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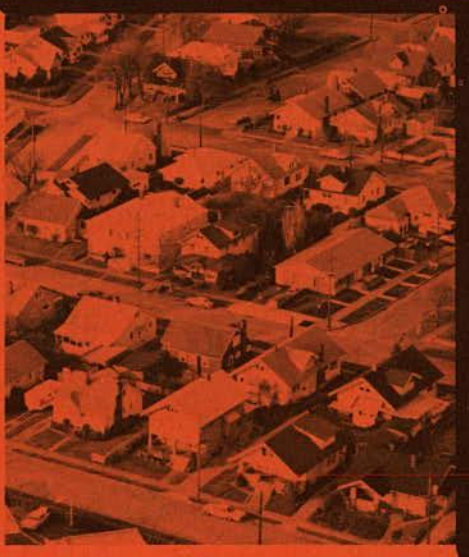

Relocation and Real Property Acquisition

TRANSPORTATION RESEARCH BOARD
NATIONAL RESEARCH COUNCIL

Special Report 192

Relocation and Real Property Acquisition

Proceedings of a conference
sponsored by the Federal Highway Administration
and conducted by the Transportation Research Board

Transportation Research Board
Commission on Sociotechnical Systems
National Research Council

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This report has been reviewed according to procedures approved by a Report Review Committee consisting of members of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine.

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Preface

In October 1969, the Transportation Research Board's (TRB's) Committee on Economic, Social, and Environmental Factors of Transportation conducted a conference on relocation. The work of this conference was made available to the U.S. Congress, which passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act in 1970. The purpose of this act was to provide fair and equitable treatment (including relocation assistance) to all individuals, families, and businesses displaced by federally funded projects. However, many concerns have been expressed since passage of this legislation about the differences in procedures and the manner in which the act is administered by the states and the various federal agencies.

In view of these concerns and because Congress was considering revisions to the 1970 legislation, a meeting was called in 1978 of representatives from a number of federal agencies and other professionals to see if a second conference on relocation would serve a useful purpose. Such a conference was approved.

The second conference on relocation and real property acquisition took place July 7-9, 1980, in Reston, Virginia. The meeting was conducted by TRB and sponsored by the Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT), in cooperation with the U.S. Department of Housing and Urban Development (HUD), U.S. Army Corps of Engineers, Advisory Commission on Intergovernmental Relations, American Association of State Highway and Transportation Officials, and International Right-of-Way Association. It had the following objectives:

1. To examine the experiences of federal, state, and local officials in implementing relocation and real property acquisition programs;
2. To identify problems that arose from carrying out such programs; and
3. To suggest approaches to solving these problems and to seek ways to improve the overall effectiveness of the relocation and real property acquisition program.

In attendance were some 98 representatives of federal, state, and local public agencies from all over the country, as well as consulting firms, academia, and private-interest citizen groups.

The conference consisted of a group of five workshops in which conferees examined the problems involved in relocation and real property acquisition. These workshops focused on (a) eligibility, (b) relocation payments and services, (c) relocation process, (d) property acquisition, and (e) adjacent-area impacts.

This report is based on summaries of the plenary and workshop sessions prepared by the individual workshop and plenary session chairmen and submitted after the conference to the Technical Review Panel for the Conference on Relocation and Real Property Acquisition. The report presented here reflects the consensus of the conference's participants on issues and problems examined during the three-day meeting. The conference summary and highlights section (Part 1) contains suggested actions that address these issues and problems. The report was reviewed and approved by the Technical Panel prior to its publication. Where appropriate, dissenting views on related issues and problems are stated.

This proceedings also includes the remarks of the conference's three keynote speakers, summaries of each workshop and plenary session discussion, and resource materials.

Part 1

Conference Highlights

Conference Summary and Highlights

Hays B. Gamble

The Second Conference on Relocation and Real Property Acquisition, held on July 7-9, 1980, in Reston, Virginia, focused attention on (a) experience with existing local, state, and federal relocation and acquisition programs; and (b) suggestions by conference participants for improvements to existing regulations and procedures.

In 1970, the U.S. Congress passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act (P.L. 91-646). Before this act became law, different federal agencies had different provisions for property acquisition and relocation; some agencies offered no relocation assistance. Thus, different persons displaced by federal actions or state and local projects receiving federal aid received unequal treatment, depending on which program displaced them. The purpose of the 1970 act was to transform this situation into something more rational and more equitable for the people affected, and easier to administer.

In one of the keynote papers at this conference, Jon Burkhardt summarizes his study on some of the effects that the 1970 act has had on the relocation process. Burkhardt's most significant findings included the following:

1. Relocatees fare better than they had expected (only 26 percent thought they lost money during the process);
2. About two-thirds of the relocatees are generally satisfied with their relocation experience after it is over; and
3. Current compensation practices do not discriminate against any particular group, but elderly relocatees suffer more than most because many factors in their situations are not compensable.

Thus, although it appears that the 1970 act has resulted in substantial progress and improvement, problems remain. Some of the obstacles to uniformity that remain include

1. Interpretations of the 1970 act vary because regulations were left up to the individual agency;
2. Some supplemental federal laws affect individual programs differently than under the Uniform Act;
3. State laws differ (e.g., New York precludes last-resort housing);
4. Field interpretations of whatever regulations apply are not consistent;
5. Some federally funded programs are not subject to the existing law;
6. All displacements resulting from federal programs are not covered;
7. Donated lands are accepted by some federal agencies prior to appraisal, which is illegal;
8. Administrative appeals remain difficult in some agencies, despite interagency guidelines to alleviate this;
9. Treatment of business relocation varies widely among agencies;
10. Some agencies do not cooperate in jointly funded projects;
11. Terms in the 1970 act should be clarified--for example, (a) a clear statement defining persons indirectly affected is needed, (b) what is meant by all possible measures to minimize disruption must be clearly stated, and (c) what constitutes improvements to land (must be included with acquisition of land) should be spelled out; and
12. Court decisions, in which remedies to some of the above problems are sought, are currently made on an ad hoc basis.

To rectify shortcomings of the existing act and to remove some of the remaining barriers to uniformity, Congress is giving serious consideration to amendments to the 1970 legislation. One of the principal bills proposed is Senate bill S.1108 for which hearings have been held. Some of the main features of this proposed legislation are noted here.

1. Designate a single agency to promulgate uniform relocation procedures.
2. Expand the scope of coverage benefits to all federally assisted developments.
3. Increase the maximum benefits available from $15 000 to $25 000 for replacement housing and from $4000 to $8000 for renters.
4. Provide relocation benefits for business.
5. Permit landowners to request a second appraisal.

From the Senate hearings held for this bill, several important controversies have emerged. These center on (a) the blanket extension of benefits to persons indirectly displaced; (b) ways in which state and local officers can substitute periodic rent payments for lump sum relocation payments; and (c) the likelihood of establishing a new federal bureaucracy that would have central authority over relocation and land acquisition.

The main attention of the conference centered on ways to improve uniformity and meet the shortcomings of current and proposed legislation. Conferees participated in five workshops that addressed a variety of relevant topics. The principal suggestions that emerged from the workshops, discussed next, can be grouped into six main topical areas. These are more uniformity, expanded eligibility, adequate payments, improved treatment of businesses, improved relocation assistance services, and project planning processes. Those suggestions that did not appear to have a clear consensus among the participants are so indicated.

MORE UNIFORMITY

1. A majority of the participants felt there was a real need for more uniformity in benefits and procedures. Many suggested a single agency to enforce a standard set of federal regulations. However, there was strong concern expressed over the possibility of creating a new bureaucracy that might

interfere with effective administration by individual program agencies.

2. The various state statutes should be clarified concerning the acquisition of uneconomic remainders.

3. Project boundaries should be defined to include all areas severely impacted.

4. Greater coordination among agencies, interested groups, and citizens should be encouraged before project adoptions.

EXPANDED ELIGIBILITY

1. Eligibility for benefits should include involuntary displacements whenever any federal funds are involved, such as loans and grants.

2. Eligibility should commence when negotiations for property begin.

3. Displacees should be those involuntarily displaced as a result of programs, but flexibility should be maintained to work out individual solutions for nearby properties.

4. Indirect displacements (in the vicinity of federally funded projects) should not be covered except as "consequential damages."

ADEQUATE PAYMENTS

1. Payments to residents and businesses should be increased; the majority felt payment limitations should be eliminated. The fixed payment for moving expenses should be increased from $300 to $600, and the dislocation allowance should be increased from $200 to $400.

2. Payments should be made more promptly.

3. Rent supplements should be paid over a longer time period.

4. Interest payments should be increased, primarily an up-front payment to reduce the amount of a new mortgage principal required, so that new monthly mortgage payments are similar to old ones.

5. A larger, longer, or more flexible subsidy is needed to correct inadequacies in rental assistance.

6. Interim financing for homeowners prior to receiving their replacement payments would be desirable.

7. Adequate compensation should be given to tenants for improvements to structures and land made by them.

8. The conferees agreed that the $2000 down payment to enable a tenant to become an owner should be eliminated.

9. The conferees did not agree with the suggestion that a landowner be permitted to obtain a "second" appraisal if he or she disagrees with the condemnor's original appraisal (which usually includes more than just an appraisal).

10. The conferees did agree that a landowner should be shown only a summary of the appraisal of his or her property, and not the whole appraisal.

11. The conferees did not concur with the idea that relocation payments be increased (a) to cover higher property taxes, or (b) to reflect increases in the consumer price index.

IMPROVED TREATMENT OF BUSINESS

1. Conferees agreed that relocation assistance for businesses could be much improved by greater availability of low-interest loans and specialists trained in business relocation.

2. The conferees also felt that businesses could not be made whole because costs could be exhorbitant, but some additional help should be provided, such as increasing the "in lieu" payment for displaced businesses that do not continue in business at a new location, or early acquisition of the entire business as a going concern in hardship cases.

3. Business relocation should be timed so as to approximately coincide with the relocation of the patrons.

4. It would be helpful to businesses to provide a replacement facility before requiring the business to move.

IMPROVED RELOCATION ASSISTANCE SERVICES

1. The conferees generally agreed that the whole relocation and acquisition process could be improved if better relocation assistance were provided to homeowners, tenants, and businesses. Relocation assistance should be limited to those persons who have property taken.

2. The quality of relocation services needs to be improved. Some ways suggested were (a) prepare better training and guidance manuals for agency personnel, (b) define and limit the scope of relocation services, (c) more closely monitor and evaluate such services, (d) develop a set of professional standards for agents, and (e) improve reference sources.

PROJECT PLANNING PROCESSES

1. The relocation of elderly people should be avoided wherever possible.

2. More innovative ways should be found to provide "last-resort" housing.

3. "Housing of last resort" needs clarification by Congress to avoid thrusting nonhousing agencies into a housing management role.

4. There is a need to better define what is meant by "a project."

5. One-for-one housing is needed, particularly for low-income people.

6. More improvements (e.g., shrubs) should be permitted to be moved.

7. Minimum displacement should be viewed as a goal, just as avoidance of harmful environmental, social, ecological, and energy effects are sought. The analysis of relocation problems in an environmental impact statement needs to be upgraded.

8. The conferees did not support the "good faith" requirement as proposed in S. 1108, which calls for replacing residency requirements of 90 days for tenants and 180 days for homeowners.

9. It was suggested that, if the offer to take was made at the same time as the offer for relocation assistance, total compensation can be made "just."

10. Services removed from low-income neighborhoods should be replaced.

11. People expected to be impacted by a project should be notified early in the process, while alternatives are still being considered.

12. It is important to communicate with adjacent property owners early in the planning process.

Conference participants agreed that there is a need for legislative action, that regulations need to be revised, and that better performance in the field is required. It is hoped that the work of this conference, as reported in these proceedings, will assist the responsible agencies and groups in determining or planning future action related to relocation and real property acquisition.

Part 2

Keynote Addresses

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

individual suffered as a result of government actions?) (b) What is just compensation? and (c) Is compensation possible (if not, can the taking be justified)? In these questions and in the rather considerable body of literature surrounding them, several concepts reappear again and again, including

1. property,
2. taking,
3. "just" compensation,
4. equity and fairness,
5. societal risk,
6. causality, and
7. distribution of effects.

This list obviously could be much longer. If agreement on these concepts were obtained, much of the discussions we are about to embark on would be unnecessary.

Perhaps the basic assessment of the problem we face was best addressed by Michelman (1):

> When a social decision to redirect economic resources entails painfully obvious opportunity costs, how shall these costs ultimately be distributed among all the members of society? Shall they be permitted to remain where they fall initially, or shall the government be paying compensation, make explicit attempts to [re]distribute them...?

Michelman began to answer some of these questions by noting that

> ...fairness...demands...assurance that society will not act deliberately so as to inflict painful burdens on some of its members unless such action is "unavoidable" in the interest of long-run, general well-being. Society violates that assurance if it pursues a doubtfully efficient course and, at the same time, refuses compensation for resulting painful losses.

Still the most readable and complete summary of the requirements for compensation is that set forth by Downs (2). He proposes seven "tests for compensability of losses," noting that "if losses do not pass these tests, I believe they are either not deserving of compensation, or else no practical means of providing it can be arrived at."

The seven tests are

1. Attributability--the loss concerned is in fact caused by the public project or the relocation generated by it, rather than by other economic or social forces;
2. Significance--the loss is relatively large both absolutely or in relation to the economic capabilities of those persons who suffer it;
3. Noninherent riskiness--the loss cannot be considered an inescapable risk of property ownership, or an inevitable price of progress in a dynamic society;
4. Identifiability--the individuals or class of people who suffer the loss can be personally identified;
5. Measurability--the magnitude of the loss can be measured or estimated with reasonable accuracy, at least sufficient to design roughly offsetting beneficial actions;
6. Deliverability--compensation made for the loss by public authorities can be accurately directed at those who suffered that loss, whether they are individuals or an entire class of persons, and will not be received by others who did not suffer any such loss; and
7. Net negative impact--the loss is not likely to be offset by benefits resulting from the public improvement and likely to be distributed in the same way as the loss itself.

These tests should be kept firmly in mind as a guide to the deliberations on possible changes in relocation practices. One additional test could also be added to this list--i.e., significance to the relocatee--and the significance of this additional test can be illustrated by the following material.

EFFECTS OF RESIDENTIAL DISPLACEMENT

The primary objective of the study (3) was to improve the highway planning process; first, by increasing the planner's ability to forecast the dislocation consequences of particular location and design decisions, and, second, by suggesting techniques for more adequately compensating the persons adversely affected by right-of-way acquisition.

The study found that specific dislocation consequences of alternative route and design proposals cannot be accurately predicted by using data concerning the characteristics of the displaced households, the communities, or the projects. Compensation practices and relocation procedures have more of an effect on the nature and extent of changes incurred by relocatees than do demographic or geographic characteristics. The conclusion from this particular finding is that current compensation practices do not discriminate for or against any particular population subgroup. However, the elderly are more likely to be worse off after the move than others--not because of compensation practices but because of factors that are essentially noncompensable. Therefore, planning procedures to avoid disrupting large concentrations of the elderly are required.

The relocation process appears to work well for about two-thirds of those forced to move. Almost one-half of those relocated feel the relocation process is as good as possible. The actions of the relocation agency personnel significantly influence the average satisfaction level upward or downward. The elderly and higher-income households feel that relocation worsened their overall condition more often than do other persons. Thus, although the relocation process works well for many persons, certain improvements are still required.

Overall Research Approach

The overall approach centered on interviews with persons who had actually been through the relocation process--both before and after relocation--to collect information on changes in their status and to see which changes could be attributed to the relocation process itself. The sample of persons interviewed was large enough to be statistically representative of persons being relocated at sites that, in turn, generally represented the relocation experiences of the country as a whole. Because particular sites tend to have unique characteristics (some of which are created by state policies and procedures), information was also collected about each site and its relocation process.

Six sites were studied intensively for more than two years. Data were gathered from household surveys and secondary sources. Only the dislocatees were re-interviewed due to constraints on the study's budget. The sites included several different neighborhood types and socioeconomic groups.

The first survey was conducted in both the area contained in the proposed right-of-way and in the land adjacent to the right-of-way. The second

survey traced the individuals and families who were relocated and re-interviewed them to assess the consequences of their relocation and their attitudes toward the relocation process and agency. Many of the household socioeconomic data collected in the second survey were identical to those collected in the first survey and included income, tenancy, housing characteristics, family composition, employment, and family shopping, business, and social activities. Additional data were collected concerning the contacts and relations with the relocation agency, attitudes toward the mechanics of the relocation process and the relocation agency, problems and issues encountered in the relocation process, attitudes and reactions to the quality and sufficiency of the compensation received, and the families' long-run condition and prospects of their new location.

Timing of Interviews

The two surveys were conducted at the six sites approximately 18 to 24 months apart. The initial survey was conducted after specific locations had been determined and the right-of-way requirements had been detailed. Relocation was scheduled to take place no later than six to eight months after the first survey to give relocatees four to six months' time to become oriented to their new location before the re-interview survey. In fact, the second wave was conducted much later than initially planned because relocation did not take place on schedule at several sites.

Interviews Obtained

Some 390 valid questionnaires were obtained from households to be relocated before their dislocation; 190 of the same households were re-interviewed after they had established themselves at new locations (because households were not relocated as quickly as expected). Only 54 percent of the original sample was available for interviewing, and 49 percent furnished valid interviews (a completion rate of 90 percent of available respondents). Also, 159 residents of the remaining neighborhood were interviewed at the same time as those households about to be dislocated.

Findings: Experiences of Relocated Households

Most of those persons who were displaced and relocated had never experienced such a situation before and did not know what to expect. Afterward, many persons had positive feelings about the relocation process. This section discusses their experiences in terms of specific dislocation effects, the relocatees' view of the compensation and assistance they received, and their personal evaluations of the relocation process.

Dislocation Effects

Economic Effects

The study considered specific components of location transfer costs, among them search costs, moving costs, and compensation constraints, and found that, as expected, these costs were much less significant in the eyes of the relocatees than other monetary issues (3). None of the households contacted after the move felt that search costs were a burden to them (although most would not have incurred such costs on their own volition) and only 1 percent of the sample reported that the current moving allowances were inadequate for them.

Two significant compensation constraints now operate in the relocation process. First, 16 percent felt that the time available was not adequate. One-quarter of this group felt they would move again within the next two years. The second problem was the slowness in payments due to the relocatees. This created temporary hardships for 6 percent of the sample.

There was no evidence of a substantial change in transportation costs for the households in our sample after they had been relocated. This was not surprising since the average households relocated moved only 5 km (3 miles) on the average from their previous locations. Distances traveled generally decreased even though people traveled more often outside the neighborhood than before. Work trips are typical of post-relocation transportation patterns: Fewer of both the longest and shortest work trips occurred after the move. Frequencies and costs were the same before and after.

Overall Household Effects

A dilemma of relocation that has remained unsolved for some time is as follows: If (as experience shows) a household is in a better house after relocation but is paying a greater proportion of the household's income for housing than before the move, is that household better off or worse off (4,5)?

The relocatees were asked, "Considering all the things about your new home--how much it costs, how big it is, the neighborhood, and everything--would you say that you are better off, the same, or worse off than you were in your old home?" Some 60 percent of the respondents were more pleased with their new homes than the old, while the reverse was true for 27 percent. The results varied considerably from city to city. Improvements in housing welfare were significantly correlated with perceptions of the new neighborhood as better than the old, the sufficiency of relocation information, the positive effect of the total compensation package, and the positive long-run effects of the move. Improvements in housing welfare were not significantly correlated with basic demographic variables, including age, income, sex, education, or rate. Location (the specific city) was also a significant variable.

