

ers of small businesses make a satisfactory adjustment requires heavy emphasis on advice, counseling, perhaps special assistance in financing a new operation, and if the owner does not wish to stay in business other types of assistance to help him earn a living in some other occupation.

The same reasons cited for supporting consistency among Federal programs apply equally to State-local programs. The few States that have adopted relocation compensation through broadening of the eminent domain law have achieved uniformity for displacements caused by real property acquisitions. However, these laws do not apply to code enforcement displacement nor do they, with few exceptions, provide for relocation advisory assistance. The Commission believes that States should broaden their laws to apply to all types of displacing action conducted by State and local agencies and should include relocation advisory assistance as well. While displacements caused by State activities other than highways are relatively limited, where they do occur persons and businesses affected should also receive adequate payments and assistance. The same applies to local government displacements and they are usually more substantial—in code enforcement procedures, for example.

2. ASSIGNMENT OF RESPONSIBILITY FOR DETERMINING RELOCATION PAYMENTS

The Commission recommends that Congress and State legislatures assign to administrative agencies responsibility for determining the amount of relocation payments, subject to specific statutory maximums.²⁷

Two general legislative approaches have been used in the United States to authorize compensation for incidental damages suffered as a result of forcible takings of real property by government. The first used by the Federal Government and such States as New York, Massachusetts, and Ohio gives responsibility to administrative agencies to determine payments within statutory specifications as to compensable items and maximum allowable payments. The second approach used by such States as Wisconsin, Maryland, and Pennsylvania works through a broadening of the eminent domain law by specifying items of incidental damages that are to be included within the context of fair market value and awarding just compensation for property taken.

Basically the difference between the two approaches is that the first is essentially an administrative procedure in which final determination of compensable cost is made by administrative officials within the statutes. The second, on the other hand, adheres to the eminent domain concept and gives the condemned the access to the courts for determining the equity of the condemnors offer if the condemnee is not satisfied with that offer.

On balance, the Commission concludes that in the interest of (a) expeditious handling of relocation claims, (b) effective provisions of an overall system of relocation assistance including advice as well as compensation, and (c) the needs of those most urgently requiring relocation help, responsibility for determining relocation payments

²⁷ *Ibid.*