

URBAN RENEWAL REALISTICALLY REAPPRAISED

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Recent—and often misguided—critical outpourings against urban renewal justify an effort to determine realistically the actual and potential contribution of government to the solution of urban problems. Broadly defined, urban renewal can encompass all public and private efforts to improve city form and life. Realism requires recognition at the outset that there are no panaceas for every problem a city may possess and that some “solutions” create or emphasize other problems. Equally, realism requires careful consideration of the genesis and purposes of government programs with limited objectives so that criticism of them relates to their efforts and not to the broader notion of urban renewal goals. One recent attempt at major analysis¹ has gone astray partly because its author failed to see clearly the historical perspective and the limits of federal aid for slum clearance and redevelopment authorized by Congress under the Housing Act of 1949 and its amendments.²

The author of *The Federal Bulldozer* views this urban redevelopment assistance as though it had been expected by the Congress to solve *all* national housing problems. He cites the 1949 Declaration of National Housing Policy, preface to a comprehensive housing act with six separate titles, as though that declaration pertained only to title I. He then proceeds to condemn urban renewal for not achieving the aims of titles II, III, IV, V, VI, and other national housing efforts. *The Federal Bulldozer* is based on the assumption that federal assistance for local slum clearance and redevelopment projects was meant to achieve the housing aims of such other programs as low-rent public housing and FHA mortgage insurance. By incorporating these and other myths in his analysis, he began with unrealistic expectations for urban renewal efforts undertaken with federal assistance.

I

URBAN RENEWAL IS A LOCAL PROGRAM

Another myth incorporated into *The Federal Bulldozer* is that there is a separate, monolithic “federal urban renewal program” run from Washington by decree. The author completely misunderstands that urban renewal is a local program. He makes

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¹ MARTIN ANDERSON, *THE FEDERAL BULLDOZER* (1964) [hereinafter cited as ANDERSON].

² Note that the 1949 Act authorized federal loans and grants for what was defined as “slum clearance and redevelopment” and is now often cited as “urban redevelopment.” The term “urban renewal” did not come into use until the Housing Act of 1954 amended and broadened the 1949 program to encompass a city-wide program—including renewal of commercial and industrial areas—rather than individual projects. With new emphasis on code enforcement, structural rehabilitation and neighborhood conservation, the objectives were extended to slum prevention as well as slum clearance. Amendments since then have sought to improve the assistance and provide better tools to achieve the program’s goals.

it appear that the power to plan, acquire, and prepare project sites for redevelopment or rehabilitation is vested in the federal government and based on an opinion of the United States Supreme Court. He does not recognize that the federal government cannot initiate any project. He does not mention that there can be no urban renewal project anywhere unless:

—a state legislature has first adopted an enabling law to give cities the governmental power for urban renewal, and some forty-eight states have;

—an elected city council has first organized an operating local renewal agency, and some 800 cities have;

—the same city council has first approved the project, and some 1600 projects have been so approved;

—the local government has first authorized local public expenditures to supplement federal funds, and more than one billion dollars in local public funds have been so approved to back the program;

—local citizens are participating in the urban renewal process, as required by law, and citizens everywhere are so doing.

By ignoring these facts, he never explains that the program depends completely on active local political support, given through the established system of representative government. The author does not state that the federal government neither operates any bulldozer, nor acquires any property for any urban renewal project. Instead, he alleges that "the federal urban renewal program is a firmly entrenched giant, reaching into virtually every important city in the United States . . ."³ and falsely claims that "the federal government . . . will forcibly displace . . . American citizens . . ."⁴ and that "the Urban Renewal Administration reported . . . that . . . businesses had already been acquired by them [*i.e.*, the URA] in urban renewal projects throughout the United States. . . ."⁵ The federal government cannot select a project area, cannot prepare a plan, cannot acquire property, cannot demolish dilapidated structures, cannot sell the land or install the public improvements. Yet these are the critical steps in urban renewal projects. This misleading emphasis on the "federal" role in urban renewal programs all but obscures the fact that the powers to carry out urban renewal derive from state enabling legislation.⁶

In fact, some twenty-five states had slum clearance and redevelopment legislation of some kind prior to the Housing Act of 1949. New York state, for example, passed a constitutional amendment in 1938 and enacted legislation in 1942 authorizing slum clearance and redevelopment projects. State enabling acts have with-

³ ANDERSON 33.

