I. INTRODUCTION

This Article's title may be somewhat deceptive since it implies that the elderly have a multitude of options from which to pick and choose. In fact, housing is related largely to individual competence and viable housing alternatives within a given area. Housing options are tied to age, income, marital status, closeness of family ties, health and availability of housing options. To understand the complexity and importance of providing several housing options, it is essential to review general characteristics of the elderly to see how they affect housing options.

Twenty-five million Americans (11.2% of the population) were aged sixty-five or over in 1979, in contrast with three million (4% of the population) in 1900. Projections are that the number of elderly persons will increase considerably in the next thirty years, peaking around 2010 when the products of the post-World War II baby boom begin reaching age sixty-five. The remaining life expectancy for those presently aged sixty-five is 13.8 years for men and 18 years for women. With advances in medical care leading to
increased longevity, more attention is focusing on the needs of this diverse and growing segment of the population. Housing is such an indispensable part of a person’s life and sense of well-being that other needs — food, physical and mental health services, additional income sources, transportation, continuing education, and opportunities for socialization — seem to pale in comparison.

The elderly are a diverse group: their ages span approximately forty years, they come from divergent backgrounds, and they have varying physical and mental abilities. Several characteristics, however, are common to them as a group. The elderly are faced with declining incomes, advancing age, deteriorating health and decreased mobility, and increased isolation.

Income not only limits the housing options available to the elderly, it is also an index of autonomy. Elderly with

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* It is estimated that by 2050, life expectancy will have increased to 71.8 years for males and 78 years for females. U.S. BUREAU OF CENSUS, CURRENT POPULATION REPORTS, Series P-20, No. 704, 1-4, 15-16 (1977). For a discussion of the implications of this projection for education, health and social prospects, see Clark & Spengler, Population Aging in the Twenty-First Century, AGING, Jan.-Feb. 1978, at 7.

* Mathieu, Housing Preferences and Satisfactions in COMMUNITY PLANNING FOR AN AGING SOCIETY: DESIGNING SERVICES AND FACILITIES 154 (E. Lawton, R. Newcomer, & T. Byert eds. 1976) (hereinafter cited as COMMUNITY PLANNING FOR AN AGING SOCIETY).


* Elderly persons are more subject to chronic illness; each organ system of the body loses cells with advancing age. Elderly people visit a physician 50% more often than the rest of the population. B. Silverstone & J. Hyman, YOU AND YOUR AGING PARENT 69-74 (hereinafter cited as Silverstone); Brotman, Every Tenth American: The "Problem of Aging," in COMMUNITY PLANNING FOR AN AGING SOCIETY supra note 6, at 5, 14. Decreased mobility is due to increasing frailty, other than health related problems.

* Silverstone, supra note 8, at 75-111. Isolation can result from loss of spouse, loss of physical health, retirement, fear of crime, death of friends, or other causes.

higher incomes tend to live apart from relatives.11 Those with money tend to have friends in geographically diverse areas, while lower income elderly tend to be more dependent upon the neighborhood for friends. At least one study shows that regardless of age, sex, or race, higher incomes tend to be associated with independent living while lower incomes are associated with dependent living situations.12

Housing is closely related to age. At the beginning of old age, most of the elderly live in intact husband-wife households in their own homes or rental units.13 As age increases, so do the probability of losing a spouse and the incidence of infirmities — physical, psychological, and social. Age leads to increased dependence on local communities for physical, health care, and psychological needs.14 As a person ages, so does the chance that he or she will need or desire an alternative living arrangement.15 Women live longer than men; consequently, housing alternatives are largely a female phenomenon.16

Health characteristics also limit the options of the elderly. The well person over age sixty-five is limited only by income, marital status, preference, and available housing alternatives. The elderly with physical or mental impairments are much more restricted. Approximately eighty-six percent of the noninstitutionalized aged have one or more chronic conditions. Only a few of these conditions, however, interfere with mobility.17 Elderly with serious health conditions may live with relatives or in institutions, but an estimated ten percent of the elderly living alone are unable to house-

11 Id. at 18 (citing U.S. BUREAU OF THE CENSUS (1974)).
13 Soldo, supra note 10, at 10.
14 Carp, Mobility of Old Slumdwellers, 12 GERONTOLOGIST 57, 57-65 (1972).
15 Soldo, supra note 10, at 13.
16 Id. At any age there are one and one-half to two times as many women as men in each type of alternative living arrangement.
17 Brotman, supra note 8, at 14.
keep and may be housebound.\textsuperscript{16}

In describing the housing alternatives available to the elderly, it is appropriate to group the elderly according to ability rather than age. The three categories used in this study are the independent, the semi-independent, and the dependent. The independent elderly are active, alert, and healthy individuals who are completely capable of caring for their needs. This group also can cope with most housing decisions and problems. The semi-independent are not seriously ill, but they do require some help with cooking, housekeeping, and perhaps some personal care and transportation. The dependent elderly are deficient in either physical or mental functions to such a degree that they need considerable help in the basics of dressing, eating, walking or other functions. This group runs the highest risk of institutionalization.\textsuperscript{18}

Although many elderly may begin old age fully independent, disabilities usually increase with age. An elderly person may pass through all three categories or stay in one. The older and more frail a person becomes, the more dependent he becomes on his living quarters.\textsuperscript{30} As health begins to fail, many seek to move to smaller, more supportive quarters with more services and socialization opportunities. There is no single answer to the wide diversity of housing needs, but some of the options are discussed below.

II. The Independent Elderly

A. Homeownership

The elderly have four basic objectives in their residential setting — independence, security, mastery of their environment, and a positive self-image.\textsuperscript{31} The environment

\begin{itemize}
\item \textsuperscript{16} Soldo, supra note 10, at 25.
\item \textsuperscript{18} Lawton, The Housing Problems of Community-Resident Elderly, in 1 OCCASIONAL PAPERS IN HOUSING AND COMMUNITY AFFAIRS 39 (HUD 1978).
\item \textsuperscript{30} Byerts, Housing Issues for the Layman, GENERATIONS, Winter, 1979, at 4.
\item \textsuperscript{31} Golant, Housing and Transportation Problems of the Urban Elderly, in
which permits maximum independence, security, and positive self-image is living in one's own home. While homeownership opportunity is linked to such factors as income, race, age, and family composition, the rate of homeownership for the elderly exceeds that of the nation at large. For husband and wife elderly households, the rate of homeownership is 82.7%. Since so many elderly live in their own homes and wish to continue doing so, it is important to address first the major problems which face this group — rising costs and inability to maintain the home.

The rising costs associated with homeownership are composed basically of rising property taxes, higher utility bills, and increased maintenance and repair costs. These costs affect all households, but they weigh heaviest upon those with fixed incomes. Notably, elderly homeowners are concentrated in the lowest income classes; sixty-five percent of all elderly single homeowners have incomes below $5,000. Twenty-three percent of all elderly homeowners pay one-fourth or more of their incomes for housing ex-

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Follain, Katz, & Struyk, Programmatic Options to Encourage Homeownership, in 2 Occasional Papers in Housing and Community Affairs 1, 10 (HUD 1978).

