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COMMITTEE ACTIVITY

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EMINENT DOMAIN AND LAND USE  
MEMORANDUM

SUMMARY OF THE 1970 ANNUAL REPORT ON HIGHWAY RELOCATION ASSISTANCE, TRANSMITTED BY THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION TO THE CONGRESS AS REQUIRED BY SECTION 33 OF THE FEDERAL-AID HIGHWAY ACT OF 1968 (PUBLIC LAW 90-465, 90th CONGRESS, 2nd SESSION, AUGUST 23, 1968). JANUARY 15, 1970.

The Federal-Aid Highway Act of 1968 directed the Secretary of Transportation to report annually to Congress concerning the administration of the highway relocation assistance program. This report tells what progress has been made during the past year in the administration of the program.

The Federal Highway Administration has an interest in relocation assistance that dates back more than two decades. A limited program of specific relocation assistance was authorized in 1962. However, the Federal-Aid Highway Act of 1968 provides for one of the most advanced relocation assistance programs yet authorized by the Congress for the compensation of highway displaces of all kinds.

Procedures and Requirements

The Federal Highway Administration has issued a number of clarifying memoranda, adding to IM 80-1-68, dated September 5, 1968. These include a variety of policy statements to meet emerging program needs:

--the use of mobile homes for replacement housing in order to generate a greater housing supply;

--owner and tenant eligibility for mobile homes and additive payments under the 1968 Highway Act;



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--variations of project authorizations and implementation status between States with and without legislation conforming to the requirements of the 1968 Highway Act;

--relocation assistance in relation to excess property not incorporated in the Federal-aid highway final right-of-way;

--methods of determining supplemental replacement housing payments in sparsely settled rural areas where comparable replacement dwellings that are decent, safe and sanitary are not available;

--application of relocation assistance requirements to projects authorized under Secondary Road Plan procedures;

--formats and suggestions for State schedules for moving cost payments;

--Federal-aid participation in payments for relocation of personal property in a house retained by an owner that is moved onto the remainder lands owned by him;

--project eligibility for Federal-aid reimbursement for relocation assistance payments on an entire project where only an individual parcel becomes ineligible;

--other miscellaneous additions.

#### Status of Compliance with 1968 Highway Act

Two types of assurances are required to be given by the States. One involves real property acquisition policies--the States have indicated no substantial legal obstacles to providing this type of assurance and have provided such assurances. The other type of assurance relates to the adequacy of the State relocation assistance program, including assurance of an available supply of decent, safe, and sanitary housing. Forty States have indicated they can legally comply with the latter; three additional States have complied by executing agreements for the advance of Federal-aid funds. Twenty-five States are already making supplementary housing payments.

#### Magnitudes of Relocation Assistance Payments, Including Additives

For the period October 1, 1968, through September 30, 1969, over 21,519 dwellings were displaced by Federal-aid highway projects, involving 62,392 individuals, 237 farms, 2,938 businesses, and 150 nonprofit organizations. Approximately three-quarters of the persons displaced were white. Owners and tenants were about equally divided.

About one-quarter of the housing displaced involved the very lowest valued housing; about half in the middle-range housing; and about one-quarter involved higher-priced housing.

Approximately \$3,590,000 worth of residential moving cost payments were made during this period, averaging \$183.00. Comparable business payments aggregated \$4,780,000, averaging \$1,511.00 each. Farm payments totaled \$93,000 and averaged \$429.

Replacement housing payments or additives to fair market value were made in the case of 980 owner-occupants during the period, involving 3,095 individuals and over \$2,245,000 with the average being \$2,288 each. Comparable payments were made in connection with 913 rental units involving 2,421 persons and over \$672,000 averaging \$736 each.

Payments for costs incidental to the transfer of property to the State for highway purposes, averaged \$135 each for housing units; \$28 each for farms; and \$430 each for businesses.

Eighty-one percent of all residential displacements occurred in Federal-aid urban areas and 19 percent in rural areas.

#### Coordination of Federal, State, and Local Agencies

Because of the complexity of the relocation assistance problem, effective coordination of Federal, State, and local agencies (public and private) is essential. Such coordination must be both vertical and horizontal. The Federal Highway Administration and the State highway departments have sought maximum cooperation and coordination. Hundreds of conferences have been held locally, regionally, and nationally, with highway relocation assistance as its primary focus. Federal, State, and local officials and private interested individuals have attended these meetings.

Some State highway departments are using local public housing authorities or local relocation agencies in cities to carry forward their highway relocation assistance. About 25 metropolitan areas are involved. Because these agencies do not exist in the rural areas, however, it was necessary for the State highway departments to develop a staff capability in these areas.