For homeowners, it was possible to establish a statistically significant relation explaining half of the variance in housing welfare by using age, income, satisfaction with the house itself, and the assessment of relocation assistance and adequacy of information. Age and income were negatively related to increases in housing welfare, which is to say that older persons tended to fare worse in relocation, as did those with higher incomes.

Some 70 percent of the respondents felt they would be better off in the long run, 20 percent thought they would be worse off, and 10 percent did not know. Age, race, income, satisfaction with the new home, sufficient assistance from the relocation department, and clear information from the relocation department were significant variables in explaining long-run expectations.

Social Effects

Social impacts are impacts on people. The basic unit of measurement is the number of people affected. Most social impacts focus on how people interact with others and how the interaction patterns change over time (6-12).

We found that, of the six components of the Neighborhood Social Interaction Index (13), five of them decreased. Only the commitment to staying in

their new neighborhood was not different than their commitment to stay in the old one. Neighboring, use of local facilities, participation in neighborhood activities, identification with the neighborhood, and the evaluation of the neighborhood as a place for persons like themselves to live all declined after relocation.

After relocation, the percentage of persons with all or most of their friends in the neighborhood declined dramatically, while the percentage of persons with none of their friends in the neighborhood increased substantially. Before they moved, more than half of the relocatees felt that the changes to their old neighborhood were for the worse, while one-quarter said there was no significant change. After relocation, one-half of the respondents felt that the highway-related changes had a negative effect on the neighborhood. Persons who felt that the neighborhood had deteriorated tended to feel that way strongly.

Changes in Psychological Well-Being

The framework for representing the level of psychological well-being of an individual consisted of two dependent variables (life satisfaction and happiness-unhappiness) and also included four factors (independent variables) that could be expected to influence the level of psychological well-being following relocation: three sets of individual characteristics (socioeconomic, psychological, and stress) and the relocation project characteristics. [The reader is referred to the full report (3) for further details.]

The measure of life satisfaction showed a very slight (2 percent) increase, while the measure of happiness showed a 10 percent decline for those relocated. These changes were difficult to explain or predict, but certain socioeconomic characteristics and relocation project constraints had more influence than other factors; especially, level of income, source of income, education, age, the adequacy of payments received, size of the new dwelling and whether or not it was owned or rented, the desirable features of the new neighborhood, and differences in project sites. To avoid negative psychological effects, the relocation agency should maximize the significant relocation process factors shown to be significant--payments for the previous dwelling, the quality of the post-relocation neighborhood, and the amount of information available to relocatees. The number of elderly persons being relocated should be minimized.

Compensation and Assistance

The relocatees reported generally favorable reactions to the compensation and assistance received, just as they had concerning the dislocation effects. Within this generally positive response there were, however, some substantial site-to-site variations.

Prices Paid for Dwellings Taken

The expectations of homeowners did not often match the actual payments for dwellings owned by the respondents. Expectations most often matched the payments in two sites were 60 percent received what they expected. In one site, three-quarters of the owners got less money than they expected for their home.

Effect of Compensation on Housing

When asked, "Did the payments you received for moving and everything else make your new housing situation better, worse, or the same as your old housing situation?", 58 percent said it was better, 19 percent said it was the same, and 22 percent reported a worse situation. There were substantial city-to-city variations.

Total Compensation

When asked how they felt about the total amount of compensation received, the responses varied widely from site to site. Overall, 35 percent said they "came out as good as possible," 39 percent "came out even," and 26 percent "lost money."

Overall Attitudes Toward Compensation and Assistance

The following factors stand out as key variables in the responses to various questions about compensation:

1. satisfaction with the new dwelling,
2. adequacy of assistance and information,
3. clarity of information,
4. attitudes of highway personnel,
5. price paid for the former dwelling,
6. total funds received, and
7. future expectations.

These factors indicate the interrelation of the so-called subjective aspects of relocation with attitudes toward the so-called objective factors--that is, money. The general lack of demographic variables in the correlations and regressions indicates that compensation is being equally distributed among all types of people. To the extent that they are required, compensation changes should focus on practices and prices.

Personal Evaluations of Relocation Process

Many of those displaced found themselves better off as a result of the move. In fact, the relocation process seems to have worked well for almost two-thirds of those interviewed both before and after relocation. However, some people complained bitterly about changes in their lives that they attributed to their uprooting. The responses indicate that, while the 1970 Uniform Relocation Act made many significant improvements to relocation practices, room for improvement still exists in both the letter of the law and its application.

The intercorrelations of the relocation process variables were examined, and it was found that if a person had received enough money for relocating and had moved to a better neighborhood, then everything else seemed to be positive. The overall adequacy of compensation received and the adequacy of information and assistance were often associated with the values of other process variables. Once again, it is remarkable that demographic characteristics were not significantly correlated with relocation process assessments, as was also true for assessments of compensation. The long-run expectations were dependent on a greater variety of factors than were other expectations. "Bad events" and attitudes of the relocation personnel also had high correlations with a number of factors.

Several lessons are apparent here. The first is the interrelated nature of many of the relocation process variables. The second is the significance of monetary payments in shaping attitudes about the relocation process. The third is the importance of post-relocation satisfaction with the new house and neighborhood. If outcomes pertaining to these factors can be successfully managed, relocation can work well for most people.

The long-run effects of the relocation process appear to be somewhat predictable given commonly available data. The particular results should not be surprising to anyone familiar with relocation problems. Relocation is a burden for the elderly (6,14). Many of them have strong attachments to their homes and neighborhoods that are difficult, if not impossible, to re-establish in other locations. Similarly, the more affluent have established individualistic patterns of satisfaction that are hard to recreate elsewhere. The tightness of the housing market is probably an excellent proxy for the probability that a given household will be pleased with its new dwelling following relocation. Finally, given current patterns of residential distribution of nonwhite subgroups of the population, it is possible that a well-managed relocation program can significantly upgrade the housing and general welfare of nonwhite families.

Overall Assessment of Dislocation Consequences and Their Compensation

We conclude from this study that the policies implementing the Uniform Relocation Act of 1970 represent a very significant advance over previous relocation policies. The economic consequences of dislocation are now basically covered by existing compensation techniques, but social and psychological consequences remain, for the most part, not compensated at all. Despite this disparity, the few currently uncompensated or undercompensated economic effects cause more concern to the relocatees than do the generally uncompensated social and psychological effects. This is a clear indication that immediate policy improvements should focus on economic issues. Certain modification, or "fine tuning," of the current law and procedures could raise the present assessment of generally good treatment and compensa- tion for displaced households to generally excellent treatment and compensation.

A great deal has been written about the suffering of disadvantaged persons faced with relocation, whether by urban renewal or highway projects (4,15,16). The results of this study do not support such contentions. It was found that the overall housing status of nonwhites improved more than that of whites and that nonwhites were more satisfied than whites with the overall changes (including the cost of housing). In addition, it was found that persons dissatisfied with relocation tended to be of higher rather than lower incomes.

Recommendations

From our analysis of the experiences of the relocatees, we recommend that certain changes be made to relocation policies and practices. These changes have been divided into three categories: compensation, relocation practices, and the highway planning process.

Compensation Changes

Prices Paid for Dwelling Units

No factor caused as much upset and anger as the price paid to homeowners for their former dwelling. The heart of the matter is the so-called "additive payment," and the problems include confusion and apparent inequities. Homeowners who were interviewed often felt that the fair market value offered for their home was too low, not realizing that their concern should have been the total compensation package. This is reported to be less of a concern today than when our study was undertaken.

The second issue is one of equity. Some persons apparently received more of an additive payment if they moved into a larger home after displacement (and some persons moving to apartments from homes reportedly received no additive at all). Such practices were a source of extremely bitter complaints. Persons in essentially similar situations before displacement should receive approximately equal payments. The concept of having to spend money for it to be reimbursed should be re-evaluated.

Cash Flow

The relocation payments are too slow. This results in a substantial inequity for persons of limited financial means or others who are "cash poor" when it comes to matters such as down payments or closing costs on a new home. Procedures should be changed so that either (a) the money is available more quickly, or (b) the highway department will guarantee and pay the interest charges on short-term loans that can be used to expedite the purchase and occupancy of the new dwelling.

Ancillary Property Improvements

Some persons may have invested considerable money, labor, and time in ancillary improvements to their property such as gardens, special trees and shrubs, and other unique features. These improvements should either be compensated at their replacement cost or the relocatee should be permitted to move as many of them as possible at government expense.

Income-Producing Property

The separation in the law between residential and business relocation neglects the actual comingling of these activities in many instances. For example, persons who rent a portion of their home to another household are likely to be worse off after dislocation under current compensation practices. This income-producing aspect of a basically residential unit may be of critical importance to a household in terms of cash flow. To the extent possible, such persons must be relocated in a comparable structure (returned to their former position) for them to have been treated equitably.

Cash Needs

Our survey showed that the $300 moving allowance (or other scheduled allowance) was considered sufficient by all but 1 percent of those interviewed. However, the relocatees felt that not enough of the cost of re-establishing a residence was covered. Increasing the dislocation allowance to more than the currently available $200 should be considered. (These comments, accurate at the time of the surveys, now have to be revised due to the serious inflation experienced in the last few years.)

Rent Supplements

The four-year limitations on rent supplements is insufficient for a small but significant number of households. Extensions of the time and dollar limits are warranted, but there does not appear to be a clear means of determining how long and how much would be equitable.

Relocation Practices

Attitudes and Assistance

The attitudes and assistance of the relocation per-

sonnel were crucial--and nearly as significant as monetary payments--in determining a relocatee's attitude toward the process. Most relocatees reported excellent dealings with highway personnel, but some relocatees reported encounters with rude, belligerent, or arrogant relocation agents. Granting that some of these actions were probably provoked by hostile or frightened relocatees, additional care, training, and professionalism on the part of the relocation agents will substantially reduce the number of such complaints.

Re-Renting Acquired Property

Early acquisition programs have substantially increased the number of occupied housing units owned by highway departments. This is looked on with extreme disfavor by those who remain in such dwellings after they no longer own them. Re-renting acquired property, with rents established on current fair market values, often results in the practice of charging the former owners more per month than they had paid as owners. Those who suffer this practice view it as extremely unjust.

The practice is especially burdensome for elderly persons and others who have already paid off a mortgage because it creates a substantial (and noncompensable) financial hardship. Acquisition of the property should not occur until the owner-occupants can be relocated and can receive full compensation.

Highway Planning Process

Consideration of Displacement Effects

The consideration of displacement effects can be brought into the highway planning process by avoiding areas of potentially serious uncompensated impacts, such as neighborhoods with a high proportion of elderly people. These and other social impact calculations should be brought to bear on decisions concerning route location by mapping demographic characteristics of subareas (census tracts, enumeration districts, or blocks) in relation to proposed route locations. We proposed that highways not be built through areas where more than a certain proportion of the population is elderly. The effect of this suggestion would be to narrow the possible routes for highway locations at the corridor planning level.

Involvement of Local Citizens

A great discomfort to many persons to be dislocated and to remain in areas near the highway was that they simply did not know what was going on or what to expect. Psychological research has shown that persons can more readily accept adverse decisions if they have been a party to the decision-making process. Highway agencies should publicize their plans as much as possible and should establish hotlines for persons with questions about the relocation process.

CONCLUSION

Clearly, the passage and implementation of the Uniform Relocation Act of 1970 provided substantial benefits. The situation has changed markedly from that time about which Downs (2) wrote:

> It is clear that present compensation practices related to residential households displaced by highways and urban renewal are grossly unfair. Those practices in effect shift a substantial part of the true costs of acquiring property for these improvements onto the residential households they displace and others nearby.... This injustice results in forcing relatively low-income families and individuals to bear heavy financial burdens which really ought to be paid by society as a whole....

At the same time, it appears that certain questions that were relevant then will remain as key issues, even though our responses to them may change over time. These issues need to be constantly re-evaluated.

Lacking obviously correct or exclusive answers to these issues, either from legal, moral, or other grounds, the expressions of satisfactory and unsatisfactory components of the relocation process of those who have endured it are probably the best guide available. What relocatees express is that a few economic issues remain unresolved and that these are more significant to them than the largely uncompensated social and psychological effects of residential relocation.

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Problems in Implementation of the Uniform Relocation Act

Robert Hadley

Progress can be viewed as change for the better. Sometimes, however, progress means that certain people must move from their homes or businesses to make way for a federal or federally-assisted project. Although such projects benefit the general public, hardships may be suffered by the people required to move. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 provides assistance for these people in relocating to another home or business site. The relocation act is intended to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by federal or federally-assisted programs. Its purpose is to prevent individuals from suffering disproportionate injuries as a result of programs designed to benefit the general public.

Prior to passage of the Relocation Act of 1970, nearly all federally-assisted programs had differing and conflicting provisions for relocating people who were displaced. The program ranged from providing no assistance at all in some cases to providing liberal benefits and protection in others. In one neighborhood, for example, people on one side of the street received special relocation assistance and fairly negotiated prices for their property, while on the other side people were evicted with no assistance or compensation and were offered prices below the appraised value of their property. In another section of the neighborhood, small businesses received little or no relocation or economic adjustment assistance.

These inequities created irritation and confusion in the affected communities. Continuing and annoying conflicts arose between federal agencies and state and local grantees, damaging the image of the federal government at the state and local levels. Provisions to standardize relocation assistance in all federal programs were originally contained in the proposed Intergovernmental Cooperation Act of 1968. Although these provisions were removed from the act prior to passage, they formed the basis of the relocation act.

Implementation of the relocation act has improved the delivery of assistance to displaced persons and businesses. However, the congressional goals of uniform and equitable treatment for all displaced persons and businesses have not been completely achieved. Work by GAO, the Executive Branch, and several nonprofit groups has disclosed a series of obstacles to more effective implementation of the act. These obstacles originate primarily in court decisions and differences of opinion among federal agencies. Several bills have been introduced in Congress to remove these obstacles.

This paper is drawn primarily from the report GAO issued in March 1978, entitled Changes Needed in the Relocation Act to Achieve More Uniform Treatment of Persons Displaced by Federal Programs, and GAO testimony on S. 1108. The paper specifically comments on proposals of S. 1108: (a) to establish a central authority to create a set of uniform regulations from the agencies to implement, (b) to clarify the coverage of the act, and (c) to adjust payment schedules to 1979 levels. The GAO report concluded that the federal government has not completely met its goal of providing uniform treatment to people displaced from their homes and businesses. The report concluded that the root cause of this situation is the president's lack of authority to promulgate uniform rules and regulations to replace the multiple sets of regulations that now exist. It also reported that some people displaced by federally-assisted projects were not covered by the act. Our recent informal contracts with federal agencies indicate that the conditions described in the report remain essentially unchanged.

S. 1108 does three important things:

1. It gives the president authority to designate one agency to establish a single uniform set of regulations and procedures applicable to all relocation activity supported by federal funds;
2. It gives the designated agency the authority to assure the uniform application and interpretation of the regulations; and
3. It attempts to clarify the coverage of the existing act.

GAO strongly endorsed the amendments to Section 213, which are designed to improve the administration of the act. GAO believes that these amendments, if adopted, would go far toward more completely achieving the basic purpose of the act--a uniform, fair, and equitable treatment of people uprooted as a result of federal or federally-assisted programs.

Relocation assistance is an extremely complex and technical subject. The courts and the Executive Branch have wrestled with many difficult problems of interpreting and applying the act--very often reaching different conclusions. This conference will be hearing more about many of these problems later from the agencies who are confronted with them each day and from the displaced people affected by the decisions. S. 1108 addresses a number of these problems, some of which will be briefly discussed here.

SINGLE SET OF REGULATIONS

The Congress considered and rejected the idea of giving the president authority to make rules and regulations to carry out the act's provisions when it passed the legislation. The administration sought this authority, arguing that vesting regulation authority in the head of each federal agency would likely result in different and inconsistent administration. The act allowed federal agencies to write their own regulations in order to prevent unnecessary interference with agency programs. The Congress anticipated that the agency consultation process required by the act would assure uniform policies.

The requirement for agency heads to consult on the establishment of uniform regulations has not overcome the desire of individual agencies to go their own way. Because of this individualism, the federal government has not provided uniform and equitable treatment of persons displaced from their homes, their businesses, or their farms, when they are required to move for the common good.

During the review, GAO examined the relocation regulations of 13 federal agencies. An analysis revealed a confusing array of different formats, wordings, and degrees of detail. Because of these differences, which were often very subtle, relocated persons and businesses received different payments. Some of the major differences in agency regulations and practices include, for example, HUD regulations that allow professional service costs incurred by businesses in securing a replacement site. FHWA regulations, however, did not discuss whether or not such costs were allowed. The following case illustrates the differences that can result.

A Baltimore business relocated by a HUD project used professional services for (a) preparing, reviewing, and executing a contract of sale; (b) complying with Occupational Safety and Health Administration requirements; and (c) reviewing insurance coverage for the new site. The services cost about $5500, and the business applied to HUD for reimbursement.

HUD agreed to pay for most of the costs because it believed the services were necessary to re-establish the business at the replacement site. According to an FHWA relocation official, the cost of these services would not have been approved on an FHWA project.

The various federal agency regulations, in addition to causing inconsistent payments to relocated persons, also cause administrative difficulties for local relocation agencies that work with more than one federal agency. For example, a Federal Regional Council chairman cited reports that some local acquiring agencies work with as many as five different sets of federal regulations.

The proposed amendment giving the president authority to establish a uniform set of regulations and procedures should significantly improve the chances of uniform treatment and ease administrative burdens at the local level.

ADMINISTRATION OF THE ACT

Adopting one set of regulations will not be enough. The administration of the act needs to be centralized and improved.

When the act was passed, Congress anticipated that the Executive Office of the President would participate in discussions with federal agencies and would review agency regulations and procedures before they were issued. The president directed the Office of Management and Budget (OMB) to establish and chair an interagency committee--known as the Relocation Assistance Implementation Committee--to (a) provide guidelines for the agencies to use when developing their regulations and (b) continually review agencies' relocation program and recommend improvements and necessary legislation. In 1973, the president transferred OMB's responsibilities to the General Services Administration (GSA). OMB was to maintain broad policy oversight and to offer assistance in resolving major policy issues.

This approach worked only when there was unanimous agreement. The committee was a good forum for agency officials to exchange information and provide assistance to each other. On the whole, however, the committee has proven an inappropriate vehicle for resolving agency differences and obtaining interagency coordination of relocation activities. Because the committee is composed of peers, agreements among agencies have to be unanimous, and no one organization is empowered to ensure consistent and uniform implementation of the act.

GSA and OMB have not pushed the federal agencies to identify and resolve differences. The GAO report pointed out that the committee and its working group have met only sporadically. Under GSA's leadership, the committee met only once (in August 1973), and the working group last met on a regular basis in October 1975. Since the issuance of the GAO report the committee and its working group have not met.

As a result of the lack of effective process for resolving agency differences, obtaining coordination, and exercising oversight, problems were not being effectively addressed and resolved. For example, differences in regulations and practices identified by the Federal Regional Councils remain unresolved; agreements reached and incorporated into agency regulations still contained differences that could result in different payments; and new federal programs and court decisions were not studied to determine their effect on the act's administration.

In addition to recommending legislative action to authorize a single set of regulations, GAO suggested that the act be amended to require the president to designate a central organization to direct and oversee relocation activities governmentwide. Although not in agreement on which agency should have responsibility, both OMB and GSA supported the recommendations as being needed to more completely achieve the objectives of the act.

