | \$775.00        | \$125.00         | 19.23%          |
| Household 27 ** | \$750.00        | \$900.00        | \$150.00         | 20.00%          |
| Household 28    | \$600.00        | \$727.00        | \$127.00         | 21.17%          |
| Household 29    | \$700.00        | \$850.00        | \$150.00         | 21.43%          |
| Household 30    | \$775.00        | \$949.00        | \$174.00         | 22.45%          |
| Household 31 ** | \$825.00        | \$1,015.00      | \$190.00         | 23.03%          |
| Household 32    | \$750.00        | \$950.00        | \$200.00         | 26.67%          |
| Household 33 ** | \$735.00        | \$940.00        | \$205.00         | 27.89%          |
| Household 34    | \$700.00        | \$900.00        | \$200.00         | 28.57%          |
| Household 35    | \$700.00        | \$900.00        | \$200.00         | 28.57%          |
| Household 36    | \$700.00        | \$930.00        | \$230.00         | 32.86%          |
| Household 37    | \$600.00        | \$800.00        | \$200.00         | 33.33%          |
| Household 38 ** | \$780.00        | \$1,070.00      | \$290.00         | 37.18%          |
| Household 39    | \$825.00        | \$1,150.00      | \$325.00         | 39.39%          |
| Household 40    | \$600.00        | \$861.00        | \$261.00         | 43.50%          |
| Household 41    | \$825.00        | \$1,200.00      | \$375.00         | 45.45%          |
| Household 42 ** | \$600.00        | \$900.00        | \$300.00         | 50.00%          |
| Household 43    | \$750.00        | \$1,150.00      | \$400.00         | 53.33%          |
| Household 44    | \$700.00        | \$1,135.00      | \$435.00         | 62.14%          |
| Household 45    | \$675.00        | \$1,100.00      | \$425.00         | 62.96%          |
| Household 46 ** | \$700.00        | \$1,150.00      | \$450.00         | 64.29%          |
| Household 47    | \$362.00        | \$600.00        | \$238.00         | 65.75%          |
| Household 48    | \$600.00        | \$1,015.00      | \$415.00         | 69.17%          |
| Household 49    | \$590.00        | \$1,000.00      | \$410.00         | 69.49%          |
| Household 50    | \$700.00        | \$1,200.00      | \$500.00         | 71.43%          |
| Household 51    | \$700.00        | \$1,200.00      | \$500.00         | 71.43%          |
| Household 52    | \$700.00        | \$1,200.00      | \$500.00         | 71.43%          |
| Household 53    | \$750.00        | \$1,300.00      | \$550.00         | 73.33%          |
| Household 54    | \$825.00        | \$1,450.00      | \$625.00         | 75.76%          |
| Household 55    | \$800.00        | \$1,500.00      | \$700.00         | 87.50%          |
| Household 56    | \$700.00        | \$1,400.00      | \$700.00         | 100.00%         |
| Household 57    | \$245.00        | \$499.00        | \$254.00         | 103.67%         |
| Household 58    | \$575.00        | \$1,200.00      | \$625.00         | 108.70%         |
| Household 59    | \$665.00        | \$1,400.00      | \$735.00         | 110.53%         |
| Household 60    | \$685.00        | \$1,450.00      | \$765.00         | 111.68%         |
| Household 61    | \$190.00        | \$499.00        | \$309.00         | 162.63%         |
| Household 62    | \$675.00        | \$1,800.00      | \$1,125.00       | 166.67%         |
| Household 63    | \$450.00        | \$1,500.00      | \$1,050.00       | 233.33%         |
| Household 64    | \$200.00        | \$950.00        | \$750.00         | 375.00%         |
| <b>Average:</b> | <b>\$705.40</b> | <b>\$971.53</b> | <b>\$266.13</b>  |                 |

\*\* These households received rental subsidies at some point. This chart reflects changes in the total cost of each apartment rented, not the specific contribution of each household. The contribution of each household to the total rent varied with the rules governing each subsidy program.