The Federal Highway Administration has expedited its relocation assistance program by obtaining preferences for highway displacees. This was accomplished through the Veterans Administration, the Federal Housing Administration, and with others. Effective liaison has also been achieved with religious, fraternal and nonprofit organizations which increasingly are generating or stimulating low and moderate-cost housing. Very close cooperation and coordination has also been arranged with the U.S. Department of Housing and Urban Development and its field offices, the Small Business Administration, the U.S. Department of Agriculture, and others.

#### Highway and Relocation Assistance Planning

Planning for highway relocation assistance must be undertaken well before a highway project actually will be built, in accordance with the Congressional intent of Section 502 of the Federal-Aid Highway Act of 1968. Under Federal Highway Administration's IM 80-1-68, such planning must be accomplished in two stages: (1) the conceptual stage, and (2) the right-of-way acquisition and/or the construction stage. A project is in the conceptual stage until the final location is approved. A minimum number of data items are required at the conceptual stage, while much more detailed information is required at the later stages.

#### Need for Trained Personnel

An emerging problem of considerable importance is the need to train substantial numbers of personnel who are competent to handle relocation assistance subject matter. This need will persist regardless of what agency handles relocation. Such

personnel ideally should have some sociological training and welfare orientation, and should be sympathetic temperamentally with the relocatee. Such personnel are hard to locate, and are available only in limited numbers. Yet the need for such personnel is great in the State highway departments.

In order to provide a reservoir of competent relocation assistance specialists, the Federal Highway Administration is encouraging State universities and other groups to train such individuals, according to the needed specifications. The Federal Highway Administration is also exploring the possibilities of obtaining the cooperation of the U.S. Labor Department in connection with the training of relocation assistance personnel.

#### Case Studies of Relocation Assistance Action

Providing replacement housing that is decent, safe, and sanitary is a challenging and complex undertaking. Some cities are currently experimenting with innovative devices, which may provide some direction for a future course of action.

Under a so-called GOLD COAST housing project in Detroit, Michigan, in connection with Interstate 696, homes within the highway right-of-way are moved, rehabilitated, and made available to low-income families, with highway displacees having first call on these homes. The Michigan Department of State Highways, the State Housing Authority, and the Catholic Archdiocese of Detroit are the cooperating parties.

Because of the oil boom in the North Slope area, Fairbanks, Alaska, is experiencing an acute housing shortage. Mobile homes are being used as replacement housing in connection with a Federal-aid highway project there. A new mobile home park is being developed 2.5 miles from the project. The State, with full Federal-aid participation, is assuming the rental costs of park sites until the relocatees can assume the rental costs. This experiment is being carefully studied to determine its possibilities as a practical solution to the relocation housing problem.

Several interesting innovations involving relocation assistance are currently being tried in Seattle, Washington. One concerns SCORE (a nonprofit organization) which will move houses from the right-of-way for Interstate 90, and rehabilitate them to decent, safe, and sanitary standards, using hardcore unemployed for the unskilled work. The homes will then be made available to highway relocatees, with FHA low interest loans. On the same project, because of hardships to individuals, the State has acquired 100 homes on the highway project and it is renting these homes to lower-income families through a program called OPERATION EQUALITY. Rentals are based on tenants' ability to pay, with maintenance performed by State forces using neighborhood unemployed groups as much as possible.

A different approach is being tried as a demonstration project in connection with Interstate 84 through Waterbury, Connecticut, where 300 families will be displaced with no relocation housing in sight. Funds will be sought to buy available land so that housing can be constructed by appropriate agencies in an area reasonably close to the Brass Works Company, where most of the displacees work. HUD may also participate.

Finally, a unique model neighborhood house-moving program is underway in Fresno, California. It is an excellent example of effective cooperation between the highway program and the model neighborhood and the housing programs. Housing made available because of freeway projects in the area will provide a major resource for displacees in the model neighborhood as a result of the Fresno

Redevelopment Agency's Neighborhood Development Program (NDP), the city's code enforcement activities, and freeway development. It will provide residents the opportunity to purchase standard housing at prices they can afford. Approximately 800 homes will be involved over a 5-year period. Total housing costs are estimated to range from \$6,000 to \$8,600. Model neighborhood residents will be employed to the maximum possible extent for such activities as house-moving contractors, etc. A revolving fund will be established to finance the overall operation. This project will be watched with keen interest.