S. 1108 addresses this problem by directing that the agency designated by the president to establish a uniform set of regulations also take appropriate action to assure uniform application and interpretation of the regulations. GAO testimony suggested that Section 213 be expanded to provide the designated agency with authority to waive the regulations. This would provide for unforseen situations where application of the uniform regulations might produce inappropriate results.

CLARIFYING INTENT OF CONGRESS

GAO testimony also recommends amendments clarifying the intent of Congress on payments of benefits to persons displaced as a result of government subsidized ventures, regardless of whether they are privately sponsored. The report cited several issues in this area for consideration by Congress.

The amendments proposed by S. 1108 address most of these issues. GAO reviewed the amendments and had some observations for the consideration of Congress.

RELOCATION BENEFITS

The act originally provided relocation benefits to

persons displaced by projects that did not involve acquisition of real property, such as code enforcement, rehabilitation, and demolition, funded under the Housing Act of 1949 or the Demonstration Cities and Metropolitan Development Act of 1966. These two acts were superceded by the Housing and Community Development Act of 1974, but the relocation act was not amended. As a result, persons displaced by similar projects funded under the 1974 act are not eligible for relocation benefits.

The proposed amendments to Section 217 remove the reference to superceded legislation and are intended to extend relocation benefits to displacements resulting from activities under the Housing and Community Development Act of 1974 and any other similar legislation. The proposed amendments, however, drop the reference to direct cause and effect between a displacement and a federal project. They also remove the reference to specific types of activities that do not require acquisition of real property in order for displacement to occur. GAO believes the proposed amendments are vague and could expand coverage beyond the purpose intended.

DISPLACEMENT BY NONSTATE AGENCIES

The GAO report pointed out that the relocation act is applied only to displacement caused by federal agencies or by a state and its political subdivisions operating federally-assisted programs. Even though federally-assisted programs are involved, persons displaced by entities other than a state or its political subdivisions, such as nonprofit organizations, are not entitled to relocation benefits.

The amendments to Sections 101.3 and 101.6 seek to provide benefit to those individuals who are forced to move by a private individual or entity carrying out a federally-assisted program or project. The amendments would extend benefits to two new classes of displaced persons. The first are all owners and tenants who are displaced by an entity with the power of condemnation. The second class consists of tenants whose property owners require them to move so that the owners themselves may undertake a project with federal financial assistance.

Tenants are not covered, however, if the owner of the property displaces them in order to sell the property to an entity without condemnation powers, even though the property is to be used in pursuit of a federally-assisted purpose. Unless the entity acquiring property has the power of condemnation, a property owner is not forced to sell and can negotiate a price that will provide adequate compensation for the expenses and attendant disruptions associated with a move. Tenants do not have the same degree of leverage. In view of the implicit social goals of the relocation act--i.e., that displaced persons be provided comparable decent, safe, and sanitary housing--the subcommittee may wish to consider extending coverage of the act to them.

DISPLACEES AND LOAN FORECLOSURE

The courts have reached different opinions on similar cases where HUD has become the owner of a property through loan foreclosure and, then, evicted the tenants at a later date. The U.S. Supreme Court held that in such cases, tenants are not eligible for benefits under the act because the property was not acquired for a federal project. The proposed amendments are intended to provide relocation benefits to such tenants. GAO believes these amendments need clarification.

BENEFITS TO BUSINESSES

GAO described issues in one area that the amendments do not address--relocation benefits provided to businesses. Unlike the situation where people are moved from their homes, replacement facilities are not required to be available before a business is displaced, and displaced businesses do not receive financial assistance to help pay for the higher costs of rent or purchase at the new location.

Federal Regional Council task forces have indicated that a significant number of businesses are being closed because of financial burdens they face when forced to move. Particularly vulnerable are the neighborhood-type small businesses.

During the GAO review, it was learned that two states had authorized payments over and above the federal payment to reduce additional costs incurred by businesses at new locations. A city official said these payments had probably kept a number of businesses from closing.

GAO encouraged Congress to consider the issue of providing additional benefits to businesses during its deliberations on S. 1108. Two possible approaches would be to require that replacement facilities be available or acquire the business as a going concern.

ADJUSTING BENEFIT LEVELS

GAO also commented on the adjustments to payment schedules to bring them to 1979 levels. Basically, the amendments call for doubling the existing payment schedules and then using the Consumer Price Index (CPI) to annually update the payment amounts. The CPI between January 1971 and July 1979 has almost doubled.

The act provides replacement housing payments of up to $4000 over four years to displaced tenants and up to $15 000 to displaced homeowners to compensate the displaced person for the increased costs of acquiring comparable housing that is decent, safe, and sanitary. The proposed amendments increase the $4000 limit to $8000 for tenants and completely remove the $15 000 limit. GAO believes the rent component of the CPI, which has not risen as rapidly as the overall CPI, is a more specific indicator of the changing costs of rental housing than the overall CPI. GAO suggested, therefore, that the amendments be changed to use the rent component to adjust the $4000 limit for tenants to current levels and for future annual updates.

The amendments provide for increasing the minimum and maximum payments made to businesses in lieu of actual moving expenses. Federal agencies have advised us that the current minimum occasionally results in windfall payments. Therefore, we saw no need for the proposed increase in the minimum.

DIFFERENCES BETWEEN FEDERAL AGENCIES

This section summarizes the differences in federal agency practices and regulations described in the March 1978 GAO report.

Inconsistent Payments

The act provides replacement housing payments of up to $15 000 to displaced homeowners and rental assistance payments of up to $4000 over a four-year period to displaced tenants. These payments compensate the homeowner and tenant for the increased cost of acquiring a comparable replacement

dwelling that is decent, safe, and sanitary.

Because federal agency regulations and instructions were not uniform or specific, displaced homeowners and tenants received differing payments for replacement housing and for rental assistance in situations where comparable replacement housing was not available.

Computing Replacement Dwelling Costs

FHWA and HUD permit state and local displacing agencies to select one of two primary methods for determining the cost of comparable replacement dwellings. Although these two methods are designed to produce similar values for a replacement dwelling, differences do occur. The use of one method for FHWA programs and another method for HUD programs in the same city resulted in different payments to displaced persons.

Because of the different payments that would result, HUD and FHWA central office officials agreed to use the same method on their projects in one city. This agreement, however, was not used in other geographic areas where both HUD and FHWA projects existed. HUD officials have advised GAO that under their new regulations, the difference in methods will be eliminated after September 26, 1979.

Payments to Sleeping-Room Occupants

FHWA and HUD regulations differed in the method used for computing rental assistance payments for sleeping-room occupants. HUD regulations allowed higher benefits if the monthly rental of a replacement dwelling exceeded 25 percent of an individual's monthly income; FHWA regulations did not. Therefore, low-income, sleeping-room occupants could receive higher payments from a HUD project than they would receive from an FHWA project.

FHWA contended that its regulations provided for the same benefits as HUD's. While this may have been FHWA's intent, GAO and the responsible relocation official in one city did not so interpret the regulations. This illustrates the problems that can result from each agency preparing unique regulations. FHWA officials acknowledged that the regulations as written could be misread.

The Appendix to the GAO report contained a detailed analysis of various agency regulations and provided additional illustrations of the types of subtle differences that result from multiple regulations.

Last-Resort Housing Provision

Homeowners or tenants are sometimes faced with acquiring comparable replacement housing where costs are so high that the maximum assistance payments specified in Sections 203 and 204 of the relocation act ($15 000 and $4000) are not sufficient to cover the costs. When this happens, some federal agencies, such as HUD, generally make the maximum payment only. FHWA, however, treats this situation as falling within the scope of the last-resort housing provision (Section 206).

FHWA interprets this section to mean that if comparably priced replacement housing is not available, assistance payments over the limits can be made for the benefit of displacees to compensate for higher-cost replacement housing.

Other Payments

Other federal agency regulations and procedures differed, causing tenants to receive different rental assistance payments. For instance, not all agencies considered increased utility costs at the replacement site when determining the comparable housing costs and computing the rental assistance payment.

PAYMENTS TO BUSINESSES DIFFERED

In addition to the fair market value of the real property, displaced businesses are paid either actual costs for moving and related expenses or an in-lieu-of moving expense payment of up to $10 000. However, federal agency regulations differed on how to compute payment amounts. As a result, businesses relocated by different agencies received different payments.

Replacement Business Sites

Replacement facilities available to a displaced business may not meet all of the business' requirements. Electrical service, plumbing, and floor layout may need to be improved or changed. At the time of the GAO review, HUD regulations allowed payments of up to $10 000 for improvements necessary to make the structure of equipment suitable for the displaced business. In contrast, FHWA regulations and procedures were generally more restrictive.

FHWA officials believe this difference is currently being resolved by proposed changes in HUD regulations. However, an earlier change in HUD regulations did not resolve this problem.

Professional Services

Some displaced businesses need professional assistance when planning to move their operations, preparing for the move, or during the actual move. Professional services include consultation with architects, attorneys, engineers, and others. Federal agencies' regulations differed as to allowing these expenses, and, as a result, some businesses were paid for some or all professional services and others were not.

Payments to New Businesses

The act authorizes payments to displaced businesses in lieu of actual moving expenses. The payments range between $2500 and $10 000 depending on the business' earnings. HUD and FHWA regulations, however, treated differently those businesses that have been in operation for less than one year. HUD regulations allowed for the in-lieu-of payments to such businesses; FHWA regulations did not.

OTHER DIFFERENCES

The following are some additional differences not discussed in the GAO report, but they have been identified by federal agencies.

Maintenance of Ownership Status

In some instances, comparable housing is not available for purchase by displaced homeowners who wish to buy a replacement dwelling. FHWA believes that a displaced owner has a legal right, as well as an equitable right, of preservation of ownership status. If the displaced homeowner wishes to purchase replacement housing, FHWA uses Section 206 to alleviate such situations.

HUD follows the FHWA policy, unless it cannot reasonably do so because of the $15 000 limit of Section 203. HUD will relocate homeowners to rental units or postpone relocation until replacement housing is available for purchase.

Existing Patronage for Payments

Rather than receive moving expenses, displaced businesses may be paid from a minimum of $2500 to a maximum of $10 000 for "loss of existing patronage." This is based on average net earnings during the two years prior to displacement. Problems have arisen with the definition of "loss of existing patronage."

HUD interprets the loss of existing patronage to mean the loss of existing specific clientele. No consideration is given to the possible increase or decrease in the net dollar volume of the business after relocation. FHWA interprets loss of existing patronage to mean the loss of net dollar volume of income. The only consideration given to loss of specific clientele is when this loss would directly affect the net income of the business due to its being relocated.

HUD places responsibility on the displacing agency to demonstrate that a business will not suffer a substantial loss of existing patronage in order to deny an in-lieu-of payment, whereas FHWA requires the displacing agency to determine that a substantial loss will occur before the business is entitled to such payment.

In addition, HUD allows businesses to have another outlet as long as business volume in the remaining property is below certain limitations. FHWA requires that in order to be eligible for an in-lieu-of payment, the business must not be part of a commercial enterprise that has at least one other establishment not being acquired.

DEFINITION ISSUES

Different definitions of real and personal property used by different agencies affect what is compensable; however, GAO does not want to get into the definition issue. Rather, it wants to provide background to help others define real property.

SUMMARY

It is appropriate to give credit to those agency personnel who have worked diligently to administer the act. They identified the difference in agency procedures; the Federal Regional Councils were especially effective in this regard. The interagency staff also worked to develop alternative solutions to identified differences.

The central management authority, which GAO recommended and that would be established if S. 1108 is enacted, should not result in the creation of a large administrative bureaucracy. Expertise in administering relocation activities rests, and should remain, in the line agencies. A very small staff could fulfill the needed leadership, conflict resolution, and decision-making role envisioned by the proposed amendments.

Part 3

Workshop Reports

Summaries of Workshop Discussions

The conference was structured around panel discussions and workshops and included representatives of those who have been relocated and of relocation, transportation, and housing agencies. There were five principal topic areas dealt with by the conferees: eligibility, relocation payments and services, relocation process, property acquisition, and adjacent-area impacts. Summaries of these discussions, prepared by workshop chairmen, appear below.

Eligibility for Relocation Assistance

(Cochairmen, Daniel R. Mandelker and David L. Alberts)

The following eight-item agenda is recommended by the workshop on eligibility for relocation assistance for reference during and for review of proposed amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and any regulations thereunder.

ELIGIBILITY

Eligibility for relocation assistance and benefits should be clarified to include any involuntary displacement that results from federally funded activities directed toward the specific property occupied by displacee. Federally-funded activities carried out by any governmental, quasi-public, nonprofit, or private entity are all intentionally included in the eligibility statement. "Federally funded" refers to the use of federal loans, grants, or payments for the purchase, rehabilitation, or modification of a subject property when its occupants are required to move. It also includes funds made available, or "leveraged", from nonfederal sources on favorable terms due specifically to the use or expenditure of federal funds or guarantee when used on the subject property. Indirect displacement is not intended to be considered for relocation assistance and benefits under the Uniform Relocation Act.

INDIRECT DISPLACEMENT

Indirect displacement means the voluntary or involuntary relocation by an occupant of a property in the vicinity of and possibly influenced by a federally-funded activity provided that federal funds are not used on the subject property. Compensation for indirect displacement should only be considered as "consequential damages," in accordance with applicable laws and regulations in the community in which the subject property is located.

Extensive discussions by workshop participants covered comprehensive neighborhood revitalization and rental housing conversion to cooperatives or condominiums. Displacements in such situations should only be considered for relocation benefits and assistance if the use of federal funds can be traced to the subject property.

MINIMUM DISPLACEMENT

The planning, location, and design of a federally-funded activity must respond to environmental, sociological, ecological, energy, economic, and displacement considerations. Procedures set forth in the National Environmental Protection Act should be clarified where necessary to assure that projects minimize displacement within the context of other factors. Decisions based on minimizing any one factor to the exclusion of the others is not in the public interest.

Legislation that mandates projects minimizing displacement as an isolated consideration is opposed by workshop participants.

RESIDENCY REQUIREMENTS

Current legislation requires that owners must be in residence at least 180 days and tenants 90 days in order to receive supplemental benefits beyond moving costs. Potential inequity can occur. This area should be reviewed carefully to correct the potential that a shorter-term occupant could receive a higher payment than a longer-term occupant solely as a result of that occupancy.

Participants support the 90-day and 180-day requirements. They do not support replacing these with a good-faith requirement.

TIME FOR ELIGIBILITY

Eligibility for relocation assistance and benefits should be triggered by the initiation of negotiations for the use of federal funds on the subject property.

Any earlier eligibility date was cited as unfair to public agency funding, and any later date was viewed as unfair to the property occupants. Some disparity exists regarding procedures or interpretations of the legislation and regulations within and between federal agencies and funding recipients.

HOUSING OF LAST RESORT

Congress should clarify the role of housing of last resort and the use of supplemental payments to provide such housing. Such clarification should include procedures or linkages so that governmental agencies, not otherwise geared to provide ongoing housing management assistance, are not thrust into this unfamiliar role.

The workshop discussed and opposed the use of

detailed and specific multiprogram relocation plans due to the variations in timing and nature of displacement and changes in the local market. It, likewise, opposed the designation of any single entity to provide housing of last resort for all programs in a community. Instead, it favored the closer coordination of projects, relocation planning, timing, and the development of resources.

LUMP SUM PAYMENTS

Public agencies should be permitted, but not required, to make periodic disbursements of rental assistance payments rather than lump sum payments. This is intended to further the probability that such payments would be used for decent, safe, and sanitary replacement housing.

SECTION-8 HOUSING

Section-8 housing assistance should be used in lieu of four-year rental assistance payments whenever possible and available. Section 8 is a more permanent form of housing assistance and is periodically adjusted for changes in housing costs and the renter's ability to pay. It is also limited to decent, safe, and sanitary housing.

This recommendation implies a closer linkage between displacing entities and the administrating Section-8 agency or housing authority. That linkage could include clearer and higher priority for displacees and/or the targeting of additional Section-8 funds to a locality facing a significant relocation workload.

Relocation Payments and Services

(Cochairmen, Floyd I. Wise and Herbert L. Selesnick)

This summation of the opinions and desires of those who participated in the workshop on relocation payments and services is divided into two parts. Part 1 relates to relocation payments. Part 2 covers the discussion of relocation services.

RELOCATION PAYMENTS

Various types of relocation payments were considered individually in the workshops. Workshop participants were encouraged to discuss (a) existing payments available under P.L. 91-646, (b) payments that would be available under proposed legislation, and (c) other payment proposals that should be considered.

Residential Fixed-Payment Moving Expense Schedules

Practically all workshop participants favored the proposal in pending legislation to increase the $300 maximum fixed moving-cost payment to $600. There was some reservation, however, about raising the $200 dislocation allowance to $400 for all residential displacees. The dissenting participants believe that the occupants of sleeping rooms and furnished units should receive a smaller displacement allowance because they do not experience the incidental expenses that this payment was designed to cover. Their reasoning is that such displacees would receive somewhat of a windfall if they receive $400 plus their "per-room" moving-cost payment, and then they would merely "pack their suitcase and walk away." The majority did not necessarily disagree with these contentions. Rather, they felt that this is a rather trivial point considering the magnitude of the overall program. After discussion, the majority of the conferees favored the proposal to raise the displacement allowance to $400 for all residential displacees.

Maximum Payment Limitations for Relocation Housing Payments

In every workshop the same two lines of thought emerged when the desirability for establishing maximum replacement housing, down payment, and rent supplement payment limitations was discussed.

One group believes that the existing prohibition against displacing residential occupants unless and until comparable decent, safe, and sanitary replacement housing is made available to them causes maximum payment limitations to be totally ineffective. This group explained that, when a relocation cannot be accomplished within the maximum payment limitation, the acquiring agency (of necessity) merely "switches" to the last-resort housing program and pays the amount necessary to provide the required replacement housing--without regard for the so-called payment limitations.

Their contention is that such payment limitations do not reduce, control, or, in reality, even affect the amount of actual relocation housing payments. They do force them to unnecessarily use the more complicated and time-consuming last-resort payment process that increases administrative costs and often imposes payment procedures that are undesirable to the displacee. This group favors the elimination of all maximum payment limitations for relocation housing payments.

The remaining participants did not necessarily disagree with the contentions of the majority, but believed that maximum payment limitations are necessary to effect better control of the program and assure that the amounts in relocation housing payments are properly computed and fully justified. They explained that, in many cases, the agencies under their jurisdiction that administer the relocation program in the field are understaffed, inadequately trained, and often operate with limited supervision by the parent agency. As a result they fear that, without this element of control, relocation housing payments could, in their words, "run wild". This group strongly favors maximum payment limitations.

Both groups for the most part agreed that, if such maximum payment limitations are included in new legislation, they should be increased to $8000 for rent supplement and down payments and to $25 000 for replacement housing payments to 180-day owners. It was also generally agreed that such maximum payments relate only to the basic relocation housing payment and do not include incidental closing and/or increased interest payments.

Down Payments

A substantial majority favored eliminating the $2000 down-payment matching funds requirement because those who most need the payment often cannot produce the required matching funds and, as a result, receive a lesser payment than those who are financially able to do so. A limited number of the participants expressed the feeling that the requirement should be continued. Their reason is that displacees will take a greater interest in their replacement homes if they invest some of their own funds in the purchase.

Business and Farm In-Lieu-Of Moving Payments

Almost without exception, everyone in the workshops preferred to increase the maximum in-lieu-of moving payments to $20 000 but to leave the minimum at $2500. It was generally agreed that the eligible owners of displaced businesses and farm operations producing average annual net earnings in excess of $10 000 are unduly penalized by the existing maximum payment limitation. The participants also agreed that payments in excess of $2500 to the owners of marginal operations with little or no income-producing ability cannot be justified. (Some preferred that the existing $2500 minimum payment be decreased.)

