

A Redevelopment Agency in California has the power to expropriate or condemn the real property of a private person, with the ultimate purpose of selling it to another private person who, it is intended, will rebuild on it in fulfillment of and concurrence with the Agency Plan.²⁸ The major premise upon which condemnation is permitted is that the area is "blighted" and it is in the public welfare that it be redeveloped. The Agency is proponent, judge, and jury. There is scant right of administrative or other appeal. Potential evictees and property owners in an area to be redeveloped cannot challenge the decision to "redevelop" a portion of the urban area.²⁹

Under existing rules, there is no guarantee giving a citizen the right to seek a court injunction against the municipality or Redevelopment Agency, until his battle is half lost because of the fictions and conclusive presumptions relating to evidence used as a basis for the determinations made by the Agency or the city. The lack of objective appraisal is one of the major defects in most present methods of redressing citizen grievances. "In the best of circumstances, haphazard complaint handling by . . . public official gives slight assurance that a grievance will be fully investigated. In the main, complaints are merely passed along to the officials concerned. Their response may be factual in tone, but nobody outside the administration is likely to see the file materials and thus be able to judge for himself whether the story has been fully and fairly told."³⁰

A Redevelopment Agency, which has a probable conflict of interest, as a proponent of a redevelopment plan, must make a case to get federal funds to condemn an individual's property rights. The Agency formulates its own rules of evidence at hearings under its exclusive control, wherein it gives such materiality or weight to a grievance or challenge to the assumption of "blight" as it may unilaterally determine.

An individual whose real property is to be condemned and/or expropriated, particularly when it is valuable land on a rising market, should not be without an available remedy, tantamount to due process, on the basic, fundamental issue of "blight" or other issues.

Under Amparo an aggrieved person would seek procedural fairness in accordance with the precepts of due process. He would have the immediate right of subpoena from a court of law to compel the production of evidence in the possession of the administrative body, city, State or Federal instrumentality. Under the present Health and Safety Code of the State of California, this right is reserved by statute to a Redevelopment Agency, which has immediate free access without subpoena or other motion to the services of a municipal Planning Commission, a City Engineer, and other departments of the municipal corporation, on the basic evaluation of "blight." The individual property owner does not have, under the cited code, free or ready access to the services and facilities above mentioned. Nor does he have the right of subpoena in a court of law to compel the attendance of witnesses or to compel the production or inspection of material evidence, which he as a private citizen may specifically need, as evidence against the conclusions and determinations which the Redevelopment Agency may make upon matters of fact peculiarly in its possession or in files of governmental agencies. Consequently, judicial notice of such evidence by a court of law cannot easily be taken.

The design, scope and magnitude of redevelopment as it may violate the individual citizen is probably beyond and in excess of his financial ability to cope. He must pay his own costs and attorney's fees to probe into the issues. Assuming he could later receive a fair market value for his property, these necessary costs are not included as part of any award he may ultimately receive. He could well spend more money in protecting his rights than his ultimate compensation in damages returns under an action in eminent domain.

Basically, as so well put with reference to another situation in administrative law, "A citizen should not have to run the gauntlet of a long common law

²⁸ Redevelopment Agencies are created by resolution of a city council. The council or mayor then selects five persons who form the governing body of the Redevelopment Agency, in charge of a real-estate business made up of several city blocks. They need not be realtors, have prior business experience or possess qualification other than residence. Usually . . . Redevelopment Agencies are not departments of a city. They are not directly responsible to the voters.

²⁹ *Gart v. Cole*, 166 F. Supp. 2d 129 (S.D.N.Y., 1958), *att'd.* 263 F. 2d 244 (2d Cir., 1959), *cert. den.* 359 U.S. 978 (1959).

³⁰ Gelhorn, Walter, *When Americans Complain*, Harvard University Press, Cambridge, 1966, p. 140.