⁴ *Id.* at 55.

⁵ *Id.* at 68.

⁶ For a summary and citations to state enabling acts, see HOUSING AND HOME FINANCE AGENCY, LIST OF CITATIONS TO STATUTES, CONSTITUTIONAL PROVISIONS, AND COURT DECISIONS (1962).

stood constitutional attacks based on state and federal constitutional provisions beginning in 1947 in Pennsylvania.⁷ By 1954 (when the U.S. Supreme Court upheld redevelopment legislation for the District of Columbia),⁸ the courts in twenty-one states had reviewed such legislation, and in all but two states had upheld the constitutionality of urban redevelopment. At present urban renewal legislation has been tested and upheld in the highest courts of thirty-three states. Only in South Carolina, Georgia, and Florida has such legislation successfully been assailed. In Georgia a later constitutional amendment authorized the undertaking of urban renewal, while in Florida the position originally taken has been modified substantially by the state's highest court. In short, the author of *The Federal Bulldozer* seems to have been quite unaware, as are many opponents of urban renewal, that if his suggestion for "repeal" of the "federal" urban renewal program were adopted (cf. chapter fourteen), the program's authority would not be impaired at all because, with constitutional powers derived from the states, it is locally run.

II

THE USE OF THE POWER OF EMINENT DOMAIN IN URBAN RENEWAL RESTS ON A LONG TRADITION OF STATE COURT DECISIONS

At this late date complaints concerning the constitutional basis of urban renewal would seem ill-timed.⁹ They may arise from those who ignore or misread the historical basis for government action to solve the problems of society. Foes of urban renewal have attempted to create a mythology with respect to the "inviolable" right of private property in support of their contention that government should not have the power to act in removing slums, and they have focused their attacks on the Supreme Court of the United States: "The federal urban renewal program has drastically altered the traditional concept of eminent domain; it is doubtful if any of the founding fathers could recognize it in its present form."¹⁰ Instead of citing "the founding fathers," they cite Pitt and Blackstone, the latter in a classic example of tearing statements from context: "Regard of the law for private property is so great that it will not authorize the lease violation of it, not even for the general good of the whole community; for it would be dangerous to allow any private man, or even any public tribunal, to be the judge of this common good. . . ." The preceding lines are the full text of a quote from *The Federal Bulldozer*.¹¹ The identical passage is also cited in a book published in 1962.¹² Both books ignored what came

⁷ *Belovsky v. Redevelopment Authority of the City of Philadelphia*, 357 Pa. 329, 54 A.2d 277 (1947).

⁸ *Berman v. Parker*, 358 U.S. 269 (1954).

⁹ For a well-reasoned discussion of these issues, see COLEMAN WOODBURY (ED.), *URBAN REDEVELOPMENT: PROBLEMS AND PRACTICES*, pt. IV, "Eminent Domain in Acquiring Subdivision and Open Land in Redevelopment Programs: A Question of Public Use" (1953).

¹⁰ ANDERSON 188.

¹¹ *Id.* at 185.

¹² THOMAS F. JOHNSON, JAMES R. MORRIS & JOSEPH G. BUTTS, *RENEWING AMERICA'S CITIES* ch. III, at 46 (The Institute for Social Science Research, 1962).

before and what followed in Blackstone's *Commentaries*. The quoted passage is preceded in Blackstone by the phrase "save only by the laws of the land" and is followed by: "In this and similar cases the legislature alone can, and indeed frequently does, interpose, and compel the individual to acquiesce . . . by giving him a full indemnification and equivalent for the injury thereby sustained."¹³ Thus, while Blackstone recognized the importance of private property, he also acknowledged that the legislature could authorize the taking of property for proper purposes upon payment of just compensation to the owner. This view was incorporated in the fifth amendment to the United States Constitution: ". . . nor shall private property be taken for public use without just compensation." It was written into some, but not all state constitutions.¹⁴ But its incorporation in the federal and state constitutions still left to the legislatures the determination of what were proper purposes for the use of eminent domain.