#### Recent Litigation Involving Relocation Assistance

Litigation on relocation has been initiated in at least two States, West Virginia and Wisconsin. In the Triangle Improvement Council case in West Virginia involving segments of Interstate 64 and 77 in Charleston, the legal issues revolved around the alleged failure of the State and Federal defendants to comply with the relocation assistance provisions of the 1968 Highway Act and the public hearings requirements of the Federal-aid highway laws. The court set forth its reasoning in an involved opinion which is summarized in later chapters of this report. It concluded that the plaintiffs' allegations were without merit and the complaint was dismissed. The plaintiffs have appealed this decision and it is now pending.

The Wisconsin case, Loretta Hanley et al, concerns a Federal-aid highway project in Milwaukee known as the Park Freeway. The plaintiffs seek injunctive and declaratory relief necessary to assure displacees of the Park Freeway the benefits of the relocation assistance provisions of the 1968 Highway Act. The State has not yet obtained State legislative authority to conform specifically to the present Federal requirements on relocation assistance. This litigation is still pending in the trial court.

#### Relocation in Appalachia

The Appalachian highway program is the legal and administrative responsibility of the Appalachian Regional Commission; the Secretary of Transportation assists the Commission in highway construction activities.

Relocation problems encountered under this program may be more acute and difficult to solve than elsewhere, because many of the road improvements contemplated involve narrowly established corridors located in valleys; relocatees have no place in which to relocate because of the lack of available homes and homesites.

Possible alternatives may be carving out so-called "house seats" in the hills or using mobile or prefabricated houses as replacements.

Though not all of the "rough spots" have yet been identified and eliminated from the highway relocation assistance program, good progress has been made during the past year, in implementing the goals and objectives of the Congress in the Federal-Aid Highway Act of 1968. One of the most progressive relocation assistance programs ever devised has been set in motion in a practical way, and its benefits are being realized by thousands of Americans.

ADVANCE ACQUISITION UNDER THE FEDERAL-AID HIGHWAY ACT OF 1968

Abstracted from a report submitted under ongoing NCHRP Project 20-6, "Right-of-Way and Legal Problems Arising Out of Highway Programs," for which the Highway Research Board is the agency conducting the research. The report was prepared by John C. Vance, HRB Counsel for Legal Research, principal investigator, and Hayes T. O'Brien and David C. Oliver, Research Attorneys, serving under the Special Projects Area of the Board and it was issued as Research Results Digest 19 - July 1970.

In discussing advance acquisition, this research paper summarizes and analyzes cases and statutes pertinent to the field, and suggests a model bill for States regarding advance acquisition.

The report first discusses the benefits of advance acquisition, especially in light of the promise of advance funds made by the Federal-Aid Highway Act of 1968.

The second section of the paper sets forth a collation of apposite and representative cases dealing with substantive legal principles governing acquisition of lands for future use. These cases are important, not only as historical background, but also as tools to be used in the construction of statutes which expressly or by necessary implication authorize acquisition of right-of-way for future use.

The third section discusses the provisions of Federal statutes; in particular the Federal-Aid Highway Act of 1968. The section deals with the Act's double hearing procedure, which has direct bearing on eligibility for the advance acquisition.

The last section contains suggested legislation which would permit a comprehensive program of advance acquisition. The proposed bill contains a declaration of policy to provide for acquisition of land for highway construction reasonably in advance of actual construction, and it authorizes the State highway department to acquire by "purchase, condemnation, gift, devise, or exchanges, real property and interests therein necessary for the construction, reconstruction, improvement, maintenance, and repair of roads within the State highway system a reasonable time in advance of the actual construction . . . ."

The report also has a table of the present provisions for advance acquisition in each State.

AN APPROACH TO THE ECONOMIC EVALUATION OF URBAN TRANSPORTATION INVESTMENTS

Adaptation of an article by B. G. Hutchinson, Professor, Department of Civil Engineering, University of Waterloo, Waterloo, Ontario--written for presentation at the 49th Annual Meeting, Highway Research Board, Washington, D.C., January 1970.\*

Existing approaches to the economic evaluation of urban transportation investment proposals assume that the principal output of a transportation system that gives rise to benefits is the volume of vehicles passing along links of a network. This approach has several weak points and the paper attempts to evaluate such approaches and to suggest a better one.

\*The article appears in Highway Research Record No. 314, p. 72

According to the author, there are four elements of an evaluation framework. First, one must establish the community's objectives of preferences. Second, one must identify the transportation system outputs that relate to each of these objectives. Third, one must identify the strengths of the community objectives in the form of community willingness to pay for outputs. Fourth, one must identify a decision criterion for ranking alternative investment proposals and for establishing the optimal level of investment.

The prime objective of an urban transportation investment is usually considered that of maximizing national welfare. However, "national welfare" is a term open to semantic difficulty. If national welfare is equated with national income, as it often is, a natural assumption is that it does not matter how the income is distributed. So, the author rewords the objective to state that the goals of urban transportation are to maximize the aggregate consumption of the community, and to assist in the realization of an equitable real income distribution among members of the community.