Id. at 25, citing 1975 Annual Housing Survey, Part A, General Housing Characteristics, Table A-1. The national rate of homeownership for all households is 64.6%; the overall rate for those over 65 is 70.1%.

Id.

Id. at 26-27 citing N. Mayer, Homeownership: The Changing Relationship of Costs and Incomes, and Possible Federal Roles 10 (1977). The costs of owning and operating a median priced existing house increased 63% between 1970 and 1975. The costs of owning and operating a median priced new house increased 82.5%. The sale price of a new house rose 67.9%. The individual components of the cost of maintaining a new house increased dramatically too — maintenance and repairs by 117.7%, property taxes by 104.6%, heat and utilities by 72.8%.

E.g., id. at 29, citing 1975 Annual Housing Survey.

Welfeld & Struyk, Housing Options for the Elderly, in 3 Occasional Papers in Housing and Community Affairs 1, 30 (HUD 1978), citing the 1975 Annual Housing Survey, Part C, Financial Characteristics of the Housing Inventory, Table A-1 (hereinafter cited as Welfeld & Struyk).
expenses even when the homes are owned free and clear. Three means of assisting independent elderly homeowners with the rising costs of ownership are state property tax relief programs, home maintenance assistance, and the relatively new reverse annuity mortgage.

1. Property Tax Relief

Taxes, especially property taxes, have risen dramatically. In some instances, taxes can be so burdensome that elderly homeowners are forced to move into rental units to reduce living expenses. While the average homeowner in 1975 paid 3.4% of his or her income for property taxes, the elderly paid an average of 5.2%. Because of the realization that property taxes bear disproportionately heavily on the elderly homeowner, all fifty states have enacted relief legislation. In varying forms, four types of property tax relief mechanisms are available in the states: circuit breakers, homestead exemptions, tax freezes, and tax deferrals.

Forty-four states operate circuit breaker programs which give relief conditioned on the income level of the applicants. Circuit breakers are of two types. The "threshold" type provides a rebate for the eligible homeowner whose taxes exceed a stated percentage of income. The "percentage-of-tax liability" circuit breaker rebates a predetermined percentage of the total tax bill to all persons within a stated income group. Also widely used is the homestead exemption, one of the oldest and apparently most effective means of providing tax relief. Similar to a direct grant, in that it gives the same amount of relief to all elderly persons regardless of income, this tax relief mechanism exempts

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29 HUD, How Well Are We Housed?, The Elderly 16 (1979).
30 White House Conference on Aging, Housing the Elderly 21 (1971).
31 HUD, Property Tax Relief Programs for the Elderly 10-11 (1975).
This report contains a detailed analysis of the programs in operation and an evaluation of their effectiveness.
32 Id. at 73-76.
33 Id. at 65.
Use of the tax freeze guarantees that the dollar amount of tax liability for a home cannot exceed in any year the tax paid by the person for the same property in a base year. The base year is generally the year that the person reached age sixty-five. There may be additional eligibility requirements such as income, assets, and length of residency. The tax deferral is similar to the tax freeze except it is essentially a loan from the taxing jurisdiction. The eligible homeowner and tax assessor agree to defer all or part of property taxes until the property is sold or the person dies. The taxing jurisdiction receives a lien on the property for the deferred taxes.

Most of these programs enacted to benefit the elderly and disabled are of recent origin and vary greatly in details as to operation and eligibility requirements. The results are inconclusive as to how much relief is actually provided and whether these programs help the elderly retain homeownership.

2. Home Maintenance Programs

Home maintenance programs present two separate problems. One problem is the multitude of repairs that burden every homeowner, such as a leaking roof, need for additional insulation, interior and exterior painting, and yard work. The necessity for repairs usually increases with the age of the house and almost half of elderly households are in homes built before 1947. The second problem is the special one of adapting an existing house to use by the now elderly occupant. The stairs that posed no problems in youth become formidable obstacles in old age. In addition, many older homes have inadequate lighting, heating, and

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* Id. at 65-73.
* Id. at 55-6.
* Id. at 61-65.
* How Well Are We Housed?, supra note 29, at 7.
safety features for elderly persons. Unfortunately, no satisfactory comprehensive programs presently address these problems on a large scale.

Two programs which help are the Community Development block grants and Section 312 home rehabilitation loans. The first program is a special form of revenue sharing allowing local housing assistance groups to provide rehabilitation loans or grants to upgrade the quality of existing housing. Large amounts of these funds have been used for homes occupied by elderly people.

Section 312 home rehabilitation loans allow for direct federal loans for financing rehabilitation in urban renewal, block grant, and urban homesteading areas certified by the local government. These loans may be used to bring the property up to code standards, or to insulate or weatherize. Approximately twenty-three percent of the loans under this program have been used for dwellings occupied by the elderly. This relatively low use by the elderly is probably attributable to the repayment terms, which are unattractive to those with limited incomes.

Legislation amending the Older Americans Act of 1965 also provides financial assistance to homeowners. It has been used more than Section 312, perhaps because programs are initiated on a local basis or perhaps because Section 312 funds are restricted to designated urban neighborhoods. For rural homeowners, the Farmer's Home Administration's Section 504 home repair program has been used extensively for small repairs, maintenance, renovation, and weatherization work. Sixty-one percent of the program's funds have gone to rural elderly.

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* Lawton, supra note 19, at 59.
* HUD, HOUSING FOR THE ELDERLY AND HANDICAPPED 115 (1979).
* Lawton, supra note 19, at 60.
3. Reverse Mortgages

Nearly three-fourths of the elderly own their own homes and eighty-four percent have no outstanding mortgage.46 It is estimated that those age sixty-five and over in 1977 had a net equity of ninety billion dollars.47 Although their homes may be owned free and clear, these valuable assets do nothing to alleviate the soaring costs of inflation unless the owner wishes to sell. Moreover, living rent free may not be sufficient to keep a person from having to sell his home to pay for rising property taxes, utilities, transportation, food, and medical care. Many older persons do not want to move from their homes, either because of strong emotional ties or because of the fear that they will outlive their capital if they sell.48 The reverse mortgage or reverse annuity mortgage49 offers the elderly person the option of converting his equity into monthly payments for a set term, much in the manner of an annuity.

The reverse mortgage or reverse annuity mortgage is a loan secured by real estate that is used to purchase one or more annuity contracts.50 The borrower retains the title, as in other mortgages, so that he benefits from any increase in the property value and may make testamentary bequests.

The mortgage is termed “reverse” because the payments go from the lender to the borrower until the due date, at which time the unpaid balance must be paid to the...
lender. At the end of the term or at the death of the borrower, the loan must be repaid. The reverse mortgage has been described as “mortgaging a real asset to acquire a stream of future income while the conventional mortgage mortgages future income to acquire a real asset.”