In some states from the very start it was clear that private uses served public purposes. For instance, Idaho's constitution of 1890, cited by Professor Haar:¹⁵

The necessary use of lands for the construction of reservoirs or storage basins, for the purpose of irrigation, or for rights of way for the construction of canals, ditches . . . or for the drainage of mines . . . or any other use necessary to the complete development of the material resources of the state, or the preservation of the health of its inhabitants, is hereby declared to be a public use and subject to the regulation and control of the state.

Such state constitutional provisions or amendments were adopted over a period from 1780 (Massachusetts) to 1938 (New York).

The courts of most states have ruled that "public use," as it appears in state constitutional provisions authorizing takings of private property by eminent domain, is equivalent to "public benefit." As one leading text puts it:¹⁶

Anything that tends to enlarge the resources, increase the industrial advantages and promote the productive power of any considerable number of the inhabitants of a section of a state, or which leads to the growth of towns and the creation of new resources for the employment of capital prosperity of the whole community and, giving the constitution a broad and comprehensive interpretation, constitutes a public use. Under this view it has been held that the scope of eminent domain has been made as broad as the powers under the police and tax provisions of the constitution.

In accord with this view innumerable state legislatures and courts have authorized eminent domain proceedings in behalf of mills, railroads, power companies, private universities, and for other private concerns whose operations were considered to involve "public benefit." In these instances the property was taken by a *private* enter-

¹³ 1 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 138 (Sharswood ed. 1895).

¹⁴ Professor Charles M. Haar of the Harvard Law School observes that: "The constitutions of most of the thirteen original states did not require compensation upon the condemnation of land. . . . But with the establishment of roads, limitations began to appear. . . ." CHARLES M. HAAR, LAND USE PLANNING 470 (1959).

¹⁵ *Id.* at 411.

¹⁶ PHILIP NICHOLS, THE LAW OF EMINENT DOMAIN § 7.2 (Sackman & Van Brunt, 3d ed. rev., 1963).

prise through a judicial proceeding which assured the payment of just compensation to the property owner; the title was not acquired by a public body or agency.

On the other hand, in urban renewal programs the property is acquired by a local *public* agency pursuant to the provisions and safeguards of an urban renewal plan adopted by a city council or other local governing body, after public hearings. Although most courts consider the elimination of the slum to be the public purpose for which the power of eminent domain may be employed, they also recognize that the prevention of future slums is a related public purpose. The existence of an official urban renewal plan is considered by these courts to be necessary to assure that this public purpose is served.

Thus, there is a tradition of broad interpretation of the term "public use" which would justify the use of eminent domain for urban redevelopment despite the fact that the property might eventually end up in private ownership. But in line with the finding that slum clearance and prevention are the public purposes which justify the employment of eminent domain in urban renewal, most courts have held that the disposition of the land is *incidental*, and the fact that it may be sold to private parties for private use does not vitiate the public purpose of slum clearance.

There is a minority view which holds in South Carolina where the sale of such land must be to public bodies. The foes of urban renewal hold fast to this narrow position, and they interpret the language of the fifth amendment of the United States Constitution literally. Not only does this fly in the face of the tradition described above, it flies in the face of what is now thoroughly understood to constitute the general well-being of society in the twentieth century. The following quote from a California court opinion which upheld an urban renewal project on predominantly vacant land sums it up:¹⁷

It might be pointed out that as our community life becomes more complex, our cities grow and become overcrowded, and the need to use for the benefit of the public areas which are not adapted to the pressing needs of the public becomes more imperative, a broader concept of what is a public use is necessitated. Fifty years ago no court would have interpreted, under the eminent domain statutes, slum clearance even for public housing as a public use, and yet, it is now so recognized. To hold that clearance of blighted areas as characterized by the [California] act and as shown in this case and the redevelopment of such areas as contemplated here are not public uses, is to view present day conditions under the myopic eyes of years now gone.

III

HOW CRITICS MEASURE URBAN RENEWAL RESULTS

With a mistaken view of its purposes and of how it works, *The Federal Bulldozer* proceeds to measure the accomplishments of federally-aided urban renewal in a unique and misleading way. By measuring aggregate national figures with a prema-

¹⁷ Redevelopment Agency of City and County of San Francisco et al. v. Hayes et al., 122 Cal. A.2d 777, 802-03, 266 P.2d 105, 122 (1954).

ture cut-off date the book reveals little more about urban renewal than that the process takes time, a fact that urban renewal officials had long before conceded.¹⁸

The unfortunate consequence of the "aggregate" view is that it focuses on the value of slum areas eliminated:

- on "low rent" dwellings (a euphemism for slums) demolished;
- on tax revenues lost (rather than decline stopped);
- on vacant land (rather than potential redevelopment).

