

36.60

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Third Supplement to Memorandum 71-14

Subject: Study 36.60 - Condemnation Law and Procedure (Relocation Assistance)

The attached exhibit contains background information that should be of some value in understanding the reasons that led to the enactment of the federal statute on relocation assistance. The material is extracted from Urban America and the Federal System (October 1969), containing findings and proposals of the Advisory Commission on Intergovernmental Relations. The membership of this commission is set out in Exhibit II.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

EXHIBIT I

Development Programs and the Displacement of People

The American creed calls for righting the human damage caused by urban physical growth: so far as possible, improvement in the lives of the majority should not come at the cost of uncompensated loss for the majority. This tenet presumably should apply when government acquires private property to advance public programs.

But does it?

Inevitably, people are displaced by public action in urban areas: by highway construction, central city renewal, housing code enforcement, and the construction of schools and other public works. Much of this action causes demolition, and takes place in older, more rundown parts of the metropolitan area—above all in the core city. It displaces the low-income tenant and homeowner and the owners of little businesses who need low-rent quarters to survive. These are the people who find it hardest to relocate, because the supply of low-cost housing and store sites are diminished by the very program that displaces them and because, too often, their race effectively limits their choice of living areas.

Renewal and Relocation. The total number of people displaced by the accelerating pace of demolition and reconstruction in recent years is difficult to estimate. The Senate Subcommittee on Intergovernmental Relations' hearings on relocation legislation suggest that the present annual rate is somewhere in the vicinity of 100,000 for federally aided programs. A study undertaken by the National Association of Home Builders put the total amount of housing torn down because of public action between 1950 and 1968 at 2.39 million dwelling units! The greatest bulldozers were the federally aided programs of urban renewal, highways, and public housing, and the local enforcement of housing codes. The authors estimated that demolition by private action totaled almost the same amount—another 2.35 million!⁴⁰

Of course, all this is not a net loss. Much private housing has been built on urban renewal sites and public housing on other sites, and when private owners tear down buildings it is often to replace them with apartments. But the match for the residents, both in price and quantity, between what was there and what goes up instead is not very close.

⁴⁰Michael Samichrast and Norman Farquhar, *Demolition and Other Factors in Housing Replacement Demand* (Washington, D.C.: National Association of Home Builders, 1967), p. 17.

The housing demolished has primarily sheltered the poor, the near-poor, and the lower middle class. Public housing construction and most urban renewal naturally occurs in areas with large amounts of substandard housing, where by definition few of the upper income groups live and where, according to a study undertaken for the National Commission on Urban Problems, at least 57 percent of the families are poor.⁴¹ Highways also tend to push through the lower-income parts of cities, partly because the property values there are often lower than in the better sections and partly because the residents have been less articulate and effective in their opposition.

Prospects for the future call for more demolition. The plans for urban renewal, according to the study just mentioned, call for the removal of 360,000 more housing units. The Bureau of Public Roads estimated that highway construction in the three-year period commencing July 1, 1967 would demolish urban housing units at the rate of 49,000 a year. Additional demolitions will take place from public housing construction and local code enforcement.

Needed: Uniform and Equitable Relocation Policies. According to a survey taken by the Advisory Commission and the United States Conference of Mayors, the single most important obstacle to speedy and humane relocation is the inadequate supply of housing, both private and public. Many cities have delayed their property acquisition for urban renewal because they cannot find housing for the people who would be displaced. This prompted the Commission to recommend:⁴²

... that Congress require that State and local governments administering Federal grant-in-aid programs assure the availability of standard housing before proceeding with any property acquisition that displaces people. This requirement should be at least comparable to that in existing Federal urban renewal legislation, assuring that (i) there is a feasible method for temporary relocation of displaced families and

⁴¹Robert Groberg, *Urban Renewal Programs Assisted by Title I of the Housing Act of 1949*, Research Report, National Commission on Urban Problems (Washington, D.C.: 1968), (unpublished).

⁴²Advisory Commission on Intergovernmental Relations, *Relocation: Unequal Treatment of People and Businesses Displaced by Governments*, (A-26; January 1965), p. 114.

individuals, and that (ii) there are or are being provided standard housing units at least as great in number as the number of such displaced families and individuals, available to them, within their financial means, reasonably accessible to their places of employment, and in areas that are not generally less desirable in regard to public utilities and public and commercial facilities than the areas from which they are displaced.

