Uniform Relocation Policies in the 1980s

John J. Callahan and Dru Smith

The original Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 had a commendable goal: To bring order and consistency to programs designed to compensate people displaced by projects undertaken with federal funding. Many of the policies and legal initiatives that were developed by FHWA's relocation assistance program during the 1960s were reflected in this act. Unfortunately, the framework established by the original act needs some shoring up. Changes are needed in the act to ensure that its application is as uniform as its title suggests.

Recent court cases interpreting this law have revealed that it is riddled with loopholes and inconsistencies. These court decisions and federal agency interpretations based on the 1970 law have challenged Congress to take action to clarify its intentions about the scope of the act's coverage. Consequently, S. 1108 was drafted to deal with the inequities of the existing Uniform Relocation Act.

As introduced, S. 1108 has several main goals. First, it is designed to bring about greater uniformity in relocation regulations and policy. Building on a detailed report by the U.S. General Accounting Office (GAO) on the subject, S. 1108 authorized the president to designate a single agency to promulgate uniform relocation procedures and regulations. The GAO study found that the 15 federal agencies charged with relocation had anything but uniform policies for relocation. They found that the interagency committee originally created to bring about uniformity among the agencies met only about three times during its four years of existence. They also found that agencies followed very different policies in providing outreach to local communities about relocation benefits, in making payments under the housing of last resort provisions, and the like.

In short, the Uniform Relocation Act is no longer uniform--in large measure because the Executive Branch has not committed itself to making the act uniform.

Second, the act seeks to expand the scope of the coverage for relocation benefits to all federally assisted developments, insofar as it is feasible to do so. Because of a drafting irregularity in the 1970 law, major legislation passed since 1970 has been exempted from the provisions of the Uniform Relocation Act.

Thus, the federal courts have taken the position that benefits for relocation need not be paid when displacement is caused by activities undertaken with funding through the 1974 community development block grant program. Consequently, thousands of people displaced by federally-assisted projects in St. Louis, in Washington, D.C., and in other parts of the country have found that they were not eligible for relocation benefits.

Even federal court opinions upholding these exemptions stressed that Congress might wish to reconsider uniform relocation legislation to broaden coverage and protect the economic and social interests of displacees. Thus, S. 1108 extends relocation act benefits to all persons displaced as a result of federal activities, whether the displacement is done directly by a federal agency or through some private agency operating with eminent domain powers granted by a state authority or by a state or local government agency.

Third, the act seeks to update the economic value of relocation benefits paid to businesses and individuals displaced by federal activities.

The ceiling for moving and related expenses is raised to $1000 from the current potential payment of $500. Lump sum payments to displaced businesses are raised to $20 000. Replacement costs are raised for homeowners up to $25 000 over and above the costs of acquisition. Payments to assist displaced renters in finding comparable housing at reasonable cost are raised to up to $8000.

All these changes are made with the intention of keeping the economic value of relocation benefits current with recent economic trends.

A final key element of the act states that it is the congressional intent to minimize displacement wherever possible. It recognizes the fact that displacement, if minimized constructively, can be of substantial benefit to the local community. It recognizes that displacement is exceedingly traumatic for many members of a community--particularly those people who are elderly or poor. It makes a sensible statement that, where local and state authorities can constructively minimize displacement, the acceptance of the development process by the community where it takes place will increase.

In brief, S. 1108 as introduced provides for the creation of a truly uniform relocation process with the guarantee of realistic relocation benefits that are adequate to the times.

S. 1108 HEARING RECORD

We found that drafting such a constructive piece of legislation was not quite the easy task that we thought it was. The subcommittee on intergovernmental relations held three days of hearings on the bill and heard from more than 30 witnesses representing housing consumer advocates, private developers, and state and local officials directly concerned with the redevelopment process.

As a result of these hearings, it is abundantly clear that it will be difficult to draft legislation to meet the interests of all. Some of the housing consumer groups would like to see S. 1108 transformed into an omnibus bill that will give benefits to all displacees, which some estimates place at more than a half million annually, whether or not this displacement be directly or indirectly caused by federal activities. At the end of the spectrum there are private developers who wish to see little or no change in the act, contending that any increased development costs will markedly affect their redevelopment efforts to the point where relocation costs could severely impede the urban development process.