A. Real Estate Tax Increases Overlooked

By considering all projects together, those just beginning demolition as well as those with new construction completed, it is possible to show—with an expanding program—that more buildings have been eliminated than have been constructed. Take, for example, the treatment of real estate taxes in *The Federal Bulldozer*.

The author alleges that tax increases in urban renewal are a "myth." He sets up sharply contrasting facts, based on "admittedly rough" estimates, employed because he believed "the federal government does not publish figures" on taxes. By estimating the total value of real estate "destroyed" up to 1961 and comparing it to his estimate of the "total amount of private construction started" he derived the conclusion: ". . . if you destroy \$650-\$700 million of real estate and construct about \$400 million, it is apparent that tax revenues must decrease."¹⁹ Aside from ignoring the declining tax revenues and the increasing cost of municipal services in slum areas, the author overlooked published government figures which showed that taxes had, in fact, increased.

Published testimony of Urban Renewal Commissioner William L. Slayton,²⁰ cited on page fourteen of *The Federal Bulldozer* for a different point, showed that by 1963 actual assessed valuation had increased from \$168 million to \$694 million for 185 project areas with land disposition completed. This indicated a 312 per cent increase, notwithstanding the fact that about one-fourth the taxable property before redevelopment was converted to public and other nontaxable uses. Why the dramatic difference between the author's estimates and the Commissioner's testimony? URA figures compare taxes before and after redevelopment in the *same* projects. The author compares his estimate of the assessed value of slum structures demolished to his estimate of the value of new construction. Thus, he compares demolition in 485 projects with construction on 191 projects. Without explaining the significance of this comparison he simply shows a tax loss with which he

¹⁸ Perhaps this confirmation that it takes time to renew cities is useful. The old image of urban renewal—as a type of public works operation that can be planned, scheduled and executed with precision and dispatch—dies hard. The old view has led congressmen and others to emphasize the number of projects completed—a matter of federal bookkeeping—rather than real accomplishments.

¹⁹ ANDERSON 166.

²⁰ *Hearings on Urban Renewal Before the Subcomm. on Housing of the House Comm. on Banking and Currency*, 88th Cong., 1st Sess. 472 (1963).

supports his "myth" claim. Such a showing is not hard to make. Stated another way, it means that when the first slum building was demolished in the first urban renewal project, the taxes on it, indeed, were reduced.

URA's figures for all projects in which land disposition is complete provide a more accurate and meaningful picture, since they relate demolition to *its* replacement construction. For the individual city, of course, these figures must be examined further. The local share of project cost and the period during which land is vacant and no taxes are earned are commonly offset against increased taxes from new construction. Although impressive increases have been frequently reported, not all projects are undertaken for their tax benefits. Public, civic or institutional redevelopment, while taking land off the tax rolls, benefit immediately surrounding areas and cities as a whole, as demonstrated by the Lincoln Square project in New York City with its Center for the Performing Arts. Even tax-producing projects are redeveloped under plans which limit the intensity of use and thus do not necessarily return as much as a prior, overintensive use. Furthermore, there are other considerations that in an economic sense must be weighed against the numerical increase in taxes, a few of which are cited in *The Federal Bulldozer*. One important one, ignored in the book, is the significance to a city of securing new construction within the city boundaries, such as new apartments or the Macy department store which located in downtown New Haven, rather than in the suburbs. Although the market which Macy's has tapped could perhaps have been reached from a suburban location, the tax and other economic consequences for New Haven are quite different with the downtown location.

Finally, the author's "myth" regarding taxes in urban renewal projects seems to cut no ice with the banking firms that have purchased municipal bonds authorized in the state of California and elsewhere to finance urban redevelopment projects. The bonds are pledged against and are repaid out of the actual increased taxes from project areas.