## TRIAD REFERRALS CHART

| ID #              | Gardens Rent | Comp. 1       | Comp. 2       | Comp. 3       | Suggested Comp. | Diff. btw Gardens & Suggested |
|-------------------|--------------|---------------|---------------|---------------|-----------------|-------------------------------|
| Household 1       | \$1,145.73   | \$975.00      | \$979.00      | \$879.00      | \$975.00        | -\$170.73                     |
| Household 2       | \$880.57     | \$736.00      | \$856.00      | \$911.00      | \$736.00        | -\$144.57                     |
| Household 3       | \$1,067.93   | \$994.00      | \$1,044.00    | \$1,100.00    | \$994.00        | -\$73.93                      |
| Household 4       | \$978.75     | \$935.00      | \$961.00      | None          | \$935.00        | -\$43.75                      |
| Household 5       | \$988.00     | \$1,039.00    | \$1,087.00    | \$961.00      | \$961.00        | -\$27.00                      |
| Household 6       | \$817.57     | Not available | Not available | Not available | \$801.00        | -\$16.57                      |
| Household 7       | \$925.77     | \$944.00      | \$953.00      | \$1,090.00    | \$944.00        | \$18.23                       |
| Household 8       | \$1,009.00   | \$1,199.00    | \$1,044.00    | \$1,148.00    | \$1,044.00      | \$35.00                       |
| Household 9       | \$889.00     | \$979.00      | \$929.00      | \$841.00      | \$929.00        | \$40.00                       |
| Household 10      | \$995.77     | \$975.00      | \$1,039.00    | \$879.00      | \$1,039.00      | \$43.23                       |
| Household 11      | \$870.00     | \$950.00      | \$1,115.00    | \$1,235.00    | \$950.00        | \$80.00                       |
| Household 12      | \$867.33     | \$961.00      | \$973.00      | \$935.00      | \$961.00        | \$93.67                       |
| Household 13      | \$824.00     | \$929.00      | \$912.00      | \$931.00      | \$929.00        | \$105.00                      |
| Household 14      | \$692.57     | \$801.00      | \$882.00      | \$863.00      | \$801.00        | \$108.43                      |
| Household 15      | \$787.35     | \$905.00      | \$882.00      | \$863.00      | \$905.00        | \$117.65                      |
| Household 16      | \$856.99     | \$975.00      | \$979.00      | \$879.00      | \$975.00        | \$118.01                      |
| Household 17      | \$1,236.23   | \$1,355.00    | \$1,287.00    | \$1,271.00    | \$1,355.00      | \$118.77                      |
| Household 18      | \$848.00     | \$985.00      | \$961.00      | \$880.00      | \$985.00        | \$137.00                      |
| Household 19      | \$1,146.22   | \$1,456.00    | \$1,285.00    | \$1,370.00    | \$1,285.00      | \$138.78                      |
| Household 20      | \$940.71     | \$1,083.00    | \$1,148.00    | \$1,090.00    | \$1,083.00      | \$142.29                      |
| Household 21      | \$704.00     | \$858.00      | \$858.00      | \$1,094.00    | \$858.00        | \$154.00                      |
| Household 22      | \$858.36     | \$1,009.00    | \$1,001.00    | \$1,013.00    | \$1,013.00      | \$154.64                      |
| Household 23      | \$725.18     | \$905.00      | \$882.00      | \$863.00      | \$882.00        | \$156.82                      |
| Household 24      | \$773.00     | \$931.00      | \$888.00      | \$1,015.00    | \$931.00        | \$158.00                      |
| Household 25      | \$702.61     | \$861.00      | \$690.00      | None          | \$861.00        | \$158.39                      |
| Household 26      | \$753.00     | \$916.00      | \$1,119.00    | \$1,113.00    | \$916.00        | \$163.00                      |
| Household 27      | \$769.37     | \$935.00      | \$1,043.00    | \$973.00      | \$935.00        | \$165.63                      |
| Household 28      | \$944.00     | \$1,077.00    | \$1,113.00    | \$1,235.00    | \$1,113.00      | \$169.00                      |
| Household 29      | \$935.96     | \$1,119.00    | \$1,113.00    | None          | \$1,113.00      | \$177.04                      |
| Household 30      | \$1,065.23   | \$1,078.00    | \$973.00      | \$1,243.00    | \$1,243.00      | \$177.77                      |
| Household 31      | \$904.00     | Not available | Not available | Not available | \$1,083.00      | \$179.00                      |
| Household 32      | \$1,060.55   | \$1,078.00    | \$973.00      | \$1,243.00    | \$1,243.00      | \$182.45                      |
| Household 33      | \$919.00     | \$1,103.00    | \$1,156.00    | \$1,030.00    | \$1,103.00      | \$184.00                      |