The Federal Home Loan Bank Board for federal savings and loans associations authorized the use of reverse annuity mortgages in December 1978. Several versions exist. One of the most commonly discussed forms involves drawing down on the house’s equity through level monthly payments. No repayment is required until the owner dies or disposes of the property. A threat looms here — the elderly person may live too long and the loan repayments may be greater than the value of the house. Another variation is the annuity where the homeowner borrows a large fixed sum from the lender and uses the cash to purchase an insured annuity. The problem with this form is that unless the person is over seventy, the insurance company annuity will pay barely enough each month to cover the mortgage interest. In fact, if the borrower is sixty years old, the net annuity could be negative.

The Broadview Savings and Loan Company of Cleve-

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82 Edwards, supra note 50.
83 43 Fed. Reg. 59,336 (1978) (codified at 12 C.F.R. § 545.6-2(d) (1979)).
84 Edwards, supra note 50, describes the options as a rising debt loan, a fixed debt loan from a lender to purchase a whole life annuity from an insurance company, a fixed debt loan from a lender used to purchase from an insurance company a life annuity with refund features, and a combination of a rising debt loan and a fixed debt loan used to purchase a deferred life annuity from an insurance company.
85 Id.
86 Guttentag, supra note 47, at 19, gives an example of the lender making a mortgaged $50,000 loan at 9% interest to a man aged 75, repayable upon borrower's death or prior sale of the property. The lender purchased an annuity from the life insurance company of approximately $7,566 per year. The life insurance company will deduct the annual interest of $4,500, send it to the lender, and send $3,066 to the borrower.
87 Id.
land, Ohio, has one of the few reverse mortgage plans presently in operation. The plan, called Equi-Pay, was started in September 1977.\(^8\) Broadview\(^9\) requires that the original home mortgage be paid off, although this may be done by the initial payment from the lender. The maximum reverse loan can be up to 80% of appraised value. The borrower can choose to have payments for five, seven, or ten years. Much of the loan transaction is covered as a conventional loan with reserve set up for tax and insurance, FHMLC underwriting standards, and similar closing costs. There is no prepayment penalty so the borrower may sell the home at any time if he feels unable to keep up with the plan or to continue living at home. As of June 1979, the interest rate was 11%. In an example used by Broadview,\(^6\) a person owns a $60,000 home free and clear. He decides on a five-year plan. The lender makes a $48,000, 80% first mortgage loan with a total term of thirty years. Monthly checks are sent to the borrower — $583 the first year; $658 the second; $736 the third; $829 the fourth; and $944 the fifth. A $3,000 balance is used for closing costs and emergencies. There are two transactions each month — the check to the borrower and an invoice showing a state-required minimum of $1.00 a month principal repayment, one month’s taxes, and hazard insurance. The interest charge grows as the debt expands; therefore, the payment rises but the net payments are fairly constant.

At the end of the five-year period, there are several options: 1) amortize the $48,000 mortgage over the remaining twenty-five years; 2) have the property reappraised to determine if further payments can be made to the borrower by reason of increased equity; 3) sell the home to pay off the mortgage; 4) renegotiate an additional mortgage and continue to get cash. There is a big monthly interest charge

\(^8\) It is a state chartered savings and loan; no federal approval was necessary.
\(^9\) Broadview Savings and Loan Company, Equi-Pay Loan Plan (June 11, 1979).
\(^6\) Id.
so the amount of the renegotiated monthly check would not be as great as during the first five years. The elderly homeowner can weigh the options. It may be that a seventy-five year old homeowner would prefer to have the extra $400 cash per month; by the time five to ten years have passed, he or she may be ready to move to another type of housing.

One problem is finding a reverse annuity mortgage. Only two or three institutions are handling them because of the novelty, the apparent complexity, and the multitude of drawbacks perceived by lending institutions.61 But, the main problem with reverse annuity mortgage programs is that they do not adequately address the dilemma of the elderly homeowner with a fixed income after the equity in his home has been reduced. One proposal to make the reverse mortgage more workable is a double reverse annuity mortgage in which HUD cosigns the note after appraising the home and the person’s financial situation.62 HUD would be liable for the monthly repayment cost in excess of twenty per cent of the borrower’s income and some percentage of liquid assets. HUD would require a second mortgage which would be repayable upon death of the owner, sale of the property, move by the occupant, or payment of the first reverse annuity mortgage. The reverse mortgage may be most workable and beneficial for the estimated one million elderly persons with $20,000 of home equity who earn between $5,000 and $9,000 yearly.63

The reverse mortgage does provide an orderly liquidation of assets for those who wish to use it. It converts a valuable, but usually nonliquid, asset into present cash without a move. For many, it may be the only way to keep the home.

61 See CENTER FOR REAL ESTATE AND URBAN ECONOMIC STUDIES, UNIV. OF CONN. STUDY OF REVERSE ANNUITY MORTGAGES (October 1978). See also Quinn, Let The Mortgagor Beware, FORBES, March 20, 1978, at 77-78.
62 Welfeld & Struyk, supra note 28, at 74.
63 Id.
B. Apartments — Rental Housing

To cut down on maintenance work and the amount of space in which to maneuver, many of the independent elderly choose to live in an apartment. The lifestyle offers more freedom to move and to travel. Monthly payments are generally less than house payments. In 1975, an estimated 9,000 elderly moved from owner-occupied housing to rental units to lower monthly housing costs. On the other hand, the renter does not have the pride of ownership or the equity and tax advantages of homeownership. Still, large numbers of apartment complexes in most cities lease primarily to the elderly. The elderly are desirable tenants because they are not disruptive and pay rent promptly. The cost of rental units, however, often exceeds the fixed income budget for an elderly person.

To further its goal of a "decent home . . . for every American," the federal government's major involvement in providing housing opportunities for the elderly has been through insurance and loan programs that enable developers to build, and through rent subsidies that enable low to moderate income persons to live in, multifamily rental units. At present there are several federal programs which directly or indirectly affect the elderly's alternatives for housing.

Public housing is the largest single government program providing housing to the lowest income elderly. Tenants pay up to twenty-five percent adjusted income for rent. Twenty-five percent of the units have been designed specifically for use by the elderly and handicapped. Over forty percent of the occupants of public housing are

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1 Supra note 23, at 29, citing 1975 Annual Housing Survey.
4 HUD, supra note 42, at 115.
Elderly.

Enacted with the Housing Act of 1959, inactivated in 1968, and reactivated in 1971, the Section 202 program has been one of the federal government’s most successful housing projects. It provides direct long-term loans to nonprofit sponsors for the construction and rehabilitation of multifamily rental units for the elderly and handicapped. The program is targeted to assist those elderly and handicapped whose incomes are above eligibility requirements for public housing but below the level necessary to afford private sector housing. A study of the Section 202 program shows that it has produced good quality, cost-effective, and financially feasible housing projects for the elderly. The projects have been well accepted both by the elderly and by the communities. Occupants in 1976 were predominantly white, elderly females with moderate to middle income. The major criticism of the program has been that sparse funding has limited available units.