Thus, the effects of urban renewal projects on city finances must be measured in various ways to derive valid conclusions about the economic value of urban renewal for an individual community. A large tax gain from a single project does not solve a city's financial problems, nor does a decrease from a single project necessarily aggravate them.

B. Family Relocation Achievements Discounted

The most common charge of urban renewal critics is that the program is creating new slums by displacing families from old ones. These critics discount the facts stated in official reports and ignore the positive contribution which urban renewal has made by setting a new standard of public responsibility for those displaced by government activity. They emphasize such factors as neighborhood "disruption," increased rents and the small percentage of families whose housing condi-

tions are not improved. While these are admittedly important problems which receive priority attention from urban renewal practitioners, they should be kept in proper perspective.

Among the provisions of title I of the Housing Act of 1949, local government for the first time was given responsibility for helping people who are about to be displaced by slum clearance activities to find and move into decent housing—before displacement can take place. No other public program ever had assumed such responsibility. The original legal requirement (“that there be a feasible method” for relocating displaced families from the project area) has been extended since 1949 to include individuals and businesses. The record now stands for urban renewal at eighty per cent of all displaced families rehoused into standard accommodations.

In addition to relocation planning and services, in 1956 urban renewal provided, for the first time, government payments for moving expenses and loss of property, and, beginning in 1964, special federal rent supplements for displaced low-income families and for single aged people, as well as extra adjustment payments for displaced small businesses.

Since this assumption of public responsibility by urban renewal, other public programs—highway construction in 1962, public housing in 1964—have begun providing assistance and payments. The U. S. Advisory Commission on Intergovernmental Relations has recommended that the urban renewal relocation requirements for helping those displaced be adopted by all federal grant-in-aid programs. The Select Subcommittee on Real Property Acquisition, U. S. House of Representatives, under the chairmanship of Representative Clifford Davis of Tennessee, made similar recommendations.

Critics take different views of these accomplishments. By assuming that urban renewal is *the* nation's housing program, they find it possible to claim relocation failure when displaced families are not rehoused in project areas, when new housing built on project land is not for low-income families, or when no housing at all is constructed in project areas. They also cite statistics for support: 126,000 “low income” units demolished, against only 28,000 constructed, only 3,000 of which were for low-income families. Furthermore, they discount the reports of local public agencies, assembled by the Urban Renewal Administration, which have consistently shown that overall, about eighty per cent of all families displaced have relocated into decent housing. For families whose whereabouts are definitely known, the figure now stands at over ninety per cent relocated in standard housing, as recently confirmed by a study of 2,300 such families in 132 cities, undertaken by the Bureau of the Census in 1964.

What evidence is there for doubting the validity of these figures? *The Federal Bulldozer* alludes to a single source in support of the claim that families relocated

from urban renewal have not found better housing:²¹ "In 1961 the School of Public Administration of the University of Southern California concluded a four-year inquiry into urban renewal relocation programs in 41 cities throughout the United States."

The Federal Bulldozer does not cite the report of this inquiry; it cites only one article describing it.²² The book's repeated references to this article do not mention that Professor Reynolds describes families displaced *both* by public housing construction and urban renewal, nor do they mention that the article refers only to the mid-1950s. In at least ten of the forty-one cities surveyed, urban renewal relocation did not start until 1958 or later. The book does not mention that this article, indicating poor relocation results wherever local agencies did not (or could not) provide relocation services, singles out the relative success of urban renewal relocation services.²³

The high correlation existing between proffered thorough-going counseling services for relocatees in at least fifteen municipalities and the great number of satisfactory relocations therein, especially in regard to the minimization of substandardness and transiency in the off-site dwellings, is noteworthy.

The author of *The Federal Bulldozer* and others who cite Mr. Reynolds' article seem to have been unaware that, as a former staff member of the Philadelphia Housing Authority, he was particularly interested in stimulating planned relocation efforts and counseling services in displacement caused by public housing construction. Mr. Reynolds already had published another article about this same study²⁴ which concluded that "city-aided families paid lower rent increases and now have better housing than their self-relocated counterparts. Clearly the counseling-advisory service has been well worth the effort."