Business and Farm Operation Relocation Allowance Payment

A majority of the workshop participants favored the creation of some type of payment to help the owners of displaced businesses and farms to reestablish their operations. The payment would also provide a cash flow during the difficult displacement and relocation period. The proposed payment would only be available to those who relocate and continue their existing operations. Various payment proposals were presented. After considerable discussion, the following two proposals were considered most desirable. All agreed that only one payment procedure be created--but did not express a firm preference. (Most believe, however, that Procedure A, described below, would be much simpler to administer.)

Procedure A

Eligible owners of displaced businesses and farm operations would receive a lump sum relocation allowance--in addition to their normal moving-cost payment--based on their average annual net earnings. The following fixed payment schedule, which establishes a $25 000 maximum payment limitation, was suggested:

1. Net earnings of $0 to $5000 justify a $2500 relocation allowance;
2. Net earnings of $5000 to $20 000 justify a $5000 relocation allowance;
3. Net earnings of $20 000 to $50 000 justify a $10 000 relocation allowance; and
4. Net earnings of $50 000 to $100 000 justify a $25 000 relocation allowance.

Procedure B

This procedure provides an element of flexibility for infusing capital to all non-residential displacees who desire to relocate, but do not have the financial backing to make the transition. It is based on the proponents' belief that the most responsive way of providing financial aid to business and farm operation displacees who genuinely wish to relocate is to assure the availability of low-interest loans. The acquiring agency would offer to subsidize a commercial loan provided that the resulting money be used exclusively by the displacee in reestablishing the operation. (As to constraint, an increase in operating capacity of up to 150 percent of the existing establishment could be allowed.)

The displacee would be encouraged to investigate all relocation options and discuss prospective plans with local lending institutions. The acquiring agency would then enter the loan negotiations and develop a plan with the lending institution to reimburse them the current worth of the difference between the monthly loan payment at the current commercial interest rate and some lower-interest requirement. For example, if a displaced business owner borrowed $50 000 at an interest rate of 12 percent, the monthly payment may be $700. The same loan at 6 percent may result in a monthly payment of $550--reflecting a difference of $150. This monthly payment difference would be converted into a current worth value that would be paid directly to the lending institution with the understanding that the displacee will pay off the loan at the lower rate. As an incentive to the lending institution, the discount rate used in computing the current worth of the monthly payment differential could be 1 percent less than the going commercial loan rate.

There was little, if any, support for an additive payment based on the increased purchase price or rental cost of a replacement site. It was generally agreed that it would be impossible to compute a fair and reasonable payment of this type (or one that could be documented) because, in nearly every case, business operations are updated, expanded, modernized, and/or otherwise changed when reestablished at the replacement site. As a consequence, no one could establish the actual additional cost that would have been experienced (if any) in reestablishing the operation at the same level that existed prior to displacement.

Increased Tax Payment

The workshop participants expressed a firm opinion that, based on their extensive experience in dealing with residential displacees, the creation of an increased tax payment is neither necessary nor justified.

Annual Increase in Maximum Payment Limitations

The participants summarily rejected the proposal that maximum relocation payments be adjusted annually to reflect increases in the Consumer Price Index. In fact, they rejected annual adjustments of any type. Some of the reasons given for this firm stand are (a) displacees would delay their relocation during the latter months of the payment year to take advantage of the next anticipated annual adjustment; (b) inconsistent payments would be made in the same area (even in the same neighborhood) for identical displacements--depending on when the payment is made; (c) it would be necessary to reprint relocation brochures, manuals, regulations, and other publications on an annual basis--creating confusion and unnecessary expenses in administering the program; and (d) some states would need annual permissive state legislation to adjust maximum payment limitations.

There was a feeling among the participants that the "one agency" to be designated by the president to write relocation regulations and procedures (if this proposal becomes a reality) should be authorized in the act to adjust maximum payment limitations--without the necessity for legislative action.

Increased Interest Payments

With no dissenting opinion, the workshop participants favored approval of a new increased interest computation procedure. The new procedure should be based on the amount (payment) necessary to enable the displacee to reduce the balance of the mortgage on the replacement dwelling to the monthly principal and interest payment that was being paid on the dwelling from which he or she was displaced. For example, if the remaining unpaid balance of a

mortgage on the dwelling from which the displacement occurs is $16 500, the remaining term of the mortgage is 288 months, and the annual interest rate is 8 percent, the displacee would be entitled to an increased interest payment of $17 803 under existing computation procedures if he or she borrows the same amount ($16 500) for the same term (288 months) and pays an annual interest rate of 17 percent

Under the recommended procedure, he or she would receive a payment of

1. $7550 to reduce the unpaid balance of the mortgage on the replacement dwelling to $8950;
2. $16 500 at 8 percent interest for 288 months requires a monthly principal and interest payment of $129.04; or
3. $8950 at 17 percent interest for 288 months requires a monthly principal and interest payment of $129.04.

It was generally agreed that the mechanics for implementing the recommended procedure could be worked out without difficulty.

RELOCATION SERVICES

The workshop on payments and services considered three specific questions with regard to relocation assistance advisory services: How available are relocation services? Are relocation services adequate? and Are relocation services used?

With regard to availability, workshop participants observed that budgetary cuts and staffing freezes are beginning to affect the ability of state highway agencies, local public agencies, and other acquiring bodies to provide relocation services for displacees. In the highway programs there has recently been pressure to combine relocation with other right-of-way acquisition functions and eliminate staff who specialize solely in relocation. It was generally agreed that this consolidation would be detrimental to the relocation services program because the skills and aptitudes of appraisers, negotiators, and property managers are very different from those required of relocation agents. In addition, the time-consuming nature of the other acquisition activities would further reduce the current low priority given to relocation services.

Other participants noted that relocation services are one of the first items state and local acquisition agencies have been cutting back in response to recent budgetary constraints. The result in some areas has been an increased tendency to contract out the relocation portion of the acquisition program. Typically, relocation contractors do not place much emphasis on the provision of advisory services, and the services they do provide vary greatly in quality.

Most of the workshop participants were in agreement that the single, largest impediment to greater availability of relocation assistance advisory services for displacees is the current attitude of administrators of state and local acquisition programs. The consensus was that many program administrators simply do not recognize the "make-or-break" importance of relocation services in accelerating the acquisition process and in building public acceptance and good will for acquisition programs. In addition, it appears that many program administrators underestimate or are unaware of the scope and complexity of social and personal problems in the relocation caseload. They, therefore, tend to discount the legitimacy and value of key relocation functions, such as information and referral, and to view services in general as "a necessary evil."

An additional constraint on the availability of relocation services noted by workshop participants is the ineligibility of relocatees who are displaced by federally assisted activities when there is no intervening public acquiring agency. Moreover, in high-density high-social-impact displacement areas, where most of the relocation staff's time is spent on a small portion of the relocation caseload that has the most visible and urgent problems, there is a strong likelihood that other elements of the caseload who could also benefit from services go unattended.

With regard to the adequacy of relocation services, workshop participants observed that experienced and trained staff are difficult to come by. In addition, there are in the field in many cases staff who are not well qualified to provide relocation services effectively, and that not enough emphasis is placed on staff training and the enforcement of standards of quality in relocation services.

Participants noted that the current inflationary situation with regard to housing prices and mortgage interest rates has vastly complicated the nature of housing information and advice that must be conveyed to displacees. Many relocation agents are not sufficiently informed about housing finance and real estate transactions to provide the necessary advice or referrals adequately.

Participants also observed that, while it is highly desirable to make more advisory assistance available to displaced businesses, especially small businesses, the nature of this advisory assistance is usually more technical and more complex than the kind of guidance that is needed by most tenants and homeowners. Workshop participants expressed doubt that many acquiring agencies possess the necessary business relocation experience on their staffs to advise or refer commercial relocatees adequately. In addition, the workshop participants questioned the adequacy of relocation staff capabilities in relation to the kinds of homeownership counseling assistance typically required by many displaced low-income tenants who are becoming first-time homeowners.

It was generally agreed that existing training and technical assistance opportunities for relocation agents are simply not adequate for equipping them to deal effectively with the social and personal problems of residential displacees or with the technical and financial problems of displaced businesses and farm operations. Moreover, workshop participants expressed the view that it is unreasonable to expect any one relocation agent to acquire the broad range of knowledge and skills necessary to deal with all of these problems.

With regard to the use of existing relocation services, workshop participants observed that the single factor most responsible for a low-utilization rate is the current emphasis on lump sum payments. This causes displacees to view the acquiring agency as a cash disbursement agency rather than as a rehousing agency. Many then fail to take advantage of the advisory assistance services they could also receive from the agency. In addition, workshop participants observed that inadequate information programs, insufficient explanation of benefits, and inordinately slow or rapid acquisition schedules contributed to "premature moves" and underutilization of available relocation advisory services.

RECOMMENDATIONS

To address these relocation service problems, workshop participants offered the following recommendations.

1. Define and limit the scope of services. Ac-

quisition programs have as their primary objective the assembling and clearing of parcels for improved reuse. They cannot resolve all the personal, social, and financial problems of the site occupants. Relocation services should, therefore, be limited in scope and designed to support and expedite the clearance and reuse goals of the acquiring agency. The principal thrust of relocation services should be to explain the program and assist with securing replacement properties and claims processing. Broader social and technical problems of displacees should be dealt with by referring them to specialized agencies that are properly equipped and financed to help them. Information and referral services for these broader personal and financial problems should be provided on an "only-as-needed" basis.

2. Improve the quality of services. Increase the emphasis on training and development opportunities for relocation staffs. The initiative for increased training opportunities must come from the federal agencies that fund the major acquisition programs. Staff training and development incentives can be reinforced, however, through increased attention to and support of relocation services by the administrators of state and local acquisition programs, sustained efforts to keep politics out of the relocation staff recruitment process, and the promulgation of "relocation service standards" as part of the regulations pursuant to the Uniform Relocation Act.

3. Monitor and evaluate services more closely. Increase the frequency and stringency of cost benefit and impact evaluations of relocation services. Again, the impetus for closer monitoring and evaluation of relocation services must come from the federal funding agencies as part of their ongoing audit and compliance activities. Formal evaluation should emphasize "rate of return on service dollar" and "rehousing success."

4. Develop professional standards for relocation agents. The duties, responsibilities, functions, and qualifications of relocation agents should be more fully defined and documented. The initiative for professionalization of the relocation discipline should continue to come from professional organizations. Relocation agent experience and educational requirements should be codified, with an eye toward possible eventual certification of relocation and other right-of-way practitioners. In this regard, it will be important to develop broad agreement on the appropriate balance between program, agency, and taxpayer representation and displacee advocacy in the proper execution of relocation agent responsibilities.

5. Improve relocation reference sources. The rapidly growing body of relocation services literature should be made available, in appropriate forms, to state and local field practitioners. In addition, more state and local agencies need to develop resource inventories and catalogs that can be used as referral sources by field practitioners. Case-study manuals are also useful and should be more broadly disseminated.

Processes for Greater Uniformity

(Cochairmen, Bruce D. McDowell and Robert R. Poinsett)

The topic of "process" deals with the means and coordinating mechanisms for achieving greater uniformity in relocation and real property acquisition activities. Therefore, this series of workshops dealt with such things as coordinating committees, single agencies for rulemaking, standard regulations, and central relocation offices. It did not focus on the substance of what should be made uniform.

Nevertheless, substance could not be ignored totally. Initially, some participants questioned the need for greater uniformity. It was pointed out, and almost everyone agreed, that great progress had been made over the past decade in raising benefits and achieving fair and equitable compensation and benefits under the 1970 relocation act. However, each of the five groups recognized the need for at least some further progress toward greater uniformity. At that point, consensus ended.

Feelings about the degree of additional progress needed ranged from minor needs for fine tuning the 1970 act to serious inequities needing urgent attention. Some of the most troublesome differences discussed included the following.

1. Certain federally-funded programs are not subject to the existing law.
2. "Housing of last resort" is not always allowed, either because of federal agency interpretations or because of state laws.
3. Donated lands are being accepted by some federal agencies prior to appraisals, though this is technically illegal under the 1970 law. There are significant advantages to this in some cases, but proposals to change the law have been unsuccessful so far.
4. Some federal agencies require the preparation of relocation plans before displacement may take place, while others simply require assurances that relocation will be accomplished. This ignores the 1973 interagency agreement calling for preplanning as standard practice.
5. Administrative appeals under the act are easy and quick in some federal agencies, but difficult and long delayed in others. Some are worse than formal court cases, despite the intent that fairness and equity demand expeditious handling.
6. There are great differences among federal agencies in the treatment of business relocations.
7. There is no specific authorization in the 1970 act for one federal agency to take responsibility for all acquisition and/or relocation involved in jointly funded projects. Although some federal agencies cooperate with each other in this fashion, others feel that they cannot do so.

Relocation offices that provide central services under several different federally funded programs notice these differences most. Examples were cited from Maryland, Ohio, West Virginia, and the District of Columbia.

Although substantial progress has been made toward uniformity among those programs involving federal funds, relatively little progress has been made in most states among programs funded strictly by state or local revenues. Of course, such projects are beyond the direct reach of the 1970 act, but the same concepts of fairness and equity still apply in principle, and the federal act does call for parallel state legislation. Thus, eventually all federal, state, and local acquisition and relocation programs would become comparable. This simply has not happened yet.

Lack of uniformity comes from several different sources. These include the following:

1. Supplemental federal laws affecting only one program or one agency--The U.S. Department of Interior and HUD were cited as examples;
2. Differing federal agency interpretations of the 1970 Uniform Act--This causes differences not only between one department and another but among

the various agencies within a single department. The Department of the Interior and DOT were cited; these differences are reflected in divergent regulations and legal opinions;

3. Differing state laws--These actually are more controlling than the federal law in a legal sense; some state laws are more limiting than the federal one, while others are more liberal (examples were New York and North Carolina, which do not allow housing of last resort, and New Jersey, which has expanded eligibility provisions; the District of Columbia was also cited as an example where local law provides greater benefits than the federal law); and

4. Field interpretations of whatever regulations apply--All groups agreed that, regardless of whether the regulations are uniform or not, field personnel will make different interpretations of them.

The fact that uniformity may be breached at so many different points was used as an argument both for and against redoubling the effort to achieve greater uniformity. It was argued that the chances for uniformity would be increased with a reduction of differences at any one or more of the four points cited above. In other words, the irreducible divergence of field interpretations very likely would be less serious if there were a single act that cleared up some of the controversies and a single set of regulations backed up by more thorough training of field personnel. It was also stated that ever getting complete uniformity through a single set of regulations might also be impossible. However, there was a general recognition that 100 percent uniformity is unachievable--perhaps unnecessary--and may be undesirable because of divergent program objectives. Differences between the HUD approach and the approach of other agencies were cited frequently.

In general, two very different definitions of uniformity emerged from the workshops. The first was framed in terms of achieving substantially the same assistance results in equivalent situations (recognizing a certain plus or minus leeway for human judgment exercised by field personnel). Essentially, this is a performance standard approach. It allows some differences in procedures among programs so that they can follow different paths to the same goal. This would mean that several sets of roughly equivalent, though not identical, regulations could exist side by side. The second definition simply calls for a uniform set of regulations applicable to all programs, though it recognizes that there may be some options within those regulations that would apply to different situations.

The prescriptions for attaining greater uniformity, which emerged from these workshops, differed widely. Some felt that uniformity should be achieved primarily by clarifying basic policies and benefit levels in the law. Others felt that this would not go far enough and that procedures were also in need of standardization through the development of more uniform regulations. Others recommended additional efforts to effect actual practice in the field through greater training and development of guidance manuals like the one recently prepared by Floyd Wise and distributed by the International Right-of-Way Association. These are not either/or propositions. They all could be done at once, and a number of participants felt that they should be.

There was substantial discussion about who should write uniform regulations and guidance manuals. Opinion was divided about the appropriate role of the federal government versus that of the states. Although many felt that uniform regulations were primarily a federal responsibility, others pointed out the supremacy of state law and the differences found from state to state. Therefore, it was proposed that each of the 50 states should prepare a uniform set of regulations and should consider all provisions of state and federal law that would apply within the borders of that state. A single set of federal regulations could not possibly achieve this degree of unification. Yet, a number of participants still felt that this procedure would establish an extra level of regulation writing that might interfere with the application of the federal act. Admittedly, the state-by-state approach would work best if the federal regulations were written in fairly general terms, probably following the performance standard approach.

There was some discussion of the consultation process that would be followed in writing the federal regulations. This process has expanded greatly in the past few years and would now include extensive involvement of state and local governments as well as relocatees and their representatives. It was suggested also that field staffs should play a significant part in writing the regulations under which they must operate.

The question of whether a single federal agency should be designated to write and enforce a uniform set of federal regulations received a great deal of attention. An informal tabulation maintained throughout the day showed that 33 percent of the participants favored such an agency and 40 percent opposed it. The remaining 27 percent felt that there should be some single source within the federal government from which to get quick and definitive answers about the application of the 1970 Uniform Act, although they objected to a large new bureaucracy. In practical terms, these alternatives reduce to (a) the creation of a new bureaucracy in the Executive Office of the President, (b) the issuance of a new management circular by OMB with minimal enforcement staff, or (c) retaining the current practice of having individual federal agencies responsible for their own regulations and programs. This would reactivate the interagency committee and its regional counterparts in the Federal Regional Councils (FRCs), thus improving communication among the agencies and working toward greater consistency on a voluntary basis through shared experiences.

If the middle alternative is combined, alternatively, with the two polar positions, it is found that 60 percent of the participants want some form of central authority in the relocation and land acquisition field, while 70 percent oppose the current provisions of the Senate bills that, in the eyes of these participants, would establish a large new bureaucracy duplicating and interfering with current agency operations.

With respect to striving for greater uniformity below the federal level, three examples were cited. In Maryland, the legislature passed a uniform relocation and property acquisition act in 1972 in response to the Uniform Act of 1970. The governor then issued an executive order creating an interagency committee of affected state departments and agencies, and the Maryland Department of Transportation was designated as the central relocation authority for the state. The state transportation department then developed a standard set of regulations applying to all state agencies and to local governments within the state. A manual was developed that is used for training courses attended by state employees, local public employees, and personnel from other states. Currently, 80 percent of all relocations in Maryland are carried

out in conformance with the standard regulations and manual. Exceptions arise only in cases of variations between the regulations of different federal departments and agencies. Some of these exceptions, including those for HUD, have been incorporated more recently into Maryland's manual.

The City of Baltimore developed a uniform relocation and property acquisition manual for the city in cooperation with state officials and the federal departments and agencies represented on the FRC for Region 3 (Philadelphia). This manual provides completely uniform procedures for everything within the city and was agreed to by everyone through the FRC level. The mayor pledged to make all purely local projects, as well as those with federal or state aid, subject to these standard procedures. However, upon submission of these procedures to Washington headquarters, the project was abandoned after failing to receive DOT or HUD approval.

Virtually the same thing is now being tested in Louisiana. Several drafts have been prepared and reviewed, but statewide agreement has not yet been obtained. When such an agreement is reached, it is planned to take the standard procedures to the state's congressional delegation for support at the national level. While standard procedures for the state are desperately desired, there is not a great deal of optimism about the chances for their ultimate success.

The conclusion from these cases is that it is quite difficult to work toward uniformity at the state or local levels when such uniformity has not been achieved at the federal level. All such efforts require a substantial amount of flexibility in the federal regulations and that is not available yet. The differences between the regulations of one federal department and another are especially troublesome in this effort.

