

ing personal property, loss of rentals due to anticipated taking, and other losses and damages which frequently are real and substantial.⁴

In an earlier day, the issue of incidental damages was less significant than it is today. In a largely rural society with limited governmental activity, acquisitions of private property for public use were relatively infrequent and, being limited largely to such purposes as erection of court houses, police stations, and school buildings, they rarely involved mass takings. At the same time, of course, government played a relatively inactive role with respect to the economic welfare of individual citizens—public assistance, public housing, and unemployment compensation, for example, were unheard of.

In contrast, in our present rapidly urbanizing society, acquisition of land for public use in congested, built-up areas is constantly expanding. The concern for improving housing and conserving and reviving older central cities has resulted in a vast federally aided urban renewal program. The needs of national defense and national economic growth have brought about large-scale federally aided highways, many of which involve clearing land in built-up urban areas. Expanding needs of cities and States require property takings for schools, parks, office buildings, streets, and parking. Municipalities are turning more and more to enforcement of minimum building and housing codes, which displace people when they require reductions in overcrowding or force demolition. Paralleling the accelerated pace of displacement, government at all levels has accepted increasing responsibility for assuring minimum standards of welfare, housing, education, and employment for all groups in the population.

LEGISLATIVE MEASURES TO BROADEN COMPENSATION

The growing impact of displacement and expanded government responsibility for economic and social welfare has resulted in an increasing feeling in many quarters that government should compensate people for incidental damages associated with displacement. Apart from the justification based on the differences between a forced and a voluntary sale, such reasons as these are cited:

The government uses real property for projects expected to benefit the public. The public is expected to bear the burden of the costs of the projects. Where individuals suffer clearly established financial losses and damages as a direct consequence of the projects, fundamental fairness requires the public to bear these losses and damages just as it bears the costs of property actually taken and other project costs * * *.

Since it is unfair for the government to take property physically without compensation, it is no less unfair to deny compensation for losses and damages which occur as a direct result of the land acquisition activity * * *.⁵

A further reason given is that failure to provide full compensation and assistance for displaced people is self-defeating when it frustrates achievement of other governmental objectives. Thus, failure to provide adequate relocation assistance for people who suffer from economic and social disadvantages makes more difficult the tasks of housing and welfare programs.

Most courts have not broadened their interpretation of just compensation to cover incidental damages. Where they have, the standard

⁴ Henry H. Krevor, *A Congressional Study of Just Compensation*, article prepared for Manual of the American Society of Appraisers (mimeo., n.d.), p. 8.

⁵ *Ibid.*, p. 9.