This involves a search for economic efficiency, which is defined as follows: "An allocation of resources to a system is said to be economically efficient if there is no other allocation of resources that would make anyone better off without making someone else worse off." There is economic efficiency if distribution of real income corresponds to the distribution desired by the community.

The goal of maximization of aggregate consumption can be reclassified into three sub-goals: to maximize the aggregate accessibility provided by the system; to maximize the aggregate environmental quality of the urban area that is related to transportation system outputs; and to maximize the achievement of desirable long-term urban development. The author suggests that only the first two objectives should be considered in proposals for transportation investment.

In this discussion of the first two goals of maximization of aggregate consumption, the author points out that accessibility is a relative quality which accrues to a parcel of land by virtue of its relationship to other parcels of land and the quality of the transportation system.

He subdivides environmental quality as relating to urban transportation into two factors, "the volume of vehicles using a transportation network link and the visual intrusion of parked transportation vehicles and their rights-of-way."

The community willingness to pay for the transportation outputs is judged by the laws of supply and demand. The author discusses ways of formulating such supply and demand curves. He says that the community demand curve will have to be derived by a "regression analysis of property values," given accessibility and environmental quality as the pertinent factors.

In forming decision criterion for horizon year systems, the author states that "a proposed horizon year system A1 is economically more efficient than a system A2 if those affected by A1 are willing to pay those affected by A2 a sum sufficient to persuade them to agree to the construction of A1."

The framework outlined in this paper provides a conceptual basis for the economic evaluation of urban transportation investment proposals. Empirical evidence must now be assembled to operationalize this frame work, the author states.

ESTIMATING TRAFFIC NOISE LEVEL AND ACCEPTABILITY FOR FREEWAY DESIGN

Adapted from a paper by David C. Colony, presented at the 49th Annual Meeting of the Highway Research Board, Washington, D.C., January 1970, and published in Highway Research Record No. 305, p. 80.

"Estimating Traffic Noise Level and Acceptability for Freeway Design," is a paper describing the results of a study of traffic noises done in the Toledo, Ohio, area.

Mr. Colony sought to "explore the effect of urban freeway traffic noise upon the inhabitants of nearby residential property."

The first step in his experiment was to take a survey of professional realtors in Toledo to determine their opinions of the effect a nearby freeway has on the monetary value of a house. The survey first asked the question of whether the realtor regarded the presence of an expressway adjacent to a family residence as a deterrent to a prospective buyer. All but one of the 44 respondents replied in the affirmative. The next question asked the affirmative respondents to choose a reason for this condition from a list of factors including fumes, vibration, headlight glare at night, noise, and other. All specified noise as a factor, although most respondents checked more than one factor. The third and final question asked the realtors to compare the estimated prices of a residence located away from an expressway with one located near the expressway. Results indicated a 27.7 percent loss in value for a \$10,000 house when placed near the expressway; a 24.3 percent loss in value for a \$15,000 house; and a 20 percent loss in value for a \$30,000 house.

In Mr. Colony's estimates of noise levels in residential Toledo, he used a Perceived Noise Level scale based on computation of "equal-annoyance contours" so as to include both psychological and physical reactions to noise. He did intensive surveys of noise levels on the Detroit-Toledo Expressway.

To determine the reactions of local residents to traffic noise coming from the Expressway, 138 home interviews were conducted. The results indicate that while the respondents were aware of the traffic noise, they were not, in general, disturbed very much; that relatively few residents had taken action to reduce the noise level in their homes; that when the data were segregated by sound pressure levels into the categories of 70 decibels and less, 70-75 decibels, 75-80 decibels, and 80-85 decibels, no marked differences appeared in the reactions, except in the 80-85 level; that the main source of highway noise annoyance is trucks; that none of the respondents had ever lodged a complaint about traffic noise with a public authority, but this was partially because there was a feeling that little relief could be expected, anyway; and that awareness of the traffic noise seems to increase with greater length of residence in the area, although this could be because those with longer residence are older and sensitivity to highway noise may be a function of age.

When asked to give a general reaction to expressway traffic noise in terms ranging from "highly objectionable," to "no disturbance," 4.4 percent of the respondents answered "highly objectionable," 55.15 percent answered "no disturbance," and the rest gave answers in the three categories in between the two extremes.

The last part of Mr. Colony's report shows formulae for estimating traffic noise.



Mr. Colony concludes by saying that it is possible to estimate with a reasonable degree of accuracy the configuration of sound level contours within an area; and he suggests that the techniques discussed in the report could be used by highway designers.