A final topic discussed was the concept of certification acceptance. Under this concept, state and local governments subject to state or local regulations for relocation and property acquisition that are substantially equivalent to the federal requirements would be certified as meeting the federal requirements without having to make specific showings of compliance on each project. Opinions among participants split on the advantages. It would be most difficult to obtain such certifications now, given the diversity among federal requirements. A separate certification would probably be required for each federal department and agency, and the existing specificity of federal requirements would allow little if any leeway for incorporating state and local factors. Nevertheless, if federal regulations are unified, others felt that certification acceptance might have significant potential for streamlining the process by using a performance standard approach with some built-in flexibility.

In brief, greater uniformity is needed. However, the seriousness of this need is debatable, and workshop participants differed significantly on their prescriptions for achieving greater uniformity. At this moment, there appears to be no solution in sight.

Property Acquisition

(Cochairmen, Walter A. McFarlane and Peter Levine)

The topic in this workshop was the legislation that is pending before Congress and would overhaul the existing Uniform Relocation and Real Property Acquisition Policies Act. While Congress is looking at five separate bills, the one that appears to have taken the forefront is S. 1108.

SECOND APPRAISALS

S. 1108 provides that the landowner may ask for and receive a second appraisal if he or she disagrees with the condemnor's first appraisal. The majority of the conferees were against allowing the second appraisal. For the most part, most agencies use two appraisers on large parcels. They then use a review appraiser to balance the two and decide what the actual offer for the property will be. Consequently, in many instances, providing the second appraisal will result in four appraisals for the property. Participants in this workshop expressed a variety of opinions on the requirement for the second appraisal:

1. Several felt that it was necessary to provide the second appraisal as a benefit to the landowner.
2. Because more than 50 percent of takes are under $5000, the cost of an appraisal could outweigh the cost of the parcel taken.
3. Quality control should be placed on the second appraisal. That is, a limitation on costs and time for completion, along with a standard of ability of the second appraiser should be established.
4. Agencies should not require that the second appraiser be a member of an appraisal association such as the Appraisal Institute. There are independent appraisers who are excellent.
5. Second appraisals will cause problems. For example, (a) they will be used as a tool against the acquiring agency in trial; (b) they will cause negotiation problems inasmuch as they will give the landowner another tool to use in the negotiations; (c) they will cause delays in the projects; (d) there is no assurance that appraisers chosen by the landowners will be competent (as to this question, it was suggested that a certified list of appraisers be established so that the landowner could choose from that list or, in the alternative, that the agency itself provide the second appraisal); and (e) the landowner should not be allowed to advise the jury or the commission as to who paid for the appraisal. If it is known that the agency paid for the appraisal, then it could give an improper inference.
6. One person argued that every appraisal should be reviewed by the federal government to be certain that the agency is giving the landowner fair market value or just compensation. The majority opposed this approach and felt that the acquiring agencies were just as competent and trustworthy as the federal government.
7. In order to cut down on delays, second appraisals should be done simultaneously with agency appraisals.

BUSINESS RELOCATION

The next major concern of the conferees was business relocations, and the most prominent question was whether government could make a business "whole" in the same manner as it can a residential displacee. The great majority felt that businesses cannot be made whole and that to try to do so would be very costly. The majority did feel, however, that additional help should be given to businesses because, under existing law, you can take a person's home and pay for it, but, if you take that person's livelihood (i.e., business), he or she receives little payment. Several suggestions were made:

1. In relocating a business, a replacement facility should be required before the business is forced to move;
2. The business must have been acquired as a going concern;
3. Loans, with a substantial reduction in the interest rate, would be very helpful;
4. The in-lieu-of payment should be increased; and
5. The interests and aid of the relocation assistant specialists should be expanded.

Of these five suggestions, the last three received the most emphasis with the loan provision favored by the majority.

NEED FOR NEW LEGISLATION

The great majority of the conferees thought that no new legislation is required because, it was felt, the existing system for acquisition is working. Some of the conferees suggested that, if legislation were necessary, it take the form of a pilot program in order to test its theories.

OTHER FACTORS

A number of other factors were cited during the workshop that related to property acquisition. These are noted below.

Current legislation under study has dropped the relocation assistance for those displacees who had no property taken but were forced to relocate because the traffic pattern changed. The great majority of the conferees agreed that this indirect compensation would have been a very difficult matter to administer and that the cost factor would have been tremendous.

Others felt that the cost of the acquired property could be kept to the actual just compensation if the offer for the take was made at the same time as the offer for the relocation assistance. Use of this "package approach" has proven successful in a number of states.

Most felt that the magic ingredient in a successful program was an efficient and dedicated relocation assistance staff. They felt that the better the program is administered, the more satisfied the landowner will be and the more prone he or she will be to settle without litigation. Also, relocation assistance provisions have substantially reduced the number of condemnation cases. Only about one-third of displacees were dissatisfied with the payments and the treatment that they received.

Impact of Relocation on People, Businesses, and Communities

(Cochairmen, Evan Iverson and Raymond Wardwell)

Even though the comments varied considerably, several major subjects were discussed at each workshop. Those involved expressed a strong desire to take whatever action was possible or make statutory changes, if necessary, to achieve equity and justice for those displaced by highway projects. Many felt it was necessary to update and revise federal, state, and local statutes to achieve this objective.

The evaluation of relocation impacts in the project planning stage was also examined. More weight should be given to displacement and relocation problems in determining which corridor or alternative is selected. Although participants emphasized that this should be a major factor, they recognized that numerous other variables had to be considered in making an acceptable decision. Relocation is only one of these important decision-making considerations. Emphasis was placed on improved evaluations in the preparation of environmental impact statements. Authority for such action exists under environmental statutes, but some indicated that more emphasis is placed on physical environmental factors than on social and economic issues. Hence, relocation problems are sometimes not given adequate attention.

STATUTORY CHANGES

A number of recommendations were made by participants concerning legislation now under consideration by Congress. These are noted here.

1. Definition of displacees should be restricted to those involuntarily displaced as a result of programs or projects. However, participants expressed a desire to retain existing flexibility to determine properties that are being adversely affected economically and to work out individualized solutions. Strong sentiment to preserve existing merits of the act were expressed. It was pointed out that statutory authority was now hazy regarding expenditure of funds for properties adversely affected that are not part of the necessary right-of-way. If a good case can be made for providing funds, approval is usually possible.
2. Need was expressed for a better working definition of a project. In the planning and design phases of project development, those individuals or institutions adversely affected should be included in project development to enable agencies to take appropriate action to achieve community objectives.
3. The financial maximum should be removed from federal statutes because of the greatly increased property and relocation costs. Such action would simply extend existing practices because agencies are now forced into last-resort housing due to the fact that current limits do not cover costs for satisfactory housing.
4. Federal statutes should standardize requirements among agencies concerning such matters as eligibility (tenure), property tax, and choice of housing.
5. Provisions should be made for a supplement to businesses that are displaced. This would not necessarily mean the same treatment as for residents displaced from homes, but matters such as the cost of acquiring a new business site should receive attention in legislation. If necessary, criteria for applying assistance to businesses could be established within the proposed statute.
6. A desire was expressed to replace services in low-income neighborhoods when these essential services are removed as a result of projects or programs.
7. Provisions should be made in state statutes to remove any uncertainty about the ability to acquire uneconomic remainders.
8. If loans cannot be provided by the U.S. Small Business Administration to assist businesses that lose revenue and experience problems during the relocation process, then other funding should be made available by some process to be established by statute.
9. In the project planning phase, more adequate social, economic, and land use evaluations should be made to determine the feasibility of pursuing a

project or program and defining project boundaries to include those areas that are severely impacted. Such action would make the relocation process more satisfactory. If necessary, statutory requirements concerning these evaluations should be strengthened.

10. The environmental impact statement should contain project analysis that addresses displacements and relocation problems for each alternate evaluated. A need was expressed to upgrade these analyses.

11. People and businesses who might be affected by proposed projects should be notified early. This process should include planning meetings, public involvement programs, and hearings when various alternatives are being considered. When the preferred alternative is adopted, persons directly impacted should be notified so that they can make their desires known prior to project approval and have adequate lead time prior to the relocation process.

12. Greater coordination among agencies, interested groups, and individual citizens should take place prior to project adoption. This becomes part of an effective general public and agency involvement program.

Part 4
Resource Materials

Relocation Issues of Concern to the U.S. Department of Transportation

Martin Convisser

The U.S. Department of Transportation (DOT)--in particular, the Federal Highway Administration (FHWA)--had been heavily involved in relocation matters well before enactment of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Controversies over relocation impacts seemed to reach their height in the late 1960s. Since passage of the act, considerable progress has been made in assuring fair and just compensation to owners of property taken for public purposes and in providing equal or improved housing for displaced households. Moreover, substantial uniformity has been achieved in the treatment of displacees.

It is true, however, that a number of problem areas remain and deserve further attention. This paper outlines some of the major issues of recent concern to DOT, as perceived by staff from the Office of the Secretary's policy unit and FHWA's Office of Right-of-Way. The discussion here focuses on business displacements, last-resort housing, increased interest payments, the one-for-one housing concept, energy-saving measures, and proposed legislation.

BUSINESS DISPLACEMENT POLICY

Many small businesses and some larger ones operate under marginal conditions; disruptions in clientele or cash flows may be critical. Displacement of such firms by transportation and other projects can substantially increase their fatality rate, underscoring the need for improved relocation planning and assistance.

At the same time, businesses forced to move elsewhere will all too frequently select outlying locations when displaced from a city or other developed areas. Sometimes the move outside the city or community is prompted by real economic advantages such as cheaper land or lower taxes. In other cases, however, inadequate information and planning for sites within the particular jurisdiction result in the loss of the business to it. Such losses undermine the viability of existing population centers across the country.

To address these problems, DOT instituted the following eight-point program in an attempt to mitigate some of the difficulties faced by businesses when DOT-assisted projects led to their displacement.

1. Establishment of the necessary relations at the local level. Departmental field and regional office units will seek to ensure careful coordination and planning among the applicant transportation agency, the affected local government(s), and businesses potentially subject to displacement by any of the major transportation alternatives under consideration.

2. Initiation of the consultation process. The coordination and consultation process is to be initiated at the earliest practical stage in project development, preferably at the time that environmental and feasibility studies commence for the various alternatives. As project planning and development proceed, regular communication among these parties is supposed to continue, though some businesses would cease to participate as alternatives are eliminated from further consideration.

3. Use of DOT grant funds to support the process. DOT planning and/or engineering monies are being made available to assist the transportation agency, local officials, and the affected businesses in addressing relocation concerns through feasibility studies and in developing reasonable plans, including special financial arrangements, where appropriate, to mitigate the potential adverse impacts on those businesses. These special efforts are considered part of the regular technical and funding assistance which is normally provided.

4. Assistance from local, state, and other federal agencies. In helping displaced businesses, cities are to be actively encouraged to explore possible sources of funding from local and state entities as well as from HUD, the Economic Development Administration, the Small Business Administration, and other federal agencies. Aid from these agencies may be extremely helpful in supporting successful business relocation, financially and otherwise.

5. Relocation advisory services. Special emphasis is being placed on relocation advisory services for businesses. DOT expects relocation offices to have staff who possess the requisite skills for handling business as well as residential displacement issues. In this regard, an aggressive outreach program is needed to ensure that the firms to be displaced are fully aware of their rights, the courses of action open to them, and any provisions designed to retain businesses within the same community. We are directing that every reasonable effort be made to involve the affected jurisdictions and to assist displaced firms who wish to find acceptable replacement facilities in a timely manner.

6. Documentation of steps to aid businesses. When relocation of businesses will be necessary, the results of early consultation, planning for incentive packaging (e.g., tax abatement, special financing, and flexible zoning and building requirements), and advisory assistance must be documented in conceptual relocation plans and, as appropriate, in final environmental impact statements.

7. Hardship acquisitions. Although DOT appears to be mostly prohibited, because of court decisions, from supporting advance acquisition of parcels, hardship acquisitions of business and residential properties are still permitted on a case-by-case basis. For some businesses, help of this sort can be vital to their survival or economic health. Therefore, each of the modal administrations is reviewing its procedures to ensure that all such businesses have maximum opportunity--to the extent permitted by the existing statutory and judicial

framework--to qualify under the hardship acquisition program.

8. Loss of patronage at the old site. During the acquisition stage, particular attention must be given to businesses that depend heavily on local patronage from residents who are also being displaced (or cut off) by the same or other nearby projects. As timing is crucial, such businesses should have the opportunity, if possible, to move at the same time or prior to the relocation of their patrons.

The implementation of these eight points by the displacing agencies will be a step in the right direction; however, there is still a significant need for additional monetary benefits for business displacees--benefits that can only be provided by the passage of additional legislation.

LAST-RESORT HOUSING

During the past year, there has been a substantial increase in the number of last-resort housing projects initiated by the states. In the same period, the cumulative number of dollars programmed for last-resort housing since the passage of the Uniform Act has increased more than 50 percent.

The reasons for this increased use of the last-resort housing provision can be readily ascertained. The continuing inflationary spiral of housing costs has driven the need for purchase and rental-housing supplements above the statutory limits of $15 000 and $4000. Also, the increased interest differential, which is an integral part of the replacement housing payments, has skyrocketed. These factors are likely to continue pushing payments above the statutory limits for some time in the future.

FHWA is moving to meet the need for increased use of the last-resort provisions of the Uniform Act. FHWA proposes to take the steps necessary to promote a greater understanding of that aspect of the program and to encourage its use as a solution to problem relocation cases.

Any innovative method of providing needed housing will be considered for approval by FHWA. Some of those methods might include the following.

1. Purchase of an existing decent, safe, and sanitary house by a state highway agency and renting it to a displaced tenant, or selling the unit to a third party with the stipulation that the rental unit be made available to a displacee at a specific rate within the displacee's financial means for the four-year statutory period;
2. Purchase and rehabilitation of an existing housing unit that is not decent, safe, and sanitary where no such housing is available;
3. Purchase of a replacement house by a state highway agency and adding one or more bedrooms to meet the needs of a relocatee with a large family;
4. Construction of new housing; and
5. Movement of an existing suitable house from the right-of-way and renting and selling it to the relocatee.

INCREASED INTEREST PAYMENTS

Section 203(a)(1)(B) of the 1970 Uniform Act requires that relocation housing payments include the increased interest costs incurred by displacees. The current method of computing increased interest payments is resulting in unrealistically high payment amounts because of the current economic situation.

Section 203 of the Uniform Act specifies that the discount rate (applied to the unpaid balance of the mortgage on the acquired dwelling) "shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located." This is the source of our problem. FHWA has further interpreted this to mean the interest rate paid on passbook savings account deposits by commercial banks, i.e., about a 5-5.5 percent interest rate. Discounting differentials on this basis generates an unjustifiably high increased interest, given the high rate of inflation and alternatives that would yield greater returns. However, during past months, this and the spiraling mortgage interest rates have made our method of computing increased interest payments totally unrealistic.

During this inflationary period, it has become commonplace for interest differences between old and new mortgages to amount to 5-10 percent, and more. These differences reflect the fact that some mortgage interest rates being asked across the country have exceeded 16 percent in recent months. Increased interest computations are sometimes as high as $25 000 based on the current method of computing the payment. Some payments even exceed the remaining balance of the original mortgage.

FHWA is exploring a variety of ways to combat the problem created by this run-away program cost. New methods of computing or establishing interest differentials are being examined from both legal and equitable viewpoints. Preliminary indications are that equitable solutions to the problem can be devised. Among the possible solutions being considered are

1. Delete the requirement that the passbook savings rate be used and permit the use of interest rates currently paid for long-term certificates of deposit (this would provide partial relief);
2. Provide an up-front lump sum payment to reduce the new mortgage principal to a level that would require the same monthly principal and interest payment to amortize the new loan as is being paid on the old mortgage; and
3. Pay a discount fee or points to the lending institution in consideration for its issuing a new mortgage to the displacee at the same principal amount, term, and interest rate as the old mortgage, thus retaining the same monthly mortgage payment as before and eliminating any interest differential.

ONE-FOR-ONE HOUSING CONCEPT

In order to mitigate adverse impacts in areas where there is a shortage of low- and moderate-income housing, such as the Century Freeway Project in Los Angeles, a strong movement is emerging to institute one-for-one replacement of these types of housing units. Where environmental and housing studies clearly indicate a need for such housing, a new dwelling unit may be constructed or acquired dwellings moved and rehabilitated to replace the housing taken for highway purposes. Although there may be more areas where this may be necessary in order to proceed with the project, the application of this concept will be quite limited until there is an opportunity to properly evaluate such action.

When it is applied, the emphasis will be on the provision of dwellings to assure affected areas of an adequate supply of affordable housing for occupancy by low- and moderate-income groups in target populations rather than for general community housing replenishment.

ENERGY-SAVING MEASURES

In response to the need to conserve energy, a number of local communities throughout the country have recently adopted, as a part of their local housing codes, various energy conservation requirements, e.g., specified amounts of wall and ceiling insulation, storm windows, and storm doors.

Existing DOT regulations require that for a dwelling to be considered decent, safe, and sanitary, it must meet the applicable state or local building, plumbing, electrical, housing, and occupancy codes or similar ordinances or regulations for existing structures.

In those areas where local housing codes have been enacted that require energy conservation measures, FHWA has agreed to participate in the additional costs incurred in providing the energy-saving feature, as a part of the replacement housing payment, in order that the replacement dwelling will comply with the local housing code.

Whether the displacee is an owner or a tenant, the state must assure itself that all comparable properties considered in computing the replacement housing supplement contain the required energy conservation items to meet local code requrements. This will then provide the displacee with a payment that is adequate to enable him or her to obtain a comparable dwelling unit that may be certified as decent, safe, and sanitary.

FHWA has and will continue to encourage state and local governments to incorporate energy conservation requirements into their local housing codes. However, FHWA does not favor any change in national decent, safe, and sanitary standards that would mandate these features for all displacees because we feel that requirements of this nature should be handled at the local level. Otherwise, much of the nation's housing resources could suddenly become substandard under federal criteria and, hence, unavailable for replacement housing on federally-funded projects.

PROPOSED LEGISLATION

Five bills that would amend the Uniform Act have been introduced in Congress. DOT's views on some of the more significant amendments are summarized below. The following are keyed to the sections of the existing Uniform Act that would be affected by the proposed revisions.

Section 101(6)

All of the bills propose to broaden the definition of displaced person to include those involuntarily displaced directly or indirectly as the result of a federal or federally-assisted program or project.

Though DOT favors some expansion of the current definition, these proposals eliminate the current requirement that eligibility be contingent on either an acquisition of real property or on a written order to vacate. Adoption of the new definition would make it difficult to determine when a person is indirectly affected by projects. Provisions broadening the terms program or project would similarly expand eligibility for Uniform Act entitlements.

Section 201

Amendments to Section 201 state that no federal or federally-assisted project shall be undertaken unless the project "includes all possible measures to minimize such displacement." This appears to be somewhat vague, tending to be overly restrictive because the language is susceptible to unreasonable interpretations. DOT has recommended the use of less restrictive language in this section.

Section 202

H.R. 6756 provides for payments to businesses to cover professional services required in moving. Although DOT agreed that displaced businesses should be reimbursed for reasonable costs incurred in their reestablishment at replacement locations, DOT would probably recommend the adoption of a lump sum dislocation allowance similar to that which is available to residential displacees.

Section 202(b)

All bills call for an increase in the maximum limits on payments for moves made under a schedule. DOT is convinced that such an increase will simplify administration of this phase of the relocation program. However, to obtain the maximum benefits from such an increase, the current limits of $300 and $200 should be increased to $1000 and $400 instead of $600 and $400 as proposed.

