

Moreover, a court may not interfere with the exercise of legislative discretion or substitute its judgment for that of the legislative body except where the legislative action is so clearly arbitrary and capricious as to be unreasonable. *Blocker v. City of New Orleans*, 50 So.2d 498 (La. App., Orls. 1951); *Archer v. City of Shreveport*, 85 So.2d 337 (La. App. 2d Cir. 1956); *Scott v. City of West Monroe*, 95 So.2d 343 (La. App., 2d Cir. 1957); *La Fleur v. City of Baton Rouge*, 124 So.2d 374 (La. App., 1st Cir. 1960); *Boyle v. New Orleans Public Service, Inc.*, 163 So.2d 145 (La. App., 4th Cir. 1964); 62 C.J.S. Municipal Coporations, Sec. 148-149.

In order for legislative action to be clearly arbitrary and capricious, there must be no room for a difference of opinion and no substantial evidence upon which the legislative action could have been taken. *Torrance v. Caddo Parish Police Jury*, 119 So. 2d 617 (La. App., 2d Cir. 1960).

Another presumption concerns a question as to whether the action of the trial court was an abuse of its discretion in deciding that the proposed construction was not inconsistent with the use of Cross Lake as a water reservoir for the City of Shreveport. As the trial court could not substitute its own discretion for that of the City Council of the City of Shreveport and of the Department of Highways, the Court of Appeals of Louisiana could not substitute its discretion for that of the trial court. The rule involved is known as the doctrine of "manifest error."

The Court of Appeals found no manifest error in the trial court's judgment and affirmed the judgment of the trial court to the effect that there was no basis for concluding there was an abuse of discretion vested in the City Council of Shreveport and in the Department of Highways of the State of Louisiana in selecting the route for a proposed construction of Interstate 220 controlled-access bypass over Cross Lake, or that their actions were arbitrary, capricious or unreasonable.

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PROPERTY TAKEN TO PROVIDE NEEDED PARKING FACILITIES WITHIN URBAN RENEWAL AREA MAY BE SAID TO BE ACQUIRED FOR LEGITIMATE PLANNING PURPOSES UNDER URBAN RENEWAL LAW. *Bowers v. City of Kansas City*, 448 P.2d 6, (Supreme Court of Kansas, December 7, 1968).

The plaintiffs, Bowers, brought this action seeking to enjoin the defendants, the City of Kansas City, Kansas, and the Urban Renewal Agency of Kansas City, Kansas, from taking their property in eminent domain proceedings undertaken in connection with the University-Rosedale Urban Renewal Project.

The trial court entered judgment in favor of the defendants and the plaintiffs have appealed from that judgment. The plaintiffs are the owners of a 65-foot property fronting on West 39th Avenue approximately one block east of the Kansas University Medical Center further identified as 1906, 1908, and 1910 West 39th Avenue. This property was in the process of being purchased from T. Bryant Johnson and Mary F. Johnson by the plaintiffs, Bowers, who operate thereon a tavern.

Under the Urban Renewal Plan for the University-Rosedale area, which was approved by the city on September 23, 1964, and recorded on January 19, 1965, the subject property was to be acquired for planning purposes. On both of these dates the subject property had been occupied by three separate businesses, 1906 by a printshop, 1908 by a second hand store, and 1910 by a private club. Subsequent to the two previous dates the plaintiffs, Bowers, acquired an equity in all three locations.

In the summer of 1966 eminent domain proceedings were commenced to acquire the properties on which the plaintiffs' tavern is situated. The plaintiffs, Bowers, present action to enjoin those proceedings was filed thereafter in August 1966.

The plaintiffs' initial point relates to the trial court's denial of their motion for the production of documents, by which means they sought to make the defendants produce for inspection all records and reports regarding the subject property as well as all minutes of the Urban Renewal Agency relating to this project. In denying this motion the trial court ruled that the motion did not seek designated documents.

The Supreme Court did not deem it necessary to decide whether plaintiffs' designation was sufficiently specific to comply with the provisions of the statute. The plaintiffs proceeded to subpoena the records and they were produced at the trial for the plaintiffs' inspection. Accordingly, the Supreme Court held that the plaintiffs' first point lacked merit since many of the records produced were used as exhibits in the case.

The several other points remaining in the appeal are largely centered upon the plaintiffs' complaint that the defendants, city and agency, acted fraudulently, capriciously, and arbitrarily in selecting the subject property for acquisition.

The plaintiffs' second point involves interpretation of the Urban Renewal Law. In *Urban Renewal Agency v. Decker*, 197 Kan. 157, 162, 415 P.2d 373, the Kansas Supreme Court said that the municipality has the exclusive right "to determine what lots, parcels, or tracts of land are to be taken" as part of an urban renewal project, and that its exercise of discretion is not subject to judicial review absent proof of fraud, bad faith, or abuse of discretion.

Under the plaintiffs' third point the Supreme Court held that action taken by public authorities under the Urban Renewal Law is subject to judicial review when the same is arbitrary, capricious, or fraudulent and that when urban renewal officials act in bad faith or have abused their discretion, an aggrieved party may maintain an action for injunctive relief. In the urban renewal plan as approved and adopted by the city, the plaintiffs' property was designated for acquisition.

The Supreme Court held that there was no reason to depart in this case from the established rule. Although the trial court entered a number of findings of fact which supported the plaintiffs' contentions, it nonetheless concluded by finding that the decision reached by the public authority to acquire plaintiffs' property to be used for parking purposes did not constitute fraud, bad faith, or abuse of discretion. Even though the record discloses evidence which might have sustained a different version, the Supreme Court held that the trial court's finding which rejected the alleged fraud and arbitrary conduct was unsupported as a matter of law and affirmed the judgment of the trial court.