Another Housing Act program targeted mainly for the elderly and handicapped is Section 231, which offers aid in financing new or rehabilitated rental housing projects through profit or nonprofit groups and public agencies. The idea behind the program was to offer the frail but mobile elderly an alternative to nursing homes. About 318 of these projects currently exist. Two other programs in Section 221 are mortgage insurance projects for public agencies and others financing low and moderate income housing. Approximately ten percent of units built with the help of these

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Nachison, HUD Housing Programs Serving the Elderly, GENERATIONS, Winter, 1979, at 6.


HUD, supra note 42, at 8-9.

Id.

Lane, A Deepening Disquiet, GENERATIONS, Winter, 1979 at 2.


programs house the elderly.\textsuperscript{76}

The Section 8\textsuperscript{76} rent subsidy and housing stock program supplanted several HUD programs\textsuperscript{77} which provided construction subsidies. Section 8 operates to reduce the disparity between the fair market rent of a dwelling unit, as determined by HUD, and the amount that a low income family can afford to pay for rent (up to twenty-five per cent of its adjusted gross income) through HUD assistance payments. A low income family is one which receives less than eighty percent of the median income in the area. Section 8 can be used for HUD-subsidized rents for existing, rehabilitated, or newly constructed housing. Profit making groups, nonprofit corporations, and public agencies are eligible to receive payments. All of the tenants in a project for the elderly may be subsidized. Eligible tenants pay fifteen to twenty-five percent of their incomes for rent, with HUD paying the remainder. Section 8 has elevated the quality of rental housing at a lower cost than the open market would allow. The program also is being used in conjunction with the sections 202 and 231 programs.\textsuperscript{78}

C. Apartment Ownership — Condominium or Cooperative?

An individual can own rather than rent an apartment in two ways — either a condominium or a cooperative. Condominiums rapidly are becoming an alternative living arrangement for all persons, including the elderly. While only 2.4\% of the population presently lives in condominiums,\textsuperscript{79} projections are that fifty percent of the population will live

\textsuperscript{76} See note 42, supra.

\textsuperscript{77} 42 U.S.C. § 1437f(a)-(g) (1976).

\textsuperscript{78} Conventional public housing and the § 236 rent supplement program were supplanted.

\textsuperscript{79} For a discussion of the effectiveness of the various federal programs, see Welfeld & Struyk, supra note 28, at 35 passim; and Baer, Federal Housing Programs for the Elderly, in Community Planning for an Aging Society: Designing Services and Facilities 81 (E. Lawton, R. Newcomer, & T. Byert eds. 1976).

\textsuperscript{79} HUD Condominium/Cooperative Study I-7 (July 1976).
in condominiums within the next twenty years. Condominium units have increased fifteen fold since 1970.

The condominium purchaser buys and receives a deed to his unit (an apartment or townhouse) and an undivided, nonpartitionable interest in the common areas. The buyer obtains a mortgage just as he would for a house. If an elderly person does not have sufficient funds from the sale of a prior home, FHA financing is available. Taxes are assessed separately on the unit. The condominium is run by an association of elected board members who enforce the rules and regulations and approve new buyers.

There are many advantages to condominium ownership by older persons. The condominium combines many of the conveniences of rental living, such as no yardwork and maintenance, with the advantages of homeownership — tax benefits and building up of equity. In addition, close neighbors are a safety consideration. The neighborhoods generally are pleasant, with recreational facilities available. The condominium owner is able to sell, rent, and manage his unit as he sees fit, subject to association rules and by-laws.

On the negative side, the condominium may be too expensive for the elderly person. A condominium's cost is often as much as conventional housing and yields much less space. Condominium unit owners are much more dependent upon one another for preservation of their interests than are renters or homeowners. Each condominium owner pays his share of the common expenses for maintenance.

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80 N.Y. Times, Sept. 28, 1974, at 1, col. 5.
81 HUD STUDY, supra note 79.
83 R. Chused, A MODERN APPROACH TO PROPERTY 523 (1978).
85 R. Chused, supra note 83.
86 P. Dickinson, COMPLETE RETIREMENT PLANNING BOOK 156 (1976).
These expenses may be as much as fifteen to twenty-five percent of the housing expenses. In addition, inflation causes these expenses to rise considerably. For a person on fixed income, these rising costs may escalate to the point where a condominium is no longer affordable. The American Bar Association has endorsed a Uniform Condominium Act proposed by the Commission on Uniform State Laws to protect the unit owner's interests.

A major problem facing the elderly with respect to condominiums is the trend toward condominium conversion. This conversion takes rental units off the market and shrinks rental housing in urban areas already experiencing a construction decline. The elderly often live in buildings that are prime targets for conversion; consequently, the threat is greater for them. The elderly are less able, economically and psychologically, to cope with the change. The cost for the unit may be 150 times the monthly rent for the apartment. Maintenance costs and taxes may make the condominium purchaser pay thirty-five percent higher monthly payments than rental payments. With the median income of elderly persons living alone in 1973 amounting to $2,726.00, many are forced to relocate when apartments are converted to condominiums. Some cities, aware of the problem for many central city dwellers, have enacted stop gap laws or moratoria on conversions of apartments to condominiums.

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88 Id.
89 Id.
91 See HUD Study, supra note 78, at V-35.
92 San Francisco has an ordinance requiring 35% of the tenants in apartments to agree in writing to purchase their units before the owner can convert them to condominiums. In addition, the conversion plan must include relocation assistance advisory services. Evicting a tenant is prohibited until a comparable unit is found. See Wood, supra note 90 citing San Francisco, Calif., File N. 569-74-1, July 28, 1975. In October 1979 the Philadelphia City Council passed an 18-month moratorium on conversion of rental apartments into condominiums. See N.Y. Times, Oct. 7, 1979, § 1, at 6, col. 3.
Cooperative apartments usually are organized on a corporate basis. A corporation is formed which buys the land and building. A mortgage is taken on the land and shares are sold to prospective tenants. A tenant purchases a long-term lease, called a proprietary lease, from the corporation. The tenant pays rent to the corporation for the right to possession. An elected board of directors sets the rent to cover a pro rata share of amounts needed to cover the mortgage debt, taxes, and operating expenses. There are restrictions on the right to sublease or assign the lease, which increases control over neighbors. The co-op may be more difficult to sell than a condominium. It is considered a personal property interest. The lease can be terminated for nonpayment of monthly charges and failure to abide by rules and restrictions. If one co-op unit owner defaults, however, his pro rata share may be distributed among the other units. The corporation may be limited in its ability to mortgage the building for needed repairs.

In both condominium and co-op, the apartment owner enjoys benefits of ownership. As the value of the building increases, and the amount owed on the mortgage is reduced, equity increases. The right also exists in both arrangements to defer payment of income tax on a capital gain if the apartment is sold at a profit, and to deduct from income all payments made on mortgage interest and real estate taxes.