Section 202(c)

DOT agrees with proposed revisions increasing the maximum payment in lieu of actual moving expenses from $10 000 to $20 000 but disagrees with the proposed revision to increase the minimum payment from $2500 to $5000. No need seems apparent to raising the minimum of $2500 because it would entitle marginal or part-time businesses to a payment of $5000 even if their earnings were substantially less.

Because of the difficulties involved in making uniform eligibility determinations for in-lieu-of payments, this section should be revised to simply give a displaced business the option of receiving a payment for actual, reasonable moving expenses or the lump sum payment in lieu of actual expenses.

Section 202(d)

Revision of this section would provide for adjustments of benefits each year on the basis of the annual increase, if any, in the Consumer Price Index. Although DOT does not disagree with the intent of this revision, this measure could work a hardship on those states in which legislative changes would be required.

Section 203(a)(1)

The proposed changes in this section provide for the deletion of the maximum limit for replacement housing payments and the deletion of the existing 180-day occupancy requirement for eligibility. Prudence dictates that a statutory maximum payment be retained. However, the need to increase the current maximum to $25 000 is recognized.

Although DOT would not object to reducing the minimum occupancy to 90 days in conformity with the occupancy requirements for tenants under Section 204, DOT is convinced that, for payments under this section to be administered equitably, the minimum occupancy requirement should not be eliminated entirely.

Section 203(a)

A new paragraph here would provide for the payment of increased real property taxes. DOT does not object to this in principle. However, computation

of the payment should not be related to the life of the mortgage on the replacement dwelling. This would penalize a person who paid cash. Payment of increased taxes for a specific term, such as five or ten years, would be preferable.

Section 204(1)

Some proposed amendments are objectionable because they eliminate the statutory limitations on both the number of years for which the displaced tenant is eligible to receive rent supplements and the maximum dollar amounts of supplemental housing payments. Given the geographic and economic mobility of our population, DOT questions the necessity for extending Uniform Act entitlements to displaced tenants for an undefined period of time. DOT also feels that the guarantees of last-resort housing provided by the government are preferable to making unlimited payments available to displacees.

DOT favors increasing the maximum time frame of tenant responsibility to six years and the dollar limitation to $8000. DOT has also recommended that the matching downpayment be dropped.

Section 205(a)

Various proposals to amend section 205(a) would provide eligibility for benefits under the act to persons outside project limits who might sustain substantive economic injury because of project-related activities. These proposals effectively expand the definition of displaced person given in Section 101(6) and suffer from the same deficiencies noted in comments on that section.

Section 213(a)(b)

Most proposals amending Sections 213(a) and (b) provide for a single set of regulations for use in implementing the Uniform Act in connection with all federal and federally-assisted programs and projects. An agency would be designated by the president to assure uniform application and interpretation of the single set of procedures. (H.R. 6736 would create a Federal Relocation Assistance Compliance Office.) Development of a single set of regulations by such an agency would be a positive step toward greater uniformity among federal agencies in this area. We believe that the agency assigned to this activity--i.e., developing the single set of regulations and resolving differences among agencies--should not be an operating agency.

What's Wrong With the Uniform Act?

H. J. Huecker

Many proposals for changing the Uniform Act of 1970 are being talked about today. Rapid inflation may have outpaced payment ceilings. Some interpretations of the law are not shared by all federal agencies. In 1979, Congress held hearings on S. 1108, a bill that would make changes in the Uniform Act. Several bills have been introduced in the House of Representatives.

Some changes in the law are needed to minimize differing federal agency rules and to simplify administration. But these are not major obstacles to the kind of consensus that can produce new legislation. Some changes are needed to address the increased cost of buying or renting housing in the past nine years. These may have to be negotiated with one eye on personal need and one eye on the budget.

But there are two issues that I believe raise the most concern. And in some respects they are related. Why doesn't the law cover all persons involuntarily displaced as a direct result of a federal or federally-assisted program? And how can the rental assistance payment under Section 204(1) of the law be improved to meet the needs of low- and moderate-income persons?

DIRECT FEDERAL DISPLACEMENT

The Uniform Act covers all displacement as a result of acquisition by a public agency for a federal or federally-assisted program. With few exceptions, it does not cover the involuntary displacement of tenants as a direct result of rehabilitation, code enforcement, demolition, or privately undertaken acquisition carried out for a federally-assisted program.

Surely, a tenant given a notice to permanently vacate a dwelling unit because the owner wishes to carry out federally-financed rehabilitation faces the same problems as a tenant displaced by public acquisition. It is not fair to ask that tenant to pay such a disproportionate share of the cost of carrying out that project. And yet the Uniform Act does not generally cover such displacements.

The Uniform Act does govern displacement caused by rehabilitation, code enforcement, and demolition under several programs administered by HUD that were in effect when the law was enacted. But these programs, which include the Urban Renewal and Model Cities Programs, are now being phased out. There have been no amendments to the law since its enactment.

Undoubtedly, the cost of providing relocation assistance has weighed heavily against a decision to expand coverage either by law or federal regulation. To some extent, liberal interpretations of the existing law and proposals to legislate substantially increased payment levels have probably fostered opposition to expanding the class of eligible persons. Then, too, under many loan and subsidy programs, it is more difficult (than under public acquisition programs) to find a way to provide the cash payments required by the Uniform Act.

I believe, however, that sensible ways can be found to overcome the cost objections. Placing the burden for the funding of relocation costs on the project causing the displacement provides a strong

incentive to the project sponsor to take steps to avoid unnecessary displacement as a means of minimizing such costs. In fact, the total number of those displaced by public acquisition for a federal or federally-assisted project has fallen significantly since the Uniform Act was enacted. Under HUD-assisted programs, which account for most of these activities, the total number of such displacements decreased from approximately 60 000 in fiscal year 1973 to about 16 000 in fiscal year 1978 (the latest year for which such figures are available). The high cost of relocation under the Uniform Act is a primary reason for this shift.

On the other hand, all displacement is not undesirable. With good relocation programs, both the public and the displaced person may benefit from a project. (Moreover, efforts to prevent displacement may sometimes cause more harm than good. Avoiding public expenditures to revitalize a neighborhood may allow even greater displacement to take place through deterioration and disinvestment, without assistance to those affected.)

From the viewpoint of controlling costs in a responsible way that makes it feasible to expand coverage under the law while meeting the needs of low- and moderate-income renters who are most hurt by displacement, the Uniform Act rental assistance provisions (Section 204) deserve the closest review.

RENTAL ASSISTANCE PAYMENT

The most acute relocation problem under the Uniform Act is that faced by displaced low- and moderate-income tenants who often receive a lump sum payment of $4000 to assist them in making a transition to better but more costly housing. Unfortunately, for many, the transition is impossible. The payment does not provide the means to sustain the new and better life initially promised.

Consider, for a moment, the position of the elderly, the handicapped, or the very unskilled who have little or no prospect of increasing their permanent incomes to meet higher housing costs after the $4000 payment runs out. In many cases, the payment does not last more than a year or two. Who then can blame the displaced person for moving back to low-cost substandard housing at the earliest possible date? Better to spend the money on higher-priority needs than merely postpone the trauma of finding and relocating to less-expensive housing (which is probably neither affordable nor standard). If the replacement housing payment is to operate for such damages suffered, why even require that the person move to standard housing as a condition for receiving the payment? In brief, then, the Uniform Act rental assistance payment is wanting in several respects.

It is insufficient to accommodate the housing needs of the poor. Based on the four-year computation period, the maximum subsidy is $83.33/month. The subsidy is neither deep enough nor long enough to provide the help needed for persons whose future income prospects are not commensurate with their increased housing costs. It does not respond to changes in need. No allowance is made for a future decrease in income or an increase in housing costs. (Of course, for those whose income materially increases after computation of the payment, it is a small windfall.)

The lump sum nature of the payment often induces a person to move when that move is against his or her best interests. [The tenant may obtain somewhat greater assistance under Section 206 of the act (last-resort housing) by refusing to move until the public agency takes the steps necessary to provide a reasonable choice of opportunities to move to suitable affordable housing.] For good or bad reasons, the lump sum nature of the payment also fuels the opposition of many public officials to changing the law to expand coverage or to increase the payment ceiling.

It does not effectively assure standard housing accommodations. Indeed, faced with the absolute limit of the payment, a person who has relocated to standard housing in order to obtain a payment may shortly thereafter move to substandard housing.

A discussion of these features should help focus on the means by which the Uniform Act rental assistance provisions might be improved. Ideally, such changes would take into account the need for

1. A deeper subsidy that truly meets the gap between the income of the poor and the cost of standard housing;
2. A subsidy that does not have a short-term expiration;
3. A subsidy that increases or decreases according to variations in income and housing costs (such a subsidy would reflect true needs and preclude windfalls);
4. A subsidy that enables the displaced person to permanently occupy standard housing; and
5. A subsidy that does not substantially increase administrative costs or require the institution of a new bureaucracy.

Is this a pie-in-the-sky proposal? How could it be feasible or even possible? Well, it is feasible. In fact, it exists now. It is called the Section 8 Existing Housing Program.

EXISTING HOUSING PROGRAM

Under the Section 8 Existing Housing Program, an eligible family receives a Certificate of Family Participation that assures the family the subsidy needed to reduce the cost of privately owned decent, safe, and sanitary housing to a level the family can afford (15-25 percent of adjusted income). Because the subsidy is allocated to the family, the family can choose any housing that is decent, safe, and sanitary and within the fair-market rents established for such housing. If the owner of the dwelling agrees to the arrangement, a lease is signed and the necessary subsidy is paid to the landlord. Assuming a dwelling unit is found, a certificate (with subsidy) is effective for five years. But the certificate may be renewed. Budget authority now covers a 15-year period. And the subsidy could continue indefinitely if Congress continues to fund the program.

The program is administered by local public housing authorities using funds provided by HUD. The family income of the occupant is periodically reviewed and the subsidy adjusted to reflect need. To meet program requirements, the housing occupied must be standard.

The program has been operating for five years with excellent results for those tenants who are participating. More recently, through the Housing and Community Development Act Amendments of 1979, Congress established criteria granting a priority under the program and other assisted housing programs to persons who are displaced or are occupying substandard housing.

This is not to say that there are not some drawbacks in the program as a relocation tool. Perhaps the program should be revised to pay the subsidy directly to the tenant rather than to the landlord. Now some landlords refuse to participate

in the program and that limits the choice of a tenant seeking housing.

Another rule that limits choice in some areas is a requirement that the housing rent must not exceed the government approved ceiling. The ceiling is based on average fair-market rents. Thus, if a tenant is willing to pay an extra $5 out-of-pocket to rent housing that cost $5 more than the established rent ceiling, he or she is unable to do so.

These issues may justify some future refinements in the program. But even now, the Section 8 Existing Housing Program is a superior relocation tool for meeting the housing needs of low- and moderate-income tenants. To overcome the cost concerns of many who do not support an extension of Uniform Act coverage, however, one additional question must be resolved. Under what circumstances should the Section 8 subsidy be substituted for the Uniform Act rental assistance payment? There are three basic alternatives.

1. Continue the existing Uniform Act rules that give a displaced person who elects to rent a replacement dwelling the right to choose a lump sum Uniform Act payment, regardless of the availability of Section 8 assistance. This rule provides freedom of choice in the selection of housing and in the type of payment.
2. Assure full freedom of choice in the selection of replacement rental housing but allow the public agency, at its option, to substitute a Section 8 certificate if the displaced person voluntarily elects to rent a particular dwelling of his or her choice and if any necessary arrangements to make the Section 8 subsidy effective can be completed.
3. Permit the displacing agency to meet its obligations to a displaced person by offering a Section 8 certificate and identifying a reasonable choice of suitable (or comparable) replacement dwellings at which the certificate may be used.

There are pros and cons to each of these alternatives. And the workability and desirability of each may vary on a program-by-program basis according to the availability of relocation funding. As stated earlier, the first alternative applies to displacements under the Uniform Act. The last two alternatives are now being tried under certain HUD-assisted programs that are not subject to the Uniform Act.

Which of these alternatives is best or whether or not a uniform procedure needs to be adopted for all public programs should be a matter for public discussion. There may also be other issues. For example, should displacing agencies share in the cost of the subsidy by making a transfer payment to the Section 8 program?

What is clear, however, is that we already have a program to meet the needs of displaced low- and moderate-income persons to an extent not possible through the basic Uniform Act rental assistance payment and in a manner that may make feasible the extension of Uniform Act coverage to all persons involuntarily displaced as a direct result of a federal or federally-assisted program.

As we look forward to another decade of progress in the development of public relocation policy, this potential of the Section 8 Existing Housing Program ought to receive careful consideration.

Relocation Assistance Problems and Prospects

Max Follmer

This paper highlights some aspects of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 that affect its implementation by federal agencies. It is not a detailed review of the act or of all problems encountered by the U.S. Army Corps of Engineers in administering it. Rather, it is an overall impression of experience with the act or of all problems encountered by the Corps in administering it and its future prospects. Although the act has been generally successful in achieving its objectives, there are areas where it could be improved.

The Corps perspective of relocation assistance to displaced persons is somewhat different from that of most other federal agencies. Because of the nature of its programs, Corps personnel in some 30 field offices perform almost all of its land acquisition and provide accompanying relocation assistance. This direct action eliminates the local or state agency "middleman" through whom most agencies work and makes it easier to administer the act uniformly within the agency. It also makes possible a close overview of the entire acquisition and relocation process.

One area in which the act has frequently been criticized is the lack of uniformity in its administration. GAO has noted in several of its studies that different amounts might be paid as benefits by different agencies under the same set of circumstances. This is possible, even under a uniform act, because the act vests responsibility for implementing regulations and procedures in the head of each agency rather than in a central authority. The legislative history shows that Congress deliberately chose this course to allow some flexibility to accommodate differences in agency programs and missions. I feel that this flexibility outweighs any advantage to be gained by imposing a central control, particularly since practical differences in results are rare and a high degree of uniformity in interpretation has actually been achieved.

Immediately following passage of the act, the Executive Branch sought to enhance uniformity by convening an interagency group to discuss differences and work out a set of guidelines for use by all federal agencies in promulgating their regulations. Such guidelines were issued by the Office of Management and Budget (OMB), pursuant to presidential order, and were later revised and reissued by GSA after that agency was designated to head the interagency group. Although most, if not all, federal

agencies voluntarily followed these guidelines in their regulations, the group eventually ceased to meet because no binding method of resolving differences in interpretation was available under the law. Despite this, a good rapport was established for exchange of ideas and information among agencies (more uniformity in practice exists than is sometimes recognized). Accordingly, the reconvening of such a group might provide some valuable suggestions for improving the act.

Some problems in administering the act stem from omissions or ambiguities in the act itself. For instance, it does not define the work dwelling, although its meaning is crucial to several provisions. This has caused the Corps considerable difficulty in dealing with recreational cottages or summer homes. Regulations in accordance with the interagency guidelines exclude such structures from eligibility for replacement housing payments. The law should be clarified on this point, as well as numerous other terms and provisions.

The act obviously prescribes different treatment for displaced businesses than for displaced residents. While it guarantees displaced residents decent, safe, and sanitary replacement dwellings, it makes no such promise regarding a business building. About all a displaced business can be sure of getting reimbursed for are its moving expenses and some advice and information on relocation sites. I agree that displaced businesses deserve more relocation assistance than has been authorized in the act. Current benefits can leave a small business without a practical relocation site or adequate compensation for the disruption.

The foregoing are but two examples of several inaccuracies and inequities that prevent the act from being as effective as it should be in fulfilling its objectives. These inherent faults, although minimal, are more responsible for deficiencies in carrying out the act's intent than are the separate administrative defects of the agencies.

Most of the problems connected with the act can be solved by appropriate amendments. Congress obviously contemplated amendments after some experience with the act because it required annual reports from agencies through the president during each of the first four years of its implementation. Although these reports, in addition to operating agency and GAO recommendations, have not produced any changes, several bills now pending are based on a GAO study and could make extensive revisions in the act. While their provisions are too complex to address here, and some are considered inappropriate, they could correct some of the act's shortcomings. It will be interesting to watch the progress of these proposed changes.

My experience over the life of this act has been that all of the federal agencies I have dealt with have sincerely tried to carry out the intent of the act and have generally succeeded. While the Corps has not always agreed with some agencies' interpretation of certain provisions, Corps goals have always been consistent. It is clear that, because of this act, persons displaced by government projects are much more equitably treated than at any previous time in history. With appropriate legislative improvements and continued dedication to the spirit of the act, its objectives can be achieved.

Scope of GSA Acquisition and Relocation Program

James W. McMahon

Over the past several years, the General Services Administration has had a very limited federal construction program. The relocation activities associated with all of these projects in the last few years were accomplished through local redevelopment, housing authorities, or other federal agencies, acting in behalf of GSA. No inequities or inconsistencies were experienced with the handling of the relocation program in this manner. However, because GSA's program has been limited, this does not imply that there are not inequities. It is simply that GSA has not experienced them.

GSA believes that substantial progress has been made in carrying out the Uniform Act. GSA is also cognizant that there are some inequities that have to be resolved as pointed out in a 1978 GAO report.

GSA feels that a greater degree of uniformity could be achieved with a single set of regulations, when coupled with a central organization to direct and oversee governmentwide relocation procedures. The overview organization should be given the authority to approve regulations issued by the various agencies, as well as to impose sanctions against deviations by agencies that are not supportable by program needs.

Inequities do exist as to displacement caused by some federal activities that have not been subject to the act and with respect to last-resort housing because of various interpretations of Section 206.

Congress should amend the relocation legislation to cover all persons displaced as a result of a federal or federally-assisted project whether caused by a public or private agency. Also, Congress should amend Section 213(a) of the act to require the president to issue a single set of regulations, providing guidance to federal, state, and local agencies. Congressional clarification is also needed because of various interpretations of Section 206(2). GSA will support any proposed amendments to the act as outlined here.

State Perspective of Problems and Prospects

Allen R. Austin

The stated objectives of this conference on relocation and real property acquisition are to (a) examine the experience of local, state, and federal transportation and housing agencies in implementing relocation and real property acquisition programs; (b) identify problems with current legislation and regulations; and (c) suggest approaches for solving these problems.

To this end, I, as a representative of Illinois and a member of the AASHTO Subcommittee on Right-of-Way, will outline some of the problems facing state officials charged with the responsibility of administering the Uniform Relocation Act. Proposed federal legislation, higher replacement housing payments, and regulatory changes should all be mentioned.

First and foremost among our concerns is pending federal legislation, namely S. 1108 and H.R. 6256, which would amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Based on replies received from 26 states regarding S. 1108, it can be said that, with the exception of those amendments that would increase the payment limits, most of the states are opposed to the proposed added provisions and requirements. H.R. 6256 basically proposes to amend the same sections of the act as S. 1108, but the House bill also proposes certain additional payments, which should be given careful consideration, not only because of their considerable financial impact but also because of the overwhelming administrative burden they would impose on displacing agencies. Both bills also incorporate certain controversial concepts of grave concern to displacing agencies because they could compromise the integrity of the program and those charged with the responsibility of administering it.

We believe that most of the proposed increases in payments are justified, as is the removal of arbitrary eligibility standards regarding replacement housing payments. We do not believe, on the other hand, that all relocation payments should be tied to a rising Consumer Price Index. Nor do we believe that unrealistic restrictions should be placed on the use of available housing resources with which to provide replacement housing to the detriment of the early development of projects.

