to reimburse them for under the 1970 act. Payment of such costs will require additional enabling legislation; Illinois is considering state legislation to that end. In the area of regulatory change, suffice it to say that, in the judgment of most states, we are grossly overregulated. For example, in answer to criticisms that businesses are leaving the inner cities as a result of displacement by highway projects, federal procedures now require the states to "consult with the affected local government and with the businesses potentially subject to displacement on all reasonable alternatives under consideration on the premise that inadequate information and planning for sites in a particular jurisdiction may contribute to the loss of businesses and employment opportunities in that area." The results of early consultation with businesses to be displaced, planning for incentive packaging (e.g., tax abatement, special financing, and flexible zoning and building requirements), and advisory assistance that has been or will be furnished should be documented in the conceptual relocation plan, and, as appropriate, in the final environmental impact statement.

I agree that we should be, and we are, offering aid and assistance to businesses. At the same time, I submit, we are not responsible for the exodus of businesses to the suburbs; and nothing that we do, as proposed in this latest addition to federal procedures, will appreciably slow such movement. I think more displaced businesses could be helped if the Uniform Act and federal regulations were to be amended to remove the eligibility requirements for the in-lieu-of moving expenses payment so that businesses would have a clear-cut option to select the payment that would benefit them the most. There have been other changes in federal regulations or procedures for promoting programs, such as to require increasing the availability of housing resources as part of a highway project. This may look good to some, but it is not the mission of state highway organizations to build housing to carry out highway programs. It is not required by the law unless there is absolutely no housing available and, therefore, should not be an additional drain on declining highway resources just to have a few more housing units available from which displacees may choose.

The tendency toward more and more regulations beyond the scope of the law adds tremendously to the costs, workload, and responsibilities of acquiring agencies requiring additional personnel. This situation causes further difficulty in developing the required environmental impact statements.

Real Property Acquisition and Relocation Assistance

in New York

Joseph A. Fogarty

Unlike most governmental agencies, New York State acquires property needed for public purposes through an administrative rather than a judicial process. This system allows state agencies to acquire needed lands smoothly and efficiently without lengthy court proceedings. Legal authority for this method of acquisition emanates from the recently enacted Eminent Domain Procedures Law (EDPL), which became effective July 1, 1978. This state law controls all eminent-domain proceedings within the state regardless of why the property is needed or whether the acquiring agency is public or quasi-public in nature. The EDPL controls the acquisition activities at all levels of government as well as public utility companies within the state. In order to provide maximum flexibility, the EDPL allows properties to be acquired by both appropriation and condemnation, but, as mentioned earlier, New York uses the appropriation process.

As one of the larger state acquisition agencies, the New York State Department of Transportation operates on full compliance with the EDPL but derives specific authority to acquire properties for new or reconstructed highways under Section 30 of the state's highway law. The department also works under other statutes in acquiring the lands that are needed for a wide range of transportation-related projects, but the aforementioned Section 30 is, by far, used most frequently.

Prior to any acquisition, an opportunity for a public hearing to review the proposed improvement and its impact on the environment must be provided before the project can be advanced. The EDPL provides specific instructions concerning advance notice of the hearing, how the hearing will be conducted, and in what manner the hearing results will be disseminated to the attendees. When the hearing process has been satisfied, the department's engineering section prepares detailed construction plans and individual appropriation maps for each property affected by the project. When these maps are received by the real estate division, each proposed taking is personally inspected and a preliminary determination is made of the taking's value, so that appropriate title data can be secured. For takings with an estimated value of more than $5000, a full title abstract is ordered, but a title certificate is sufficient for properties valued at less than $5000. The real estate division is also responsible for preparing individual appraisals for each taking. In partial takings, a full before-and-after appraisal must be made for all takings valued at $5000 or more, while an abbreviated short-form appraisal may be used if the estimated value is less than $5000. The division uses the latest techniques in assessing compensable damage that emanates from the acquisition. Appraised damages are finalized by including in the appraisal the value of all land that is directly acquired together with any diminution in value to the remaining lands. Benefits, if any, that flow to the remaining lands may be offset against damages to the remainder but may not be offset against the value of the land actually acquired.