D. Retirement Communities

A retirement community is a planned, low-density, age-segregated development, usually constructed by private capital, that offers extensive recreational services. Although retirement villages or communities may be grouped in varying ways, there are several common features, in-

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**Kratovil, supra note 82, at 379. See also Hennessey, Cooperative Apartments and Townhouses, 1956 U. Ill. L. F. 22.**

**Dickinson, supra note 86.**

**K. Heintz, Retirement Communities - For Adults Only 7 (1976).**

**Retirement Villages (E. Burgess ed. 1961) separates retirement villages according to sponsorship, location, types of services offered, housing...**
cluding entrance requirements, complete community planning, and relatively low cost housing coupled with a country club atmosphere. Although there is much publicity about retirement communities in the sunbelt states, over one-fourth of the older population lives in California, New York, and Pennsylvania. Only an estimated eight percent of the elderly have both the financial means and the desire to spend their last years in a new location.

Retirement communities traditionally have been located on land that is flat, inexpensive, and rural. They are built in or near existing municipalities and use the urban area's public and private services. Land is designated within the area for recreational, commercial or residential uses. The retirement community itself usually consists of a variety of housing, including apartments, duplexes, private homes and, in some instances, mobile homes and residential clubs. In addition, retirement communities may include infirmaries, clinics, nursing homes, or small hospitals. The population in some retirement communities is large enough to support the cultural, social, and shopping facilities of an ordinary town. In some communities, recreational, medical, and facility costs are included in the general charges; in others, they are optional.

Property may be for sale or rent. Housing units are generally small, ranging from one to two bedrooms. Some maintenance is provided. The appearance is neat and the cost relatively low for those who can afford it. The elderly who consider moving to retirement communities are typically healthy, active middle-class white people who live in mortgage free $30,000 to $70,000 homes. Selling one home and buying a second that is approximately two-thirds of the
cost of the first usually leaves enough money to enjoy the extra amenities.\textsuperscript{103} If the property is to be rented, the resident has no maintenance responsibilities and needs no initial capital outlay.\textsuperscript{104} In some retirement communities cooperative ownership is available.

Among the motivations for moving to retirement communities are such factors as retirement, loss of friends, restrictions on desired activities, loss of family contact, difficulty in maintaining present homes, deterioration or change in one’s home neighborhood, and a desire to get away from routine and responsibility.\textsuperscript{105} The advantages of moving to a retirement community include generally good climate and location, minimal traffic, accessible shopping facilities, abundance of activities, “the right kind of neighbors,” and safety.\textsuperscript{106} Most retirement communities are age-segregated\textsuperscript{107} — the minimum age requirement is generally fifty-two or above. Those who have moved to retirement communities are generally satisfied, especially those in the upper income segment of the elderly population.\textsuperscript{108}

\textsuperscript{103} J. Jacobs, \textit{Fun City: An Ethnographic Study of a Retirement Community} (1974). The homes in retirement communities generally range from $19,000 to $50,000.

\textsuperscript{104} Adler, supra note 102.

\textsuperscript{105} J. Peterson, \textit{A Time for Work, A Time for Leisure: A Study of Retirement Community In-Movers} (1965), cited in Mathieu, supra note 6, at 165.

\textsuperscript{106} Id.


E. Mobile Homes

A mobile home is an option for those who desire compact living at a relatively low price. In 1976, nearly five percent of the elderly lived in mobile homes.

Modern mobile homes may be quite suitable for an elderly resident's needs. Unlike the "trailer" counterparts of thirty years ago, today's mobile homes have concealed wiring, sockets in each room, insulation and modern plumbing. The furnished, compact units, the size of an efficiency apartment, allow for independent living. In addition, mobile home parks usually have high sociability levels.

A mobile home may be purchased by using FHA loans. The person may contact the lender directly or go through a mobile home dealer approved by the lender. The downpayment on a mobile home is generally five to fifteen percent. The mortgage repayment period is shorter and the interest rate higher than for conventional loans. The initial lower cost may be offset by site rental, higher financing charges, and higher depreciation.

Mobile homes are usually anchored to a small lot in a mobile home park with rents ranging upward from $50 per month. Utilities are usually an extra expense. Some parks

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109 Mobile home is a term used to describe several types of portable living units—truck campers, travel trailers, and motor homes (recreational vehicles), as well as house trailers. For the purposes of this section, the author refers to the type of mobile home which is true substitute housing and which is not mobile at all — being anchored to a lot in a mobile home park.

110 Mobile home costs range from $9,000-$12,000 for a single width to $18,000-$25,000 for a double width. Shirk, Manufactured Housing from the Lender's Perspective, in 1977 FNMA GENERAL COUNSEL'S CONFERENCE 54.

111 How WELL ARE WE HOUSED?, supra note 29, at 1976 Table 2. This is an increase of 1% since 1970.

112 Rausch, Mobile Home Movement, GENERATIONS, Winter, 1979, at 34.

113 12 U.S.C. § 1703 (Supp. 1980). Insured loans may be obtained for up to $18,000 on single modules and $27,000 for doubles. The loans are repayable over 15 years at 12% interest.

114 See note 110 supra.

will sell lots. Certain newer parks have larger lots, clubhouses, and recreational facilities.

One drawback to mobile homes is that the location of the park may not be appealing. Many cities permit mobile home park zoning only on the towns' outskirts; ordinances restricting the location of mobile home parks have generally been upheld.116 There are other potential drawbacks. Most mobile home parks are age-integrated,117 and the proximity of homes in a park make it difficult to maintain privacy.118 Once situated in a park, the mobile home may be too difficult or too expensive to move. Mobile home parks often have frequent management changes which can lead to policy changes.119 A mobile home may not be as safe as other forms of housing in states with a high risk of wind or storm. Finally, rent for the site may increase yearly, posing serious problems for those on fixed incomes.

In spite of the potential problems, mobile homes are viable alternatives in small towns and rural areas where sound housing is scarce.120 A major advantage of a mobile home is that it may be possible to locate it close to relatives for necessary emotional support.

III. THE SEMI-INDEPENDENT ELDERLY

Intermediate options are available for the elderly person who is no longer able to function with total independence because of impaired health, or income, or dislike of

117 In Taxpayers Ass'n of Weymouth, Inc. v. Weymouth Township, 125 N.J. Super. 576, 311 A.2d 187 (1973), a township ordinance attempted to limit occupancy in mobile homes to individuals less than 18 or over 52 was declared unreasonable and discriminatory. The court rejected the argument that age restrictions were necessary to assure adequate housing at a reasonable cost for the elderly. See also note 108 supra.
118 DICKINSON, supra note 86, at 154.
119 Id.
120 Welfeld & Struyk, supra note 28, at 84.
being alone. The major options, which may also appeal to the independent elderly, include living with relatives, sharing a home, residing in a hotel and moving to a life care community.

A. Living with Family

The availability of family members to help with financial problems or to offer a place to live greatly expands housing alternatives for many elderly; however, the number of elderly living with their children has declined considerably in the past thirty years. Estimates are that somewhere between seven and twenty percent of the elderly live with their children or other adult relative. This downward trend is likely to continue for several reasons. First, most elderly people prefer to live alone as long as they can, enjoying frequent visits with their children and family while maintaining their own households. Most feel a loss of self respect and a loss of independence from living in “someone else’s” house. Second, many women who are now elderly were in their childbearing years during the low fertility period of the Depression. Consequently, many were childless or had small families; living with children is not an option for them. A third reason is the change in family composition. At least forty-five percent of married women work today. These women are not at home and do not have the time to tend to the needs of an aging parent. Fourth, the needs of the elderly for health services and companionship may strain younger families emotionally.