Most states feel that the Uniform Act as it exists is administratively sound and workable, has stood the test of time and public scrutiny, and has proven beneficial to those directly affected by public improvements. Conversely, we submit that, if the provisions of the Uniform Act were to be extended to those "indirectly displaced," it would be nearly impossible to administer the program on a rational basis and at best would subject the program to extended and infinite litigation, not to mention the financial impact on federal, state, and local government budgets. The proposed legislative changes being opposed include the following:

1. Include reimbursement to homeowners for increased real property taxes on replacement housing;
2. Make homeowners of tenants at the expense of taxpayers and then force the taxpayers to pay their increased costs of homeownership, i.e., increased principal, interest, taxes, insurance, and utilities, and make such payments ad infinitum;
3. Burden displacing agencies with the task of demonstrating that occupancy of acquired lands was in good faith;
4. Provide that generous increased rentals were to be paid forever; and
5. Provide that minimal displacement should be the controlling factor in route selection to the exclusion of all other valid criteria.

We would like to see the program improved where improvements are needed, but we would also want to preserve the integrity of the program by reserving the benefits of the program to those who are directly displaced by acquisition and to those whose needs are demonstrable and subject to reasonable measurement.

Although one of the purposes for this legislation is to eliminate nonuniformity, the ambiguous and confusing language used throughout both bills would accomplish just the opposite by eliminating any possibility of uniform interpretation, or reasonable administration. It is apparent that many of the provisions were drafted by persons unfamiliar with the everyday realities of administering a complex set of rules and regulations, and we would, therefore, recommend that changes, if any, to the Uniform Act be adopted only after due and deliberate consideration by persons familiar with its operation.

We are all well aware of the on-going economic pinch on today's dollar, particularly with regard to increased interest rates on home financing.

At one point, mortgage interest rates throughout the nation reached the 16 percent level or more and, had they remained at that level for very long, could have had considerable impact on future projects, particularly with respect to mortgage interest differential payments. Even with the interest rates leveling off at 11 or 12 percent, it is conceivable that mortgage interest differential payments can approach the principal amount of an existing mortgage as well as use most of the $15 000 maximum replacement housing supplement. The potential is here to either stop projects completely or otherwise be forced into last-resort housing programs because of excessive mortgage interest differential and other replacement housing payments.

One way to solve the problem of excessive interest differential payments would be for the acquiring agency to be able to make a lesser and more equitable payment with which to pay the principal amount of the new mortgage at a level where the total monthly payment of principal and interest on the new mortgage would not exceed the total monthly payment on the existing mortgage. Unfortunately, the formula in the Uniform Act for computing the interest differential payment is very specific and does not allow any flexibility. There is nothing to assure that interest rates will ever recede to where they were more than a year ago, or that they won't go back up to 16 percent again. Therefore, this is one area of the Uniform Act that should be amended to give acquiring agencies the type of flexibility suggested here.

One other area that should be considered is relief for those persons who incur interim financing costs in the course of purchasing or building replacement housing. Many times, displaced homeowners must secure some interim financing with which to make a down payment for purchasing or building replacement housing prior to the time of receiving their acquisition and replacement housing payments. Although the costs are not great, they do impose another out-of-pocket expense for payment of interest on the interim financing that we are unable

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 funding and manpower. 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.

Once 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.

Relocation Assistance Program in Oklahoma

W. Howard Armstrong

The Oklahoma Department of Transportation has been involved in providing relocation assistance benefits and services to thousands of residential, business, nonprofit, and farm-operation relocatees displaced as a result of highway projects during the last 20 years. The program has grown from one of providing mere token advisory assistance to a program that now plays an integral role in the planning process of highway projects as well as in the acquisition of real property.

The state's relocation assistance program is considered a success. This success, however, is not measured by the number of people displaced or the expediency with which this is accomplished, but by the state's ability to minimize the impact and hardships created by a forced displacement. Although the overall objective of the Oklahoma Department of Transportation is to build transportation facilities, the importance of providing humane treatment and understanding for those whose lives and businesses must be disrupted in order to accomplish our objective is recognized. The job of the relocation assistance program is to ensure that each and every individual who is displaced receives the maximum benefits and assistance to which they are entitled. In doing this, the program is governed by federal laws, federal regulations, state laws, and state regulations, all of which deal with providing relocation assistance benefits and services.

It is also known that all these laws, rules, and regulations count very little unless the particular requirements that a relocatee may have or that a business may have are considered on an individual basis in order to minimize this impact. The importance is stressed to relocation agents of presenting a good public-relations image to displacees so that the agent and the program will be accepted and trusted by the displacee, and that the displacee will have every confidence in the state's ability to guide them through this maze of laws, rules, and regulations.

Perhaps the two major areas of shortcomings with the state's program as it now exists are in the areas of (a) excessive federal regulations and (b) the lack of equality for business displacees. In dealing with the first area of concern, far too often the official positions and decisions that govern all of the relocation assistance programs are made without appropriate consideration for how this really impacts the administration and implementation of a relocation program at the grass-roots level. The relocation assistance program involves working with people in businesses and, as such, there is no way that any agency can adopt rules and regulations that can govern all possible events. The position has been taken for some time now that control of administration and implementation of relocation assistance programs should be left up to those people who are directly responsible for the programs with a minimum of interference and regulations from the federal level. Often these federal regulations, which are intended to protect displacees, eventually end up hurting them.

In looking at the second area, many people recognize the fact that commercial businesses have very little consideration given to them under the relocation assistance program. The fact that you are physically going to move the inventory of a business from point A to point B does very little to help that business, should it be necessary to buy a replacement site or to incur major expenditures in developing the replacement sites to meet their business needs. With all the amendments to the Uniform Act now before Congress, it is a concern that this area of real need has been neglected.

On the whole, anyone who has been involved in the relocation assistance programs from the standpoint of the displacing agency through the displacee has had the benefit of a very good program. While it is very rare that one would meet a displacee who really wants to move, it is always rewarding to look at displacees after they have occupied their replacement dwelling or replacement business site and see that they have assimilated into their new surroundings with a minimum of difficulty. These successful relocations uphold the Uniform Act's declaration of policy, which provides that persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.

Relocation Assistance in New Jersey

Joseph G. Feinberg

Among the more important changes suggested by any assessment of the Uniform Relocation Act are eliminating uneven eligibility requirements that have existed under the Uniform Relocation Act; increasing payments to a level more consistent with today's costs; re-sorting responsibilities for relocation payment between public and private partners in joint projects; and integrating relocation rental assistance with Section 8 rental assistance.

ELIGIBILITY

Of particular importance to those administering relocation programs in New Jersey has been the need to extend uniform relocation benefits to those displaced through all publicly-assisted programs. New Jersey relocation statutes have always required this but have encountered implementation problems in federally-assisted projects due to conflict with the federal Uniform Relocation Act. The most glaring illustration of this problem has occurred in Section 8--substantial rehabilitation. Where a Section 8 sponsor was a public agency acquiring property for rehabilitation, uniform relocation benefits were awarded. If the sponsor was private and no public acquisition was involved, such benefits were not required. Inasmuch as both types of Section 8

rehabilitation programs relied on a public subsidy, precluding persons displaced through a privately sponsored Section 8 substantial rehabilitation from relocation benefits was a completely unacceptable position in New Jersey; the state's position was that there should be a broader interpretation of federal law and regulations by HUD and statutory change accordingly.

Initially there were many who expressed concern that our position would jeopardize the financial feasibility of rehabilitation projects by adding Uniform Relocation Act level relocation costs. However, the Senate bill S. 1108 and the prevailing sentiment of the conference have now clearly moved toward the position New Jersey has held since first confronting this problem a number of years ago. Adoption of those provisions of S. 1108 that eliminate what is felt to be very superficial distinctions in relocation eligibility between privately and publicly sponsored Section 8 rehabilitation projects will eliminate serious inequities that have presented very difficult interface problems for the state.

INCREASED BENEFIT LEVELS

While those involved with displacement in highway projects have, understandably, a somewhat different perspective on relocation than those in housing and community development, there certainly appears to be no argument about the need to increase benefit levels (as called for in S. 1108) that have remained the same since the passage of the 1970 act--despite what is by now very acute inflation. Particularly important and more pertinent to the housing programs that cause displacement, however, is the need to examine who pays for relocation when you have public-private collaboration (as in privately sponsored Section 8) and a very definite profit aspect involved.

PAYING FOR RELOCATION

New Jersey's situation has been considerably more complicated from this standpoint. When the federal community development program first started, state statutes and regulations could be applied to federally-assisted projects in the absence of HUD regulations. An opportunity was thus provided to invoke the state's position: Persons displaced by Section 8 substantial rehabilitation, irrespective of sponsor and acquisition, were eligible for uniform benefits. In the face of the state's position, developers and the state's own Housing Finance Agency (HFA) were greatly discomforted by this. The HFA was apprehensive over the prospect of having to provide for relocation costs as an item that could be mortgaged and possibly render a project financially infeasible as a consequence; developers found this of even greater concern. While not desiring to jeopardize rehabilitation projects that would provide housing for those of low and moderate income (the New Jersey HFA had been a leader among state financing agencies in this respect), the state's relocation administrators held the position that the added income accruing to a project from the sale of the developer's equity interest for tax shelter purposes could be used, in part, to cover relocation expenses in conjunction with the public contribution. In this way, there would be a more equitable sharing of costs in a public-purpose project wherein private financial advantages could be realized.

With the subsequent development of initial federal regulations that still did not require equal benefits in all Section 8 rehabilitation projects (neighborhood strategy areas were an exception), the state's position was weakened because federal regulations took precedence over state law in federally-assisted projects. However, developers anxious to receive state grants-in-aid for relocation were disposed to negotiate with the state despite the primacy of the federal regulations in a federally-subsidized project. It now appears from recent HUD regulations that there are changes with respect to federally-subsidized rehabilitation that look for some of the relocation benefits to be assumed by the developer--i.e., the private owner would now be responsible for moving costs and a four-year rental assistance payment. New Jersey's prior efforts to assign these costs to developers, at least in part, helped point the direction for the recent HUD changes and similar proposals in S. 1108.

RENTAL ASSISTANCE

While there are many other dimensions to this particular relocation problem, I would close by singling out the state's agreement on changes in rental assistance with some of the sentiments expressed by Joseph Barry, a major developer of Section 8 substantial rehabilitation projects in New Jersey, in a 1979 hearing before the Congressional Subcommittee on Intergovernmental Relations, and H.J. Huecker of HUD in his paper for this conference. Rental assistance under the Uniform Relocation Act, which covers four years, should be the same as Section 8 rental assistance, which covers five years, and is renewable. As Barry advocates, New Jersey prefers annual payments as opposed to the one lump sum method. New Jersey has always made annual payments that ensure that this rental assistance is used for the purpose intended. Consistent with these purposes, the state recently advised relocation agencies to seek out Section 8 units for displacees in lieu of a four-year relocation rental assistance payment.

Relocation Needs As Seen by Portsmouth Housing and Redevelopment Authority

Michael A. Kay

With the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, all persons and businesses subject to displacement from a federally-assisted program or

project were to be provided uniform and equitable treatment in conjunction with their relocation. While the Portsmouth Redevelopment and Housing Authority, Portsmouth, Virginia, has encountered little difficulty in its displacement and acquisition programs in addressing the basic goal of the act, it is strongly felt that the law and accompanying regulations must be amended and updated in order to continue to address legislative intent and to make the act responsive to today's conditions and needs. Only through such revisions can the act continue to provide uniform and equitable treatment of displacees. The following represent several revisions that have been suggested to accomplish this goal.

MOVING EXPENSES

The $10 000 in-lieu-of payment for businesses has proven to be inadequate in today's market, particularly for large business concerns. Further, computation of the average annual net earnings by using only the two years prior to acquisition in most instances has not provided a true picture of the displaced firm's earlier operations. During this period, many former patrons have moved out of the area due to redevelopment and displacement activities, thereby considerably decreasing net earnings. Increasing the maximum in-lieu-of payment and increasing the time period for computing average net earnings from two to five years (permitting business concerns to select the most representative two years) would prevent windfalls as well as inequities.

REPLACEMENT HOUSING PAYMENTS

There is a critical need for increases in both the $15 000 replacement housing payment for displaced homeowners and the $4000 payment to tenants. The differential ceiling amount for homeowners is unreasonable in today's housing market because in the vast majority of cases this payment is insufficient to permit homeowners to purchase a replacement dwelling free from a mortgage. Further, dispersal of the rental assistance payment for tenants and certain others in a lump sum has often encouraged tenants to rent standard units that are well above their continued ability to pay. After these monies have been expended, many tenants often are forced to move back into substandard housing. Although a comprehensive counseling program is essential to carrying out a successful relocation program--and such a program is in place at this authority and many other agencies--the enticement of receiving a check for $4000 often distorts the purpose for which the assistance is intended.

One suggested method of updating the replacement housing payment schedule for tenants would be the establishment, by geographic area, of a schedule of maximum differential payments, similar to the procedure used by HUD to establish and update fair-market rents. This would help ensure equitable compensation for displaced tenants, taking into account differentials in housing costs throughout the country. A similar method could be used for homeowner payments that are pegged to the Consumer Price Index or some other relevant guideline.

DOWN PAYMENT ASSISTANCE

The down payment assistance available to tenants and certain others is presumably designed to encourage qualified tenants to purchase rather than rent, and the requirement for matching funds over $2000 is correspondingly intended to be an incentive for tenants to become homeowners. However, the authority notes that this requirement has seemed to discourage many tenants who might have otherwise become homeowners, leaving them with the feeling that they have somehow been penalized.

RELOCATION INCENTIVE FUNDING

Together with the other needed amendments, the problem of having to use community development block grant monies for relocation costs has placed a significant burden on other eligible programs, oftentimes precluding a locality from undertaking activities necessitating displacement. Therefore, it is recommended that the development of incentive funding be considered for communities undertaking large-scale community revitalization activities involving displacement.

[N.B. These and other initiatives have been offered by me in testimony before members of the U.S. Senate Intergovernmental Relations Committee on behalf of the National Association of Housing and Redevelopment Officials.]

Proposed Revisions in the Uniform Relocation Act

Dudley H. Millen

The 1970 Uniform Relocation Act, based on the experience of the District of Columbia's Department of Housing and Community Development, has been successful in its intent to provide meaningful information, services, and payments to displacees required to relocate as a result of government-related endeavors. Agencies have been compelled to ensure the eventual relocation of residential displacees into suitable and standard replacement housing and supplemental payments have enhanced this process. Thus, the goals have generally been achieved. The exception may be the households whose financial resources disqualified them for subsidized housing while market-rate housing actually exceeded their means.

A proposed solution to this inequity may be an increase in the range of financial assistance for all categories of displacees. The District of Columbia has incorporated programs to supplement the $15 000 replacement housing payment for homeowners up to an additional $10 000 and down payment assistance for displaced tenants up to $11 000. These provisions have significantly increased home ownership opportunities among D.C. residents. The Uniform Act should be amended to include similar benefits.

Nevertheless, this still leaves a void for

displacees who relocate into rental housing. It is among this group that the greatest inequities may have occurred, and an increase of the $4000 tenant assistance payment may not be the solution. The cost of current market housing may require a totally different and more innovative approach.

A complete change in the moving expense payment provisions is also recommended. While the actual moving expense option should be retained, the dislocation allowance should be eliminated and the fixed payment increased to provide displacees $150 for each of the first three rooms of furniture and $75 for each additional room up to $975 for 10 rooms. This amount will be the maximum fixed payment. Any amount in excess of the net moving cost would be substituted for the dislocation allowance and would be appropriately scaled in proportion to the size of the vacated dwelling unit.

The relocation program of the Department of Housing and Community Development's Central Relocation Assistance Office for the District of Columbia has been most notably affected by the limited availability of dwelling units within the financial means of a preponderance of low-income households in the displacee workload. However, this predicament may be created more by the economics of supply and demand within the District's housing market rather than by shortcomings within the Uniform Act.

Relocation and Real Property Acquisition Implementation by Counties

Fred Rogers

There are very few small counties that have the personnel or expertise in the field of land acquisition necessary to acquire property in accordance with Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Several of the larger counties (i.e., those with a population of 200 000 or more) do acquire properties in accordance with the 1970 act. The problems of acquiring trained personnel in the field are very real. In order to have a well-organized program, the personnel needed are a person to write legal descriptions, an appraiser, a negotiator, a person for relocation assistance for residential property, and another for relocation assistance for business property.

In most cases, the counties or local agencies work with the state's department of transportation in order to gain familiarity with the program. I might add that the Illinois State Department of Transportation has been very cooperative in assisting local agencies in complying with federal requirements. It is almost mandatory that the local agencies have a person who can devote a substantial part of his or her time, at least initially, to studying the requirements of the policies and procedures presented by the various agencies for acquisition of real properties. As far as the local agencies are concerned, it is felt that they have done their utmost to achieve the goals that were set by Congress and have in all instances to my knowledge been uniform and equitable.

The County Superintendents Association of Illinois, cognizant of the problem with the small counties, has through its secondary road liaison recommended that the policy be instituted to allow the local agencies to acquire property valued at less than $2500 without the use of a certified appraiser. This policy change has gone a long way in alleviating the problems that the small local agencies encountered. Further, reduction in costs of acquisition could be realized by increasing the land values so acquired to $5000.

In the area of relocation assistance, particularly in urban renewal areas, the compensation for relocation is not commensurate with the actual cost involved in relocation. Some of the local agencies have, through their local public bodies, used additional funds to supplement federal funds in assisting with relocation. The greater inequity is the movement of businesses from their established locations to new locations, which does, in most cases, decrease the amount of business that was realized in their previous locations. There is no fair and equitable method of mathematically computing such losses of business or disruption of the cash flow.

In brief, the intent of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 has been adhered to and has worked as well as any federal policy in place now. I believe that local agencies are, in their own way, trying to achieve the intent of the federal legislation.

Condemnation Blight

Paul B. Rodbell

The Fifth Amendment to the U.S. Constitution provides in part that no person shall be deprived of property without due process of law nor shall property be taken for public use without just compensation. Article III, Section 40, of the Maryland Constitution provides that the General Assembly shall

enact no law authorizing private property to be taken for public use without just compensation. In other words, the government is permitted to take private property if there is a public purpose, but due process and other constitutional guarantees require that compensation be made.

The traditional method by which the public sector acquires private property is pursuant to an action whereby the government exercises its powers of eminent domain. Further, even without an actual physical acquisition, there can be a "taking"--if pursuant to a valid governmental regulation a person is effectively denied the use of his or her property.

My focus will generally involve a discussion of the impact of proposed highways upon a landowner's rights and privileges, especially with regard to Prince George's County and Montgomery County in Maryland.

Condemnation blight should not be equated with a de facto taking. The term "condemnation blight" (inverse condemnation) denotes the debilitating effect upon the value of land caused by threatened, imminent, or potential condemnation; the term "de facto taking" denotes a substantial interference of the landowner's right to enjoy his or her land. An inverse condemnation is inverse in the sense that the property owner initiates the necessary legal action in an effort to secure payment as a result of the "taking." Usually, a de facto taking involves a physical entry of the land by the condemnor; an ouster of the landowner; a legal interference with the physical use, possession, or enjoyment of the property; or with the owner's right to dispose of the property.

MASTER PLANNING DOCUMENT

The purpose of a master plan has often been defined as guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs that will, in accordance with current and future needs, best promote health, safety, order, morals, convenience, prosperity, and general welfare as well as efficiency and economy in the process of development. This includes, among other things, adequate provision for traffic, provision of safety from fire and other dangers, adequate provision for light and air, promotion of good civic design, wise and efficient expenditure of public funds, adequate provision of public utilities, and other public requirements. Thus, a master plan reflects proposed highway alignments, public facility locations, and land use recommendations. In most jurisdictions the elected county council enacts the master plan with input from the local planning agency. In Prince George's and Montgomery Counties, the Maryland-National Capital Park and Planning Commission is the planning arm of the county.