Appropriation maps must be filed three times before title transfers to the acquiring agency.
1. The maps are filed in the main office of the acquiring agency or department. This allows the agency to initiate appraisals and title investigations.

2. The maps are filed in the office of the New York Department of State. This enables the agency to allocate funds for the taking and to extend an offer to the property owner. After the offer is made, it also allows the acquiring agency to enter the lands, if vacant, to advance the project's construction.

3. The maps are filed in the county clerk's office for the county in which the property is located, and, at this point, title transfers to the acquiring agency. As a prerequisite to the final filing, the property's title must be certified by the state's law department.

Once the full offer of appraised damages is extended, the property owner is given the option of either accepting the amount in full settlement of the claim or to accept the amount as an advance payment with the understanding that the property owner can file a claim for additional compensation through the state's Court of Claims within three years from the date of official notification of the property's acquisition. As an additional accommodation, property owners who seek no more than $5000 in total damages are allowed to personally initiate and pursue a claim through the Court of Claims without legal counsel. Finally, property owners are paid in accordance with the agreement that has been selected after closing requirements have been satisfied. Some 6 percent interest is included in all payments that have been delayed beyond the control of the property owner from the date of the acquisition through the date of payment.

Acquisitions that involve the displacement of residential or nonresidential property occupants require special attention, which is provided under the department's relocation assistance program. Since the early 1960s, an increasing array of relocation benefits has been developed to assist those who are displaced. An awareness of relocation needs is maintained throughout the planning process, and appropriate consideration is given to avoid causing displacements whenever possible. However, in those instances where relocations are deemed necessary, the department maintains a full line of services that are geared to ease the transition to a replacement site. This is accomplished by first identifying potential problems as soon as possible after the project is approved and to initiate steps to promote a smooth relocation. From an operational standpoint, this is accomplished while preparing the project's stage B relocation plan. This report, which must be completed and approved before acquisitions can be commenced, provides an excellent vehicle to identify potential relocation problems and to develop feasible solutions before the property acquisition is initiated. Often, it is prudent to schedule a particular property for early acquisition, thereby allowing the occupant additional time to review and explore various relocation options. In other instances, depending on the needs of the displacees, the assistance of other service-oriented agencies may have to be solicited. It is most important to stress that potential relocation problems should be recognized early and that a remedial plan be developed to minimize these problems.

As acquisition for the project gets under way, a public announcement defining the area and the relocation program should be made so that all prospective displacees are notified of the acquisition agency's plan. Further details of the program are then provided during the first official interview, which usually occurs when the offer of appraised compensation is extended—for tenants, this usually occurs during the first meeting after the owner receives the offer.

In New York, the initial or first official interview marks an important point in the relocation process as the occupant's eligibility is established on that date and applicable benefits are fully described. For residents, a predetermined supplemental allowance is also presented, and the occupants are informed about payment application requirements. In short, New York's relocation assistance program is fully consistent with the Uniform Relocation Assistance and Real Property Policies Act of 1970 with the sole exception of not having legal authority to provide last-resort housing. After numerous attempts to convince the state legislature that authority was needed to provide replacement housing when not readily available, the department is still conducting its relocation program without this provision. Through the years, this has caused problems from time to time, but, for the most part, the department has been able to clear needed right-of-way without undue delay.

Relocation benefits are also available for commercial occupants, and, while direct recognition of increased replacement property costs cannot be made under existing laws, a wide range of moving cost reimbursement is available. As part of the available moving expense options, displaced business operations may be entitled to a payment in lieu of moving costs if it establishes that the business cannot relocate without a substantial loss of patronage. Administratively, this is one of the most difficult payments to justify. Although certain occupants can easily be declared eligible, others are borderline. In these instances, the department traditionally approves the application for payment and rejects only those that can obviously continue to succeed in the replacement site.

Other relocation services for commercial occupants include direct referral to other federal and state agencies that specialize in commercial type problems (e.g., Small Business Administration and U.S. Department of Commerce). Through the collective efforts of these agencies we are able to provide counseling services, low-interest long-term loans, tax incentives, and various types of information to make relocation easier.

New York has maintained an enviable record in accomplishing its acquisition program and has demonstrated a progressive attitude in solving relocation problems.