| Household 34      | \$1,060.89   | \$1,233.00    | \$1,286.00    | \$1,306.00    | \$1,286.00      | \$225.11                      |
| Household 35      | \$700.00     | \$826.00      | \$931.00      | \$924.00      | \$931.00        | \$231.00                      |
| Household 36      | \$1,078.00   | \$1,297.00    | \$1,315.00    | \$1,315.00    | \$1,315.00      | \$237.00                      |
| Household 37      | \$617.00     | \$861.00      | \$856.00      | \$911.00      | \$856.00        | \$239.00                      |
| Household 38      | \$729.00     | \$974.00      | \$1,084.00    | \$1,018.00    | \$974.00        | \$245.00                      |
| Household 39      | \$838.00     | \$1,087.00    | \$1,119.00    | \$1,113.00    | \$1,087.00      | \$249.00                      |
| Household 40      | \$1,037.00   | \$1,200.00    | \$1,489.00    | \$1,289.00    | \$1,289.00      | \$252.00                      |
| Household 41      | \$924.93     | \$1,178.00    | \$1,119.00    | \$1,113.00    | \$1,178.00      | \$253.07                      |
| Household 42      | \$640.75     | \$895.00      | \$916.00      | \$1,009.00    | \$895.00        | \$254.25                      |
| Household 43      | \$988.34     | \$1,309.00    | \$1,327.00    | \$1,243.00    | \$1,243.00      | \$254.66                      |
| Household 44      | \$1,008.44   | \$1,297.00    | \$1,315.00    | \$1,274.00    | \$1,274.00      | \$265.56                      |
| Household 45      | \$962.19     | \$1,169.00    | \$1,487.00    | \$1,230.00    | \$1,230.00      | \$267.81                      |
| Household 46      | \$970.00     | \$1,078.00    | \$973.00      | \$1,243.00    | \$1,243.00      | \$273.00                      |
| Household 47      | \$617.00     | \$861.00      | \$856.00      | \$911.00      | \$911.00        | \$294.00                      |
| Household 48      | \$700.00     | \$994.00      | \$1,090.00    | \$1,015.00    | \$994.00        | \$294.00                      |
| Household 49      | \$816.00     | \$916.00      | \$1,119.00    | \$1,113.00    | \$1,113.00      | \$297.00                      |
| Household 50      | \$662.73     | \$1,119.00    | \$1,113.00    | \$961.00      | \$961.00        | \$298.27                      |
| Household 51      | \$986.00     | \$1,271.00    | \$1,269.00    | \$1,287.00    | \$1,287.00      | \$301.00                      |
| Household 52      | \$976.66     | \$1,456.00    | \$1,285.00    | \$1,370.00    | \$1,285.00      | \$308.34                      |
| Household 53      | \$795.97     | \$1,115.00    | \$1,235.00    | \$1,013.00    | \$1,115.00      | \$319.03                      |
| Household 54      | \$909.00     | \$1,174.00    | \$1,230.00    | \$1,280.00    | \$1,230.00      | \$321.00                      |
| Household 55      | \$907.85     | \$1,169.00    | \$1,487.00    | \$1,230.00    | \$1,230.00      | \$322.15                      |
| Household 56      | \$929.90     | \$1,271.00    | \$1,269.00    | \$1,370.00    | \$1,271.00      | \$341.10                      |
| Household 57      | \$773.00     | \$1,146.00    | \$1,101.00    | \$1,178.00    | \$1,146.00      | \$373.00                      |
| Household 58      | \$884.60     | \$1,271.00    | \$1,320.00    | \$1,272.00    | \$1,271.00      | \$386.40                      |
| Household 59      | \$703.00     | \$1,091.00    | \$1,113.00    | \$1,015.00    | \$1,091.00      | \$388.00                      |
| Household 60      | \$870.58     | \$1,292.00    | \$1,265.00    | \$1,291.00    | \$1,265.00      | \$394.42                      |
| Household 61      | \$896.00     | \$1,327.00    | \$1,291.00    | \$1,291.00    | \$1,291.00      | \$395.00                      |
| Household 62      | \$866.00     | \$1,287.00    | \$1,271.00    | \$1,269.00    | \$1,269.00      | \$403.00                      |
| Household 63      | \$887.00     | \$1,309.00    | \$1,327.00    | \$1,243.00    | \$1,309.00      | \$422.00                      |
| Household 64      | \$364.00     | \$873.00      | \$1,005.00    | \$1,030.00    | \$873.00        | \$509.00                      |
| Household 65      | \$757.33     | \$1,200.00    | \$1,489.00    | \$1,289.00    | \$1,289.00      | \$531.67                      |
| Household 66      | \$656.95     | \$1,384.00    | \$1,422.00    | \$1,337.00    | \$1,384.00      | \$727.05                      |
| Household 67      | \$552.67     | \$1,456.00    | \$1,285.00    | \$1,370.00    | \$1,285.00      | \$732.33                      |
| Average Increase: |              |               |               |               |                 | \$217.96                      |