Within the jurisdiction of the Maryland-National Capital Park and Planning Commission, once a master plan for a highway has been adopted, no public road, building, or utility can be located, constructed, or authorized without the approval of the planning commission. Furthermore, after the adoption of the master plan, no building permit shall be issued for any structure on any land within the planned acquisition lines of a proposed highway or street unless (a) the county council finds that the entire property of the owner cannot yield a reasonable return (unless the permit is granted) and (b) the issuance of the permit is required by the consideration of reasonable justice and equity after balancing the interest of the county in preserving the integrity of the master plan against the interest of the owner.

PLIGHT OF THE OUTER BELTWAY

At one point in time the outer beltway, which was to circumscribe the existing beltway that circles the District of Columbia, was included within Maryland's 20-year highway need study and was shown on all relevant master plans adopted during that period of time. Subsequently, the outer beltway was substantially shelved from the state's perspective, but the alignment of the outer beltway still remained on many of the planning documents. During this period of time, a client of mine wanted to develop a 40-acre parcel of land within what was shown as the outer beltway. In order to present a case to the county council, the landowner was required to expend a substantial amount of time and incur substantial expense in preparing and submitting a building permit so that it could be denied, thereby permitting the landowner to seek relief from the county council. This landowner was in a financial position to put forth this expenditure, but what of all of the other landowners who are similarly situated who cannot afford the expense of presenting an adversarial case before a county council?

It should also be noted that in Maryland the inclusion of a road in a master plan does not in and of itself constitute a taking, and one must put forth some type of development effort in order to bring the matter to issue in terms of either securing the necessary building permits or, in the alternative, payment for the deprivation suffered. [See Arnold v. Prince George's County, 270 Md. 285, 311 A.2d 224 (1973).]

The aforegoing discussion concerned the potential plight of a developer and landowner in securing building permits where the subject property is located within the path of a proposed road. This "catch 22" situation can arise again in many situations even before one approaches the building permit stage, i.e., at the subdivision stage. In most jurisdictions the division of a large parcel of property requires one to subdivide the property pursuant to a formulized subdivision proceeding. In Maryland, a recent decision by the Court of Appeals involved a subdivision process that provided that a submitted plan of subdivision must conform with the relevant master plan. Therefore, if one submitted a subdivision plan, which in effect ignored a proposed highway facility because there was no intention in fact to fund and construct the facility, the local planning agency would be forced to deny the subdivision plan because of its failure to conform with the relevant master plan. This action was notwithstanding the fact that the proposed facility was not to be funded or pursued within the forseeable future. (See Board of County Commissioners of Cecil Co. v. Gaster, 401 A.2d 666.)

LAND RESERVATION

In both Prince George's and Montgomery Counties, when a parcel of land is being processed pursuant to the local subdivision procedures, the planning commission has the authority to place the subject property in "reservation" for a period not to exceed three years (if the property is to be acquired for a public purpose). While the land is in reservation, no building can be erected on the land. Also, no trees, topsoil, or cover may be removed or destroyed; no storm drainage structure shall be built so as to discharge water onto the reserved land. In other words, land placed in reservation shall not be put to any use whatsoever without the approval of the planning commission. The landowner, although not allowed to put the land to use, is

required to maintain the property in accordance with county law. The only benefit obtained as a result is that, during the period of reservation, the land shall be exempt from all state, county, and local taxes. If, at the end of three years, the land has not been acquired for public use or condemnation proceedings have not been instituted, the reservation becomes void unless the landowner consents to renewing the reservation for an additional three years.

If the landowner has no plans for the land, wants this tax liability abbrogated, and does not want to sell the land, the reservation can be beneficial. However, if the landowner wants to sell the land or use it for any purpose, chances are that the landowner is injured more by the reservation than benefited by the tax break.

In the case of Maryland-National Capital Park and Planning Commission v. Chadwick, 405 A.2d 241, (1979), the Court of Appeals used the no-reasonable-use test to determine that the Maryland-National Capital Park and Planning Commission's reservation of property for a period of up to three years was tantamount to a taking. In Chadwick, the planning commission placed Chadwick's land in a public reservation without his consent. Chadwick filed suit (a) seeking a writ of mandamus directing the planning commission to approve their preliminary subdivision plan and (b) requesting a declaratory judgment that the reservation of the property is an unconstitutional taking of property without payment of just compensation. The court ruled that the reservation was tantamount to a taking because the reservation inhibited all beneficial use of the land for a period of three years.

CONCLUSION

Property rights have taken a serious downturn since the birth of this great nation. There once was a time when a person could use his or her property in any manner short of constituting a nuisance. As we have moved from a pure democracy to a social democracy, the rights of the property owner have been measured against the societal good.

Condemnation blight can have a most devastating effect on rights in property. In the more serious cases the owner often cannot sell, lease, or derive any income from the property. Yet the property owner must generally continue to pay taxes, meet mortgage installments, and suffer all of the other burdens of ownership of real property.

I believe that the scales of fairness must begin to tip in favor of the landowner. The acquisition and construction of a public improvement, once development has occurred, is still possible, only more expensive. Where a proposed road, for example, is designed to benefit the entire county, I would propose that the added cost of condemnation because development has occurred should be spread over the entire public rather than unduly burdening a single landowner.

Case Studies

Attitudes, Opinions, and Experiences of Relocatees in Texas Displaced by Highways Under the 1970 Relocation Assistance Program

Jesse Buffington

BUSINESS AND INSTITUTIONS

A sample of 108 business and institutional proprietors who were displaced between 1971 and 1972 was interviewed to evaluate the relocation program. More than 75 percent of those who were displaced by the highway construction relocated their facilities and stayed in operation for at least a while. The majority of those who relocated felt that they had improved the overall quality of their facilities and that neighborhood conditions were at least as good or better than at their former location. Some 54 percent of those interviewed had difficulty finding a replacement location and more than 50 percent of those who did not reopen their businesses cited their inability to find a suitable replacement facility as a primary reason for closing.

Only 10 percent of the respondents gave the relocation program a bad rating; almost all of these were against the highway improvements before relocation and were upset with the news that they would be displaced. Thus, those upset with the relocation program generally had negative attitudes toward the whole highway project.

Some 44 percent of the respondents, on the other hand, were pleased with the relocation program even though many had bad or mixed feelings about the highway improvement and the news that they would be displaced. Another 44 percent of the respondents gave the program a fair rating, while the remaining 12 percent said they did not know.

More than half of the respondents indicated that financial aid was the most helpful relocation service rendered, but financial assistance was also the most often mentioned problem with the relocation program. Less than half the respondents who owned their original property felt that they received adequate compensation for it.

Among the recommendations of the study were (a) that affected citizens should be informed at the earliest practical date of the need for the proposed highway improvements and of the specific provisions for relocation assistance; (b) that greater efforts should be made to assist relocatees in finding suitable replacement facilities; (c) that greater efforts be made to ensure that the property appraisals are updated so that the owners will receive fair compensation; and (d) that the minimum official time given to move should be extended from three months to six months.

URBAN RESIDENTS IN LOW-VALUED HOUSING

Another study analyzed the experience of residents

displaced from low-valued housing (under $15 000) for highway construction in Austin and Houston, Texas. The 171 respondents (all of the households available in the study areas) were relocated under the 1968 or 1970 provisions that afford relocatees housing comparable to their previous housing. About 50 percent of the respondents were owners and the other 50 percent were tenants. Other characteristics included (a) 67 percent were males; (b) 55 percent were Anglos, 33 percent blacks, and 12 percent Mexican-Americans and other nationalities; (c) 73 percent were fully employed and 14 percent retired; (d) the median age was 49 years; (e) median family income was $7000; and (f) households averaged 3.2 people (2.6 for owners and 3.8 for renters). A total of 126 (73 percent of the 171) respondents upgraded their housing. The others relocated in housing comparable to their previous housing and a few in less-expensive housing.

Upgrading affected the relocatee's housing costs, net worth, and financial position. Most (83 percent) had higher housing costs; for example, mortgage payments by 42 tenants who were now owners. (Half of the original tenants became owners; 10 percent of the owners became tenants.) Transportation and utility costs for each household averaged $8 more per month after relocation. Of the 142 respondents who indicated changes in net worth, 132 (93 percent) experienced an increase. The average change in net worth was $1485. Despite the large proportion reporting increases in net worth (132 of 142 respondents), 38 percent felt that they were worse off financially and 22 percent thought they were better off. Of the Anglos, 40 percent thought their financial position was worse; 21 percent indicated improvement. For non-Anglos, 36 percent indicated financial worsening; 24 percent reported improvement.

Although 65 percent of the relocatees indicated that they had been upset about the prospects of moving, only 23 percent were upset about the entire relocation experience. Most relocatees were satisfied with the payments, information, and services received. About 75 percent gave the program a good or very good rating.

RESIDENTS DISPLACED BY HIGHWAYS

A third study analyzed the experiences of residents relocated from their homes as a result of highway location in several areas of Texas. Interviews were conducted with 165 households (58 percent were homeowners and 42 percent were renters) from the 1130 households relocated in the state between January 1971 and January 1973 under the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The typical respondent was Anglo, employed, male, and about 48 years old. He was a member of a two-person household with annual income of $6000-$8000. The median value for acquired properties was approximately $7700 ($8500 for owners and $6800 for renters). Before relocation, monthly housing payments averaged $50 for homeowners and $80 for renters. After relocation, payments rose to $90 and $105, respectively.

Relocation housing payments approved under the 1970 act enabled at least 60 percent of the respondents to upgrade their housing accommodations and neighborhoods. About 82 percent of the respondents liked their new homes and neighborhoods about the same as or better than their previous homes. Supplemental housing payments also encouraged homeownership. More than half (41 of 70) tenants became owners after relocation. Only 11 percent (10 of 90) owners became tenants.

Relocation of Residents Displaced by Construction of I-205 in Washington

Evan Iverson

This study examines the effects of relocation (in Clark County, Washington) including the adequacy of housing before and after relocation, benefits provided by the state, opinions of relocatees concerning their new housing and neighborhoods, and opinions of the type and amount of assistance provided throughout the relocation process. The purpose of the study is to provide citizens, planners, and public officials with factual and attitudinal information derived from the actual experience of families who were relocated under recent federal and state statutes.

Of the 96 respondents to the survey, 42 owned their own home prior to relocation, but practically all of the relocatees acquired dwelling units of their own in the relocation process. The dwelling units acquired after relocation were newer and of approximately the same size as their previous homes.

The appraised market value of the dwelling units of the owners was in some instances sufficient without supplemental payments to permit owners to acquire new housing, but it was necessary to provide payments in addition to the assessed value for 64 percent of the owners to enable them to acquire satisfactory housing. The average amount of the housing supplement was $1564.

Of the renters, 82 percent qualified for and chose to receive a payment to purchase replacement dwellings. The average amount received was $1515.

Some 79 percent of the families interviewed indicated that they considered the current state relocation program to be adequate. The information received about the relocation process was also described as satisfactory.

One of the significant findings, as far as the financial impacts of relocation are concerned, was the upgrading of the housing that occurred as a result of the relocation process. The renters had the option to receive a rental supplement for new living quarters, if such proved to be necessary, or to receive a single payment that could be applied to the purchase of a dwelling unit. About 82 percent (44) of the renters qualified for and chose to receive a payment to purchase replacement dwellings; 9 percent (5) of the respondents elected to remain as renters and accept the additional rental replacement supplements. These five respondents resided in mobile homes prior to and after the relocation. Another 9 percent of the renters received no rental supplement because they had not lived in their residence for the period of time required (90 days). All of the respondents were eligible to receive the moving allowance.

The structural changes examined in this study focused primarily on the age and size of the dwelling. The age of the residences after relocation was generally newer, with 72 percent of the respondents living in residences 15 years of age or less after relocation. This compares with 59 percent prior to relocation. The number of bedrooms per residence also increased from 2 to 2.5. The average number of rooms per residence remained the same. By using these factors, the residences after relocation represented an upgrading over those lived in prior to relocation.

Residental Relocation: Impact of Allowances and Procedures in Ohio

David Colony

This study analyzed the experiences of residents displaced from their dwellings for highway construction in Cleveland, Ohio. The findings from interviews with 250 respondents (i.e., all of the prospective candidates for relocation housing payments relocated between July 1, 1970, and February 15, 1972) corroborate those reported in an earlier study of 228 respondents who were relocated before pertinent federal and state legislation provided funds for replacement housing that may be more costly than that acquired at fair market value.

Relocatees purchased homes with a median value about $5000 higher than the value of the housing from which they were relocated. More than 75 percent of those who bought homes costing more than $20 000 added personal funds to the state allowances to do so; while none of those whose new houses cost less than $10 000 used personal funds.

The negative aspects of relocation, initially felt by more than 60 percent of those responding, continued to affect 36 percent of the respondents. Concerns included complaints about the physical strains of moving and loss of contact with familiar surroundings and acquaintances (mostly by older relocatees), higher interest rates on new mortgages, vandalism at the project sites, timing of relocation payments, and inability to repurchase homes or treasured fixtures and appurtenances.

Despite monthly housing payment increases for 90 households, only half of these households thought that their financial position had worsened. Generally, most respondents thought that (a) housing and moving payments were adequate; (b) the relocation program and relations with the state highway department were either good or very good; and (c) the state highway department successfully solved most of the problems and provided most of the services associated with relocation. Some unsolved problems, such as financial assistance or dislike of replacement homes, mentioned by relocatees were not capable of solution by the highway department.

Relocation Research in Virginia

Michael A. Perfater and Gary R. Allen

As part of its program of research on the problems associated with the relocation of people displaced because of highway construction, the Virginia Highway and Transportation Research Council undertook a statewide study in 1975 to further the understanding of the issues surrounding displacement. For the study, a sample comprising displacees from both urban and rural communities dispersed over a wide geographic area were contacted to obtain data for an analysis of the social and economic effects of displacement. The analysis showed less than one relocatee in five to have a negative overall feeling toward the relocation experience, even though almost one-third of them felt the total payment had been too small. Although the relocation experience evokes a general emotional distress, certain portions of the relocation program were found to have contributed significantly to the overall negative feelings. Foremost among these were inadequacies in (a) the total payment, (b) the notice to vacate, and (c) the help given in finding a replacement dwelling. Emphasis on improving these aspects of the relocation program can, then, lead to improvements in the general attitudes about displacement.

The economic analysis revealed that the relocation program had served as a vehicle for renters to become homeowners. Owners, too, were found to have benefited. In most cases they had upgraded their housing; in fact, 75 percent of the owners questioned had purchased homes of greater value than their previous dwellings. Yet among homeowners, the largest group of those dissatisfied with relocation claimed that the relocation housing payments had been inadequate. In addition, the data gathered in this study seem to imply that the social impact of a change in physical dwelling is not significant, but a change in neighborhood is. Preferences concerning neighborhood comparability were found to influence the respondents' attitudes toward the entire relocation experience. The percentage of respondents who preferred their replacement neighborhood was much lower than the percentage that preferred their replacement housing. The effects of this preference were revealed repeatedly in cross tabulations of these responses with those concerning attitudes about the administration of the relocation program.

Again using a survey technique to collect data, in a second study, we analyzed adjustment of renter displacees from two standpoints: their mobility and the quality of their current housing. It was concluded that relocation procedures under the 1970 act did not appear to have significantly influenced either the length of residence in the original replacement housing or a decision to move from it. It was also concluded that the manner in which relocation housing payments had been made to renters--whether in a lump sum or in annual allotments--had had no significant effect on how these payments had been used or on the length of time a renter had remained in the replacement housing.

A third study on relocation conducted in 1978 evaluates a portable audiovisual system for use by right-of-way agents at public meetings, in meetings between agents and displacees in their homes, and in the training of agents and other personnel. The agents overwhelmingly endorsed the slide show as an aid in explaining all aspects of the relocation program to displacees.

Attitudes and Experiences of Relocated Household Heads: A Causal Analysis

Clarence H. Thornton

New highway projects have disrupted community life, divided economic and cultural areas, and uprooted many families from surroundings once familiar to them. This paper identifies those factors that either distract from or contribute to positive feelings following relocation.

STUDY AREA AND SAMPLE

This study is part of a much larger study of the socioeconomic impact of a segment of the Interstate highway system on a predominately black community known as Scotlandville. Scotlandville is a partially unincorporated, low-density residential area of approximately 8 miles^2 north of the central business district of Baton Rouge, Louisiana. It is a very stable community with a

population of nearly 23 000; about 65 percent of its residents are homeowners. With the exception of two middle-income residential subdivisions, mainly inhabited by black professional educators, the community is relatively poor. The median family income for the area was approximately $6530 at the beginning of the study (1972). Approximately 27 percent of the families are below the established poverty line, and 16 percent of all families are headed by females.

Because Scotlandville is located between large industrial and residential areas to its immediate north and south, very heavy traffic is generated along the main thoroughfares. The result has been a severe traffic congestion problem. The segment of the Interstate highway system known as the Scotlandville Bypass is designed to intercept much of this through traffic and channel it onto a partially elevated expressway. To build the bypass, of course, entails displacing a number of residences and small businesses. In 1972, the Louisiana Department of Transportation and Development estimated that as many as 500 households were located within the highway right-of-way. With subsequent changes in the location of the right-of-way, this figure was reduced to 327. To date, only 214 households and 21 businesses have actually moved.

By using the names and addresses of all relocatees supplied by the highway department, we contacted and interviewed 172 (80 percent) of the relocated households. These households comprise our study sample. Among these households, 52 percent were homeowners, 35 percent were renters, 12 percent were former renters who purchased new homes, and only 1 percent were former homeowners who later became renters. The median income level of relocatees is $5714. In a follow-up survey, the relocatees were asked about how happy they were about having moved for the highway. It should be noted that there were differences by tenure status, as well as by the intensity of feelings. The group expressing the least favorable attitude was the renters. Nearly one-fourth of these persons were sorry about having moved. The corresponding percentages for homeowners and those who switched from renting to owning are 12 percent and 11 percent, respectively.

RESULTS

For renters, the results of this analysis indicate that money was the chief problem. While counseling partially reduced the number of problems encountered, the financial assistance package was perceived by many of these relocatees as insufficient. Apparently, the displeasure of this group stems from their own financial woes and their perception of the inadequacy of the financial assistance given to them by the highway department. both of these influences restricted their choice of housing units, which, in turn, lowered their level of satisfaction with having moved. The counseling services they received, however, should not be ignored since these services served to minimize their problems. The majority of the renters (68 percent), however, remained in Scotlandville following relocation. There is a limited number of quality rental units in the area, and their lower level of satisfaction with their new dwellings may have been tied to this problem. In any case, more attention should be paid to tenant-relocatees--e.g., through consultation with other governmental agencies where appropriate--so that rent supplement payments are not confined to a single period or amount.

Part 5
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David R. Levin, Federal Highway Administration, U.S. Department of Transportation
Peter Levin, U.S. Senate
John Lindsay, Newsweek Magazine, Washington, D.C.
Bevelyn Lundy, Friends Neighborhood Guild, Philadelphia
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Bruce D. McDowell, Advisory Commission on Intergovernmental Relations, Washington, D.C.
Walter A. McFarlane, Office of the Attorney General, Richmond, Virginia
James W. McMahon, U.S. General Services Administration
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Dudley H. Millen, District of Columbia Department of Housing and Community Development
Ola Mitchell, Friends Neighborhood Guild, Philadelphia
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