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121 In 1955 as many elderly lived with relatives as lived independently. Soldo, supra note 10, at 7.
122 Mathieu, supra note 6, at 163.
124 Soldo, supra note 10, at 8.
125 Mathieu, supra note 6, at 163.
126 Hyatt, supra note 1, at 14, col. 2.
and financially. In times of economic or health crisis, however, the elderly person's access to family resources may be the difference between remaining in the community and becoming institutionalized. In some states, there is a statutory obligation for a child to support a parent in need or to reimburse the public welfare agencies. This seems a bit harsh in view of the fact that many of the children are paying one-tenth of their incomes to the Social Security system. Although there have been some attacks on these laws, most have been upheld. Criticism of relative responsibility statutes holds that these laws are "socially undesirable, financially unproductive, and administratively infeasible."

B. Sharing a House

Sharing a house is an intermediate option between totally independent living and institutionalization. House-sharing can arise in several different contexts: renting a

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128 Silverstone, supra note 8, at 15-61. It may not be uncommon for a 65 year-old woman to care for a well 90 year-old mother and an ailing 70 year-old husband.

129 Soldo, supra note 10, at 16.

130 See, e.g., Va. Code § 20.88 (1975), which requires all persons 18 or over to assist in supporting a needy parent if there is sufficient income after providing for his or her own family. Failure to comply is a misdemeanor.

131 See Cannon v. Juras, 15 Or. App. 265, 515 P.2d 428 (1973) (upholding a son's obligation to pay $384 to the state for public assistance to his mother). In Swoap v. Super. Ct., 10 Cal. 3d 490, 516 P.2d 840, 111 Cal. Rptr. 136 (1973), after tracing the history of a child's duty to support his or her parent through the Elizabethan Poor Law to California law, the court found that placing the burden of support upon adult children bore some rational relationship to accomplishing the state purpose of relieving burdens on the public treasury. But see Hosp. Services, Inc. v. Brooks, 229 N.W.2d 69 (N.D. 1975) (statute requiring children to pay for care of parent involuntarily committed to state hospital a denial of equal protection).

132 "Social effects of relative responsibility sections are harsh and self-defeating, . . . liability of relatives creates and increases family dissension and controversy, weakens and destroys family ties at the very time and in the very circumstances when they are most needed, [and] impose an undue burden on the poor. . . ." ten Broek, California's Dual System of Family Law: Its Origin, Development and Present Status, 17 Stan. L. Rev. 614, 645-46 (1964-65).
room to another person, converting a home into apartments, or developing a congregate housing situation. Three major reasons for sharing a home are financial, social, and medical. Safety is also an important consideration.

One of the most common ways for an elderly person to share his or her home is to take in a roomer or boarder. In college towns, elderly persons, most often female, may take in college students as roomers. The local council on aging can match older homeowners with elderly persons seeking a room. The roomer has his or her own bedroom and shares the kitchen and other living areas. Financially, the older person gains an additional source of income through rent. Socially, he or she has someone with whom to talk and share experiences. Housesharing increases the likelihood of the elderly person getting prompt medical attention in case of an emergency, and the older person generally feels safer with someone else in the house. The major drawback to housesharing is the loss of privacy. Some studies indicate that privacy becomes more important as a person ages and that many elderly resent the intrusion of "strangers."

The second alternative which allows the elderly person to retain his home is conversion of the home into apartments. Many elderly persons do not fully use the space available in large homes. If the house can be remodeled into separate apartments, two, three or more persons can share the space. At least one state, New Jersey, is trying to stimulate the conversion of space in larger homes into apartments.

England has set up a house sharing project called Help

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136 McConnell, supra note 133.
137 Id.
138 Lawton, supra note 19, at 63.
the Aged. Older persons living in houses too large for their needs can donate them to the Help the Aged charity which remodels the homes into several apartments. The owner has considerable input in the redesigning of his apartment, which belongs to him rent-free for life. The remaining apartments are rented to other older persons. Many of the larger houses furnish a resident warden or manager, and a community room. Since the program's inception in 1976, approximately two hundred pieces of property have been donated.

"Congregate" housing, or assisted group living, is another option. The housing project, sponsored by medical, social, religious or public groups, provides the services necessary to help a semi-independent person avoid institutionalization. The minimum service provided is meals, although other housekeeping and personal services may be available. There is federal support for the creation of congregate housing by public housing authorities. Further incentives were offered in 1978 by a provision allowing for congregate services in existing low income housing projects.

Arrangements may vary from merely shared living space to shared living with complete services. Several projects currently exist. Some are personal care homes which use existing houses or apartments and provide live-in staff to keep house, prepare meals and assist in other per-

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139 Aging, Jan.-Feb. 78, at 44.
140 In 1976, the National Conference on Congregate Housing for Older People defined congregate housing as "an assisted independent group living environment that offers the elderly who are functionally impaired or socially deprived, but otherwise in good health, the residential accommodations and supporting services they need to maintain or return to a semi-independent lifestyle and prevent premature or unnecessary institutionalization as they grow older."
142 Congregate Housing Services Act of 1978 (to be codified in 42 U.S.C. § 1437(e) (1978)).
143 Gillies, Share A Home — A New Lease On Life, GENERATIONS, Winter, 1979, at 26. See also Wax, It's Like Your Own Home Here, N.Y. Times, Nov. 21, 1976, (Magazine) at 38-40; Aging, May-June 1979, at 42; McConnell, supra note 133. See Liebowitz, Implications of Community Housing for Planning and Policy, 18 GERONTOLOGIST 138 (1978), for a listing of shared home projects.
sonal services. Others resemble intermediate care housing where several elderly persons live together with few, if any, services.

Congregate housing primarily benefits the frail, but not ill, elderly; the handicapped who do not require institutional care; and isolated individuals, especially displaced elderly men. Those interested in this alternative should check local zoning ordinances, however. Most ordinances create residential zones for single "family" dwellings, and a family is often defined in terms of a blood or marital relationship. The practice of taking in roomers or boarders or having several unrelated persons living together would conflict with these zoning laws.

Restrictive zoning ordinances were enforced against the communal living arrangements of the "hippies" of the 1960's because of the belief that families are inherently more stable, move less often, own fewer cars, and are less disruptive. Of course, the elderly are surely no less stable, stationary, or disruptive than most families. A concurring opinion in a recent Supreme Court case contends that a property owner should be able to determine the internal composition of his household. In addition, several states have permitted unrelated persons to occupy a single family residence notwithstanding an ordinance prohibiting such occupancy. As long as the congregate or shared housing

\[144\] Lawton, supra note 19, at 62-63.
\[145\] Id.
\[146\] Gillian, supra note 135 at 103.
units are relatively small, the threat of a challenge is probably small.

