

URBAN RENEWAL AND URBAN HIGHWAYS:
THE CASE FOR COOPERATIVE LAND ACQUISITION

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In urban renewal programs and highway programs land acquisition is only one stage of the total project. It is an extremely significant, and sometimes controversial stage; but still it is only one of many decisions and actions in which public officials must integrate public works with their urban environment. In discussing the case for cooperative land acquisition by urban renewal and highway programs, I would like to first notice the statutory context in which this idea is set, and something of the general considerations which have a bearing on these projects.

In urban areas, proposed highway projects can become highly charged public issues involving complex political, economic and social demands. This is because these projects have a direct and substantial impact on the urban scene and the life of its citizens. The location and timing of a proposed project, as well as the provisions that will be made for protecting the rights and interests of those affected, can be crucial to determining whether the project will gain sufficient public and political support to become a reality.

It is becoming increasingly clear that if projects in urban areas are to achieve maximum effectiveness and public support they must be carried on in consonance with, and as part of, a comprehensive planning and development program. Such programs attempt to identify community development problems, determine the financial and other resources needed to deal with these problems, estimate the needs and costs of relocation involved, identify and schedule necessary public projects, and establish long-term land use and development goals. Projects in urban areas should not be planned and undertaken in a vacuum as if they were not interrelated. For example, an urban renewal project can provide the proper land-use setting and the relocation and housing resources needed for a highway project; while the highway project can provide access which is absolutely essential to the success of an urban renewal project.

The Federal legislation applicable to the highway program expressly recognizes the need for comprehensive planning in relation to the development of transportation systems in urban areas. Title 23, U.S. Code, Section 134 provides that the Secretary of Commerce shall cooperate with the States in the development of long-range highway plans and programs.^{1/} These plans and programs are to be formulated with due consideration to their probable effect on the future development of urban areas of more than 50,000 population. The legislation also provides that after July 1, 1965, the Secretary of Commerce shall not approve any highway project in any urban area, as defined in the statute, unless he finds that the project is based on a "continuing and comprehensive transportation planning process."^{2/}

In connection with urban renewal, a number of programs of the Department of Housing and Urban Development provide financial assistance to States and localities for comprehensive planning and programming activities in urban areas. These programs include the Urban Planning Grant Programs,^{3/} grants for the preparation of Community Renewal Programs,^{4/} advances for the preparation of General Neighborhood Renewal Plans,^{5/} and, of course, the new Model Cities Program.^{6/} Under all of these programs there is a basis for planning the development of highway facilities in urban areas, or of cooperating with state and local highway agencies in carrying on such planning.

The basic desirability of comprehensive planning and programming all public projects in urban areas as well as those contemplated under Title 23 U.S. Code, Sec. 134 has been pointed out on numerous occasions. But it is not always appreciated that use of HUD-assisted comprehensive planning and development programs permits land acquisition for highways to be conducted through urban renewal projects. Two substantial advantages result from this arrangement.

The first advantage is that to a considerably greater extent than in the highway program, it is possible in the urban renewal program to establish project boundaries which tend to maximize the acquisition of entire parcels of real property, and therefore minimize the incidence of severance damage payments. This is an extremely important consideration in urban renewal not only because severance payments may be costly, but because partial takings are generally considered not to be in the public interest. Property owners are often more opposed to partial takings than to public acquisition of their entire holdings.

Land acquired as part of an urban renewal project which is to be reused for right-of-way in a Federal-aid highway project is generally sold to the appropriate State or local highway agency at cost. In other words, there is generally no urban renewal "write-down" of this land. Nevertheless, there can be a real cost saving to the highway program in cases where urban renewal permits taking of an entire holding with subsequent disposition of a portion of that holding to the State or local highway agency as against the normal cost to the highway agency of a partial taking involving payment of severance damages. Thus, both in terms of savings in land costs and avoidance of undue hardship to property owners, the potential advantages of acquiring land for highway purposes through urban renewal programs warrant serious consideration.