In between these two groups are found those who

wish to see some revision in the Uniform Relocation Act, but who also wish to see some of the sweeping language in the current bill modified in a way to support and not impede current development activities, whether they be in the housing, transportation, or public works area.

I think that it is correct to say that we have benefited from all these comments and that S. 1108 will undergo significant revision before it is reported from the full governmental affairs committee.

POSSIBLE CHANGES IN S. 1108

What, then, may be some of the principal changes made in S. 1108 as a result of congressional hearings?

First, I think that we all now recognize the difficulty of extending relocation benefits to those "indirectly" displaced by federally-assisted projects or programs. We would hope that where there is a strong connection between the displacement of businesses or individuals and the undertaking of a federally-assisted program or project that agencies would provide relocation benefits. However, a blanket extension of benefits to "indirect" displacees is probably too sweeping to be put into the relocation act amendments.

Second, I am sure that the subcommittee will look favorably on increasing the value of relocation benefits but will also explore ways in which the costs of such increased benefits can be handled by state and local governments. Housing redevelopment officials have suggested that they be permitted to substitute Section 8 rental housing benefits in lieu of lump sum relocation payments. Such an approach might be profitable if this eases the burden of providing relocation benefits and if it helps tighten up the probability that relocation benefits are in fact used for purchase or rental of decent housing.

Third, while the uniform relocation amendments will still contain language indicating that it should be the federal policy to have minimal displacement in federally-assisted programs, I am confident that the report language on the bill will indicate that it is not the intention of S. 1108 to otherwise halt or delay federal projects that are of substantial economic benefit to the local community.

In short, the hearing record on S. 1108 helps us to realize that we must update and revise the Uniform Relocation Act to provide more current and more equitable benefits to those displaced by federal projects while at the same time not halting positive redevelopment efforts. S. 1108 is not intended to bring highway or urban development projects to a standstill. The many suggestions that we heard at our hearings will result in a better bill as we near mark-up of this legislation.

WHERE DO WE GO FROM HERE?

Having given you a chronology of the Uniform Relocation Act legislation, you might ask where do we go from here? As transportation officials you are involved daily with the process of major public works planning. You know the economic and social importance of your work. At the same time, you know, many of you first-hand, the anguish that can be caused in the relocation process.

The Uniform Relocation Act was built in no small measure on the policy initiatives of FHWA in the 1960s. And your charge must continue to be: To build a fair, modernized, and manageable relocation process.

In that vein, I would submit that as we move to mark up S. 1108, we would like your support for the subcommittee's effort to revise this law.

Let's make the act more uniform. Let's build more realistic benefits into the law. Let's iron out the rough spots in its administration. But more important, let's once again ensure that the federal government will honor its basic commitment to aid those it must displace in the performance of its development policies.

Relocation and Property Acquisition: Experience, Problems, and Prospects

Jon E. Burkhardt

Ten years have passed since the enactment of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Although this act has provided very significant improvements to previous procedures, the experience with the act over the last 10 years has indicated the need for additional modifications and improvements. In fact, Congress now has before it nearly a half-dozen different proposals on ways to amend the 1970 law.

We are faced with the need and the opportunity to review the operations of current policies and practices and to provide guidance for the changes that are apparently coming, whether we act or not. This conference provides a chance to review and redefine what constitute appropriate relocation practices and procedures.

This paper reviews some basic philosophical and legal questions concerning the nature of relocation and compensation. These issues are not new, but social attitudes seem to be shifting in ways that will change appropriate responses of various levels of government. Second, this paper also presents some of the key findings of a study conducted with individuals displaced from their homes by highway projects because their experiences illuminate a number of the controversial relocation issues facing us today. This review of experience, problems, and prospects should help us focus on practical improvements to relocation procedures.

BASIC CONCEPTS AND CONSIDERATIONS

Despite rather considerable efforts to resolve certain questions, these questions seem to be in the re-resolution process yet one more time. They include (a) Has a taking occurred? (Has an