C. Hotels

Rooms in downtown hotels have always been an option for some of the elderly. Hotel rooms are relatively inexpensive\(^{130}\) and housekeeping services are provided at least once a week. Hotels are located in central city areas close to restaurants, stores, pharmacies, the Salvation Army, and police and fire stations. In many cities old commercial hotels have been converted to retirement hotels.\(^{181}\) In some states, hotels which have a certain percentage of elderly occupants are covered by protective laws pertaining to boarding houses to assure adequate safety and sanitary features.\(^{182}\)

“Single room occupancy”\(^{183}\) is the descriptive term used to refer to approximately 76,000\(^{184}\) elderly who live in hotels. Although a negative stereotype of old derelicts flashes through the mind, studies indicate that the only common characteristics shared by these hotel dwellers are that they are single, have little money, live in one room and are fiercely independent.\(^{185}\) Residents are predominantly bachelors who do not want housekeeping responsibilities\(^{186}\) and choose to live independently in hotels. Most are long-time urban dwellers, not transients, who settled and grew old.\(^{187}\)

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\(^{130}\) In 1977 San Diego hotel rates were $90 a month. Eckert, The Unseen Community: Understanding the Older Hotel Dweller, AGING Jan.-Feb. 1979, at 28.


\(^{183}\) See Eckert, supra note 151.

\(^{184}\) See How Well Are We Housed?, supra note 29.

\(^{185}\) See Eckert, supra note 150.

\(^{186}\) See Melman, supra note 152.

One study investigating the type of person who lives in downtown hotels categorized the residents as life-long loners who have always been self-reliant and independent, as retreating or marginally socially adjusted persons who may have an alcohol or drug problem, or as the later isolate — an elderly person, usually over age seventy-five, who has amply outlived all relatives and friends.\textsuperscript{188}

One problem for these downtown dwellers has been urban renewal and revitalization programs, which have made these hotels, often located in a city's decaying core, prime targets for renewal efforts. There have been problems with displacement, relocation, and loss of rental units.

D. Life Care Plans and Life Care Communities

Life care plans developed from a recognition that the elderly may pass through two or more phases in retirement — an initial stage in which they are still capable of and desire independent living, and a later stage in which they are more dependent upon their surroundings for medical services. The American Association of Homes for the Aging, an association of nonprofit, voluntary, and governmental homes for the elderly, has been active in providing life care plans for semi-independent persons over sixty-five.\textsuperscript{189} These plans include appropriate accommodations for any state of health, starting with apartments, single family dwellings or duplexes, and ending with a nursing home on the premises. The elderly person buys the whole package, which includes housing, meals, recreational services and medical care all to be provided for the remainder of his or her life. In some plans the fees are structured on actuarial tables based upon life expectancy at the age of entry. Others provide that the


\textsuperscript{188} See Eckert, \textit{supra} note 151.

\textsuperscript{189} \textit{YOUR AAHA PROFILE — MEMBERSHIP INFORMATION SYSTEM}, presented at the American Association of Homes for the Aging's 18th Annual Meeting, Oct. 8, 1979, reported that 1,650 homes are members of AAHA. Over three-fourths of the homes are sponsored by religious organizations.
elderly person can sign a life care contract160 by which he transfers all of his assets to the association. Still others allow the elderly person to "purchase"161 a home in the village and pay a monthly charge for services. The fees vary from $10,000 for a room in an apartment to $50,000 for a two-bedroom cottage.162 The monthly charge for services may vary considerably. The service charge is subject to increase with inflation, although some contracts limit the total increase to twenty-five percent.163 Congregate dining facilities are available, and some of the living units have kitchens. The average age of an independent resident in 1978 was seventy-nine years.164 The newer life care communities attempt to combine the attractive features of a retirement community with the necessary services and security of a nursing home should such care become necessary. A medical facility is located within the community to provide long-term nursing services, physical therapy, and twenty-four hour emergency services.

For those who can afford this plan, the advantages are many. The communities are very similar to retirement communities and provide multiple opportunities for socialization and cultural and recreational activities. The difference is that long-term care facilities, not available in most retirement communities, are available on the premises.

IV. THE DEPENDENT ELDERLY

A. Nursing Homes

Nursing homes, technically known as long-term care facilities, are an alternative for persons who need special services. Nursing home candidates generally are mentally or physically dependent. Less than five percent of the elderly

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160 Life care contracts have been criticized. See note 170 infra.
161 When a person dies, his or her interest reverts to the owners of the complex. See ADLER, supra note 102, at 102.
163 ADLER, supra note 102.
population presently reside in nursing homes. It is estimated that forty percent of the elderly will spend some time in long-term care institutions. The average age of the nursing home patient is eighty-two. Although gruesome stories of poor care in nursing homes have been reported, a 1976 study conducted by the Census Bureau reported that ninety percent of the residents of nursing homes were satisfied with their environment. The number of nursing homes has increased from 6,500 in 1954 to 16,150 in 1973 — an increase due primarily to federal programs.

Nursing homes are classified according to the services they provide. The skilled nursing facility represents the highest level of classification, requiring twenty-four hour supervision by registered nurses. An intermediate care facility provides more limited health care and services that can only be provided institutionally. The lowest classification is domiciliary care homes, also called residential care.

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107 See Byerts, supra note 20.
109 The subcommittee found that there was virtually no federal enforcement of standards for nursing homes, and that state enforcement was lax. Problems identified included, inter alia, negligence, food poisoning, lack of human dignity and kickbacks. Id. See also C. Townsend, Old Age: The Last Segregation (1971) and R. Garvin & R. Burger, Where They Go To Die: The Tragedy of America's Aged (1968).
113 42 U.S.C. § 1396d (c) (1976).
proprietary care, or community care homes, which provide minimal assistance with dressing, cooking, and other services.178

Nursing homes must be licensed.174 State standards differ, but most require that drugs and medicines be kept in a safe, locked place, that premises be maintained in a safe and sanitary manner, that a wholesome and nourishing diet be provided, that therapeutic diets be prescribed as necessary, that complete and accurate records on patients be maintained, and that financial records be kept as required.175 Nursing homes must also provide for the safekeeping of a patient's personal effects, money or other property, must not hire persons with contagious diseases, and must not take kickbacks. Some states require homes to be bonded.176 Most states have a Patient's Bill of Rights which, inter alia, endorses the right of the patient to be treated as an individual, to be informed of treatment, to be free from mental and physical abuse, to manage his personal finances, to have privacy, and to have daily visiting hours set.177

A decision to reside in a nursing home requires analysis of the type and quality of care needed, cost, and requirements for admission. The cost of nursing home care varies with the types of services offered. In a skilled nursing facility, the bill may exceed $1,000 a month;178 for other levels of care, the price in 1974 varied between $200 and $1,200 a month.179 Persons seeking admission to a nursing home

176 Glasscote, supra note 170, at 32-62.
178 Wishard, Nursing Homes, in Rights of the Elderly and Retired, ch. 10 at 3-4 (1978).
177 Id.
178 Introductory Report, supra note 167, at 22. See also Hyatt, supra note 1, at 14, col. 2. The 1979 fee was $1,172 a month for those who pay the full rate at one nursing home in Washington, D.C.
176 Glasscote, supra note 170, at 6.
should request a complete listing of all costs and included services. In any event, state regulation may require this documentation. Persons should be wary of signing life care contracts discussed earlier in this Article. Also it is important to learn if one qualifies for Medicare or Medicaid coverage. Medicare will pay for care in a skilled nursing facility, however, one author indicates that Medicare pays less than ten percent of the cost of nursing home care.