The second significant advantage of this procedure is that it permits utilization of urban renewal relocation assistance and relocation payments for project displacees. These programs are more generous to displacees and are less costly to the State and locality than the relocation assistance and payments programs authorized for most highway projects under the states' highway laws. Relocation assistance under the Federal-aid highway law is based on Title 23, U.S.Code, Section 133, which provides that relocation advisory assistance is to be made available only to displaced families. The highway program does not authorize relocation advisory assistance for displaced individuals, businesses, or non-profit organizations.

Federal urban renewal legislation 7/ requires development of a relocation assistance program for each renewal project. Within a reasonable time prior to actual displacement of project residents, that program must assure that displaced individuals and families can be relocated into decent, safe, and sanitary dwelling units which are within their financial means, and are reasonably accessible to their places of employment. Furthermore, the relocation advisory services for each urban renewal project must assist displaced business concerns and non-profit organizations.

With respect to relocation assistance payments, the highway program legislation authorizes relocation payments up to the amount of \$200 for a displaced individual or family, or \$3,000 for a displaced business concern, farm, or non-profit organization. These payments are considered as shared project costs, and can be made only if authorized by State law. In the Federal urban renewal legislation, 8/ on the other hand, the law provides the following payments to those displaced by, or in connection with, an urban renewal project:

1. To displaced individuals or families, up to \$200 for moving expenses and direct loss of property;
2. To each displaced family and to any displaced individual 62 years of age or over, unable to secure accommodations in low rent public housing projects, an additional relocation payment of up to \$500;
3. To displaced business concerns or non-profit organizations, up to \$25,000 for actual moving expenses;
4. To certain displaced small business concerns, an additional \$2,500;
5. To displaced individuals, families, business concerns, or non-profit organizations, reimbursement for reasonable and necessary expenses incident to conveying real property to an urban renewal project.

It seems probable that the law and policy for relocation assistance payments in urban renewal will continue to be more generous than in the highway program. In addition, it would appear to be in the States' and localities' interest to take advantage of the urban renewal program's facilities as much as possible since they are 100 per cent Federal grant payments, and they are available even in States which lack legislation directing that relocation payments must be made in connection with highway construction.

One final observation may be in order. The Department of Housing and Urban Development is not in the business of building highways. Therefore, it cannot permit urban renewal land acquisition powers and procedures to be used where the objective is to obtain land solely for highway right-of-way purposes. HUD is committed to encouraging comprehensive planning and programming of public projects in urban areas. Accordingly, the advantages outlined above for acquiring land which ultimately can be turned over to highway right-of-way uses are available where HUD is convinced that basic goals of urban development are being served by combining highway needs and urban renewal needs in a single program based on comprehensive plans and cooperative efforts of all units of government concerned with these goals.

Footnotes

- (1) Act of October 23, 1962, PL 87-866, 76 Stat. 1148. Establishment of the Department of Transportation in April, 1967 resulted in transfer of responsibility in this matter from the Secretary of Commerce to the Secretary of Transportation. PL 89-670, October 15, 1966, 80 Stat. 937, 49 USCA 1655(a).
- (2) Some insight regarding the size and nature of the planning process called for in the 1962 legislation was gained in hearings held by the House of Representatives' Committee on Public Works in 1963. See U.S. Congress, House of Representatives, Hearings before Subcommittee on Roads, Committee on Public Works, "Transportation Planning in Certain Urban Areas", 88th Cong., 1st Sess., June 25-27, July 9-10, 1963.
- (3) Sec. 701, Housing Act of 1954; 68 Stat. 590, 640; 40 US Code 461.
- (4) Sec. 103(d), Housing Act of 1949, as amended; 73 Stat. 654, 672; 42 US Code 1450, 1453(d).
- (5) Sec. 102(d), Housing Act of 1949, as amended; 70 Stat. 1091, 1099; 79 Stat. 451, 475; 42 US Code 1450, 1452(d).
- (6) Title I, Demonstration Cities and Metropolitan Development Act of 1966; PL 89-754; 80 Stat. 1255.
- (7) Sec. 105(c), Housing Act of 1949, as amended; 63 Stat. 413, 417; 42 US Code 1455(c).
- (8) Sec. 114, Housing Act of 1949, as amended; 78 Stat. 788; 42 US Code 1465.