Legislation that would establish this requirement was introduced in Congress in 1965 and 1967 and again in 1969.⁴³ The Commission also urged States to enact equivalent legislation for State and local programs.⁴⁴

Subsequent to the issuance of the Commission's report some encouraging developments have occurred. California has required assurance of replacement housing in redevelopment projects; Massachusetts has required a showing of availability of housing wherever the occupants of more than five units are displaced by any project; New Jersey has required certification that a workable relocation assistance program exists before any displacing action can occur and the program must include assistance in obtaining comparable replacement housing; and Michigan has required relocation for urban renewal displacees. Michigan also requires that public housing projects composed of 200 or more units provide housing within the new project for the former residents.

Even where an adequate supply of housing exists, it may be unavailable to displaced families because of racial discrimination. With the general problem of racial barriers in mind, the Commission in a 1965 report urged the Federal Government and the States to cooperate in enforcing Federal and State laws against discrimination in housing.⁴⁵ Considerable progress has occurred since that report; with the signing of the Civil Rights Act of 1968, racial or religious discrimination in the advertising, sales or rental of the bulk of housing was forbidden. Applying the ban to various classes of housing will proceed in stages but by 1970 is slated to cover 80 percent of all housing.⁴⁶ In June, 1968, a Supreme Court ruling (*Jones v. Mayer Co.*) forbade racial discrimination in the sale or rental of property and thus provides injunctive relief for citizens.

⁴³S.1, 91st Congress, 1st Sess., Title II, Sec. 231.

⁴⁴*Relocation . . .*, p. 116. A comprehensive relocation draft bill has been drawn up for the consideration of State legislatures. One of its sections provides that State and local governments acquiring property shall provide not only temporary relocation but assurance of standard housing at rents or prices within the means of those displaced and reasonably accessible to their places of employment. See *1970 Cumulative . . .*, Code 35-60-00.

⁴⁵Advisory Commission on Intergovernmental Relations, *Metropolitan Social and Economic Disparities: Implications for Intergovernmental Relations in Central Cities and Suburbs* (A-25; January 1965), p. 104.

⁴⁶P.L. 90-284, Title VII.

Yet, the existence of these two strong legal weapons probably will not ensure rapid disappearance of discrimination in access to housing. Where arbitrary action continues, only the slow process of appeal on the basis of the new law and the new interpretation will overturn the practice.

In January 1965, 18 States had laws against discrimination in publicly-assisted housing, and 12 of these forbade discrimination in private housing. By mid-1968, the District of Columbia, Puerto Rico, and 24 States had passed laws forbidding private discrimination, although coverage and enforcement procedures varied widely.⁴⁷ Until the enactment of the 1968 Civil Rights Act, the effectiveness of these State laws depended to some extent on cooperation with Federal agencies aiming at the same goal. Individual States had been working out "memoranda of understanding" starting in 1963. The new Act supersedes State and local laws, but where State laws are in substantial conformance with the Federal statute, agreements will be worked out to enforce the law at the State level.⁴⁸

Cost can be just as effective a barrier to procuring housing for low-income groups as discrimination. The Commission suggested several actions in 1965 to help ease the supply of low-cost housing,⁴⁹ and Federal laws have implemented them since: authority for lease or purchase of existing private housing by public housing authorities; rent supplements to low income families which permit them to move into housing owned by private non-profit owners;⁵⁰ and grants to private organizations to help them build or otherwise provide low-cost housing.⁵¹

The government has recognized that it owes help to those it displaces. But the assistance provided varies greatly from program to program and jurisdiction to jurisdiction. The Federal urban renewal program has displaced the most people, but it also has provided the most assistance. A man displaced from his residence by urban renewal and other programs of the Department of Housing and Urban Development can collect moving fees up to \$200. If he is a low-income person, he is entitled to an additional sum of up to \$1,000 over a two-year period to supplement his income for the payment of rent in adequate quarters. If he owns his home, the displacee may get up to \$5,000 to help him purchase another home of modest standards and size to meet his needs.

⁴⁷*Facts and Issues* (Washington, D.C.: League of Women Voters of the United States, Publication No. 333, August 1968).

⁴⁸P.L. 90-284, Section 810 (c).

⁴⁹*Metropolitan . . . Disparities . . .*, p. 99.

⁵⁰Governor Anderson, Mayor Goldner and Mrs. Wilcox dissented.

⁵¹P.L. 90-448.

A businessman displaced by these HUD programs may claim the full cost of moving expenses without limit, but everything above \$25,000 requires personal approval of the Secretary of HUD. Small independent businesses—i.e., with annual net earnings of under \$10,000 and not part of a chain—may in addition receive a flat relocation payment of \$2,500. Businesses are also entitled to additional payments for the cost of transferring property similar to those paid to residential displacees.

The displacee can call on an experienced office which must find him a house comparable to his present home in price and other characteristics, and assist him in relocating and in obtaining loans and other kinds of assistance. If his income is low, he has priority in admission to public housing.