The Medicaid plan covering the needy (Aid to Families with Dependent Children or Social Security Insurance recipients) and the medically needy (not AFDC or SSI, but unable to pay for necessary medical care) pays for many medical services in skilled nursing or intermediate care facilities. Persons who enter as private payors and exhaust their resources can convert to Medicaid status. Some nursing homes do not want Medicaid patients as Medicaid rates often do not match private pay rates. Since more than three-fourths of the nursing homes in the United States are operated for profit, a nursing home may wish to transfer or discharge Medicaid patients. Some states are attempting to prohibit this kind of discrimination.

Nineteen states make Medicaid eligibility automatic for SSI recipients and have medically needy programs to cover other persons. “Transfer of asset” rules allow a state to consider that the elderly applicant has transferred an as-

181 Gassel, supra note 173.
184 Introductory Report, supra note 167, at 22.
185 See 12 Clearinghouse Rev. 234 (Aug. 1978), discussing a Massachusetts regulation which prohibits a facility from refusing to admit a Medicaid recipient if a bed is available at the appropriate level of care and from discharging a patient who converts to Medicaid status. The regulation was upheld. A Minnesota statute prohibits nursing homes from charging their private pay residents more than the Medicaid rate. Id.
set for inadequate consideration for the fraudulent purpose of bringing his resources within the Medicaid eligibility limit. Even if the resource is exempt, the presumptive effect of the state procedure leads to temporary denial of eligibility. There are valid arguments, however, that restrictions for the medically needy should not be more stringent than SSI rules. 186

V. CONCLUSION

The elderly are ordinary young people who have grown older. Many things that were important to them in their youth — autonomy, a sense of independence, safety, security, participation in community affairs, and other concerns — remain important. Infirmities associated with advancing age, the loss of spouse and friends, and other factors keep the elderly from being able to provide entirely for themselves as they once did. As a result, they often become isolated. Families, religious groups, service agencies, the government, or a combination of these need to fill in the gaps between an older person's abilities and his or her needs and desires.

Until recently, there has been no comprehensive, national planning for the needs of the elderly. Options for the elderly person were limited to living independently as long as possible and then moving into a nursing home. The past thirty years have seen an increase in the efforts of federal, state, and local governments to attend to the elderly's needs. Area Councils on Aging have been established. Solutions to housing problems have been sought through low income housing projects, through insurance to encourage developers to build low income housing, public housing projects, and rent subsidies. The federal government has come to recognize that housing needs cannot be addressed solely through the production of housing. Housing alternatives and services are directly related. In the past two years,

186 NATIONAL SENIOR CITIZEN'S CENTER, TRANSFER OF ASSET RULES ARE IMPELLIBLE IN THE NON-"209(B)" STATES, 12 CLEARINGHOUSE REV. 819 (March 1979).
more incentives have been provided for the establishment of congregate services programs. The staggering number of HUD studies and reports illustrates the growing national concern.

Deficiencies exist and much work remains to be done. As in several other aspects of our society, the very rich and the poor are provided for. The affluent, even if not independent, can afford the type and kind of housing to suit their needs at a particular time. The totally disabled are housed in institutions providing total care. The poor have public housing and rent subsidies. A large number of elderly, however, are in the middle. The semi-independent homeowner, for example, receives little benefit from current government programs. It seems strange that the nearly three-fourths of the elderly who are homeowners have so few programs aimed directly at their needs.

The existing home should be the central focus for planning services for the elderly. The primary goal should be to allow the elderly person to remain in his or her home as long as possible. Among the necessary types of programs are comprehensive home maintenance programs, home health care programs, housing subsidies for homeowners on a basis similar to Section 8 for renters, encouraging use of the reverse annuity mortgage, and perhaps other types of homeownership programs such as condominiums and cooperatives.

Programs to help the elderly maintain an existing home would help relieve some of the burdens of homeownership. Instead of loans which have to be repaid, direct repair services could be provided. Some cities are operating local programs to train the elderly in home maintenance tasks; others are using Community Development funds to help make repairs. Still, the need exists for a comprehensive program to provide needed services.

Home health care programs should be developed throughout the country to serve the elderly who are not ill enough to be hospitalized, but nevertheless require medical
services. Existing programs are fragmented and vary depending upon the city or state. Home health care services could be set up by voluntary agencies, corporations or as a part of the Public Health Service. At a minimum, the programs should include visits by physicians, nurses, and social workers, nutritious meals, transportation to obtain medical services, and training for family members in care needs. One study has indicated that with proper home services, one-third of nursing home residents could go home. One of the obstacles in developing these services has been that Medicare will pay for hospital visits and care for a person confined to his home, but will not pay for a mobile person who has a chronic illness.

A housing subsidy for the elderly homeowner similar to the Section 8 subsidy for renters, including income and eligibility requirements, would relieve some of the financial burden of homeownership. Such a subsidy would protect the homeowner from paying more than a stated percentage of his or her income on housing costs.

No government plans currently exist that allow an elderly person to move into smaller quarters and yet retain his or her status as a homeowner. It has been suggested that the government build condominiums to house the elderly. This idea has merit; the disadvantages of ownership could be alleviated with government assistance.

Day hospitals and day care centers for the elderly are other options to extend the time a person can keep his or her home. Existing hospitals or public facilities can be used to provide care and opportunities for socialization to the elderly who need them. This arrangement would work par-

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187 See note 183 supra.
189 Home Health Care Services — Alternatives to Institutionalization: Hearing Before the Subcomm. on Health and Long-Term Care of the House Select Comm. on Aging, 94th Cong., 1st Sess. 90 (June 16, 1975).
190 Welfeld & Struyk, supra note 28, at 68.
particularly well when an older person lives with a working spouse or family members who are absent during the day. A few day hospital programs already exist; the idea should be explored on a broader basis.

Those who want to or must leave should be given intermediate options. The solution that has received the most attention in the past few years is the congregate housing concept. As discussed earlier in this Article, such an arrangement allows the elderly person to live in a sheltered living environment, as independently as possible. Minimum services, such as meals and housekeeping, are provided. It is a very satisfying option for the semi-independent elderly and should continue to be explored and encouraged.191

The life care community is another good concept for those who wish to move from their homes; however, most are very expensive. Some provision for government assistance to allow low and moderate income persons to participate would give these groups an additional option. The ideal community for the elderly should include two things: as many housing alternatives as possible to meet the diverse needs of the aging, and all of the services necessary to allow the elderly the option of remaining in their own homes.

191 See Congregate Housing for Older People: An Urgent Need, A Growing Demand (W. Donahue ed. 1977), a collection of papers from the First National Conference on Congregate Housing for Older People, Nov. 11-12, 1975.