Enactment of the Federal-Aid Highway Act of 1968 put relocation assistance for those displaced by the interstate and regular highway programs almost on a par with that offered to urban renewal displacees, although the urban renewal program provides more generous reimbursement to localities for payments made. Relocation payments are now mandatory, and standard housing must be made available prior to displacement "to the extent that can reasonably be accomplished." Thus the two Federal programs causing the most displacement (together, they dislocate 65 percent of the people and 90 percent of the businesses) are now generally uniform, with respect to basic moving costs.

Yet other Federal programs with a measurable impact still remain with relocation provisions substantially different than those of the urban development and highway programs. The Commission urged that Congress establish a uniform policy of relocation payments and advisory assistance for persons and businesses displaced by Federal grant-in-aid and direct programs, and that the President direct that the necessary steps be taken to formulate uniform regulations for carrying out such a policy.⁵² Title II of S. 1 (91st Congress) would achieve this across-the-board uniformity in relocation payments and assistance.

The States should assume similar responsibility for repairing the dislocation brought on by its programs and those of localities and the Commission so recommended.⁵³ In Maryland, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Tennessee, and Wisconsin general statutes require relocation payments in cases where requirements differ from those in Federal renewal programs. In other States, State law requires relocation efforts be made for specific projects, as in Rhode Island where payments for displacements caused by reservoir construction are required by State law.

Local government displacements are much more substantial than those of the States—resulting from housing code enforcement, school building, and various property acquisitions for parks, streets, off-street parking, and general public works. The mayor of Baltimore testified before the Senate Subcommittee on Intergovernmental Relations in 1969 that nonfederally assisted projects would displace 15 to 20 percent of the 10,000 families and 1500 businesses to be displaced in the next six years in his city. The ACIR-U.S. Conference of Mayors 1964 survey found that about one-half of the cities reporting were paying relocation expenses on local projects.

From the standpoint of the man displaced, his injury is the same no matter who inflicted it, and in equity he should receive the same money, the same counseling and assistance, and the same access to comparable housing—whether he is displaced by the Federal, State, or local government. Draft legislation, previously noted, to implement the Commission's recommendations provides for a uniform State and local policy. Five States in recent years have legislated such a state-wide policy: New York, Massachusetts, California, Indiana, and New Jersey.

The Federal Government also has a responsibility to assure adequate relocation payments for persons displaced by federally-aided projects. Hence, the Commission proposed that under Federal grant programs, the full costs of payments to any person for relocating a family, and the costs of payments up to \$25,000 to any relocating business be completely reimbursed by the Federal Government. The business relocation costs in excess of that amount should be shared according to the cost-sharing formula governing the particular program.

Federal grant programs administered by the Department of Housing and Urban Development reimburse localities for the payment of all household moving expenses up to \$200 and business moving expenses up to \$25,000. Highway programs, however, require a State contribution on the same matching basis as the overall project costs.

Similarly, in State-financed or aided programs, the Commission urged that the States share in local relocation costs when they are incurred in programs involving State aid or Federal grants to which the State contributes a portion of the local share.⁵⁴

⁵⁴The draft relocation legislation (1970 Cumulative . . . Code 35-60-00) incorporates this provision with regard to state-aided programs of property acquisition. Ohio and North Carolina have since authorized State sharing in displacement costs of highway programs; Indiana and New Jersey have provided State aid for relocation under a uniform aid program. Alabama, as mentioned above, aids highway displacees directly.

⁵²Relocation . . . , p. 106.

⁵³*Ibid.*, p. 110.

Better administration of relocation assistance would greatly ameliorate the ill-effects of displacement and the Commission sanctioned the proposal that Congress and State legislatures assign to administrative agencies responsibility for determining the amount of relocation payments, subject to specific statutory maximums. Massachusetts and California have assigned the determination of moving costs to specific agencies; North Carolina and Alabama have assigned determination of total compensation to their highway departments.

Of equal significance, the Commission urged that Federal, State, and local governments authorize and encourage all agencies causing displacements in urban areas to centralize in one agency in each major urban jurisdiction, the job of determining the availability of relocation housing and the types and amounts of housing needed; of administering payments to displaced persons and businesses; and of providing counseling, information, and other assistance to such displacees.⁵⁴

In focusing on the inequities and inanities of governmental relocation programs, the Commission has demonstrated that sound public administration need not necessarily conflict with sensitive and humane public policy. On the contrary, in urging simplification and standardization of the many existing programs, the Commission has sought to humanize governments—especially urban government—at a time when they appear most cold and impersonal.

⁵⁵ *Relocation* . . . p. 122.

EXHIBIT II

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

October 1969

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Members of United States House of Representatives:

Florence P. Dwyer, Mrs., New Jersey
L. H. Fountain, North Carolina
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