Good housing, important for improving social conditions, is not alone sufficient to solve the problems of disadvantaged families. Rehousing "services," sometimes limited in the earliest years of the program to the mere provision of lists of vacancies, have been expanded in many cities to include a full range of social counseling and services, with such aids as auto transportation to inspect relocation housing, referrals to health and welfare agencies, advice on financing, assistance in packing, and help in furnishing the new home. The new poverty program promises still more assistance for those least able to cope with the consequences of relocation and should provide more of the tools needed to improve city life as well as city environment.

²¹ ANDERSON 60. *The Federal Bulldozer's* repeated use of the term "evicted" for "displaced" or "relocated" belies the fact that a cumulative total of less than 1.1%, or 1,902, of all 175,644 families who had moved from urban renewal projects by mid-1964 had been evicted.

²² Reynolds, *What Do We Know About Our Experience With Relocation?*, J. INTERGROUP RELATIONS 342 (1961).

²³ *Id.* at 345.

²⁴ Reynolds, *Family Relocation Can Succeed in Urban Renewal Work*, The U.S. Municipal News, April 15, 1960.

C. Private Investment Magnitude Mistaken

A unique feature of the Housing Act of 1949 was that private enterprise was expected to undertake most of the redevelopment, thus making possible a large scale program with limited public expenditures. At least one critic contests this:²⁵

The view that the public will finance and pay for most of the cost of urban renewal differs significantly from the current views by most of the people associated with the program. This is possibly the most significant conclusion coming out of this study.

But the author's "most significant conclusion" is based on a confusion of cost and expense (compounded by a half-billion-dollar misunderstanding) and a unique interpretation of "finance" (carried further by a mistaken assumption and an erroneous prediction).

The experience of local public agencies, as reported by the Urban Renewal Administration from time to time, indicates that for each dollar of *federal grant*, from four to six dollars of private construction has occurred. These figures compare federal grants to actual construction costs reported for projects in execution with land sold and rebuilding under way. By extending this ratio to the total of federal grants authorized up to 1964 (\$4.7 billion) it is possible to estimate a private investment potential of from \$18.8 to \$28.2 billion.

The author of *The Federal Bulldozer* was attracted to study urban renewal by reports of this investment potential. Unfortunately, his analysis went astray. He substituted his approximation of project *expenditures* for capital *grants* and derived a different ratio which, he claims, disproves the government's four- or six-to-one experience. His findings, thus, disprove nothing with respect to the government's reported ratio. They do prove, however, that he was not fully aware of the meaning of the government's comparison.

In addition to mixing cost and expenditures, he committed a significant definitional error which led to a half-billion dollar misunderstanding. In discussing project expenditures he stated that "refunded" loans amounted to \$554 million and are essentially the same as outstanding loans. But refunded loans, having been paid off, are *not* the same as "outstanding loans." If they were, a homeowner's \$20,000 mortgage debt, when refinanced at a lower interest rate, would be counted as a \$40,000 debt. The author misunderstood the nature of a refunded loan and defined it as "one that has come due and has been refinanced or extended past its original due date." But refunded loans, having been refinanced from a different source, are *not* extended. His half-billion dollar misunderstanding is taken as of 1962. For his analysis of project expenditures, he took 1960 figures, and thus reduced the error to \$347 million.

The author's substitute ratio comes to \$1,430 million "public money spent" (including the extra \$347 million of refunded money and an additional \$17 million in

²⁵ See ANDERSON 142.

planning advances that are counted twice) which he compares to \$460 million in private investment. His expressed interest in the public money figure is to suggest that the large amount of cash needed for urban renewal project operations as the program grows "might put significant demands on the financial markets in the near future, as well as affect the government's credit or interest rate position."^{25a} He does not explain why this might be so. Considering that only a portion is outstanding at any one time, and that approximately ninety per cent of temporary loans are privately held, there is no evidence that the effect will be adverse.²⁶

In discussing his estimated \$460 million private investment figure the author reflects his unique interpretation of the role of the Federal National Mortgage Association (FNMA) in financing urban renewal construction. He considers FNMA to be a long term direct investor, rather than a temporary lender.

FNMA helps to support, under a congressional charter, special housing programs for which private market financial investment may be inadequate from time to time. FNMA purchases FHA-insured mortgages for urban renewal residential construction, but it also sells them—to the private market. This sales activity, which has significantly increased in recent years, has reflected not only the greater volume of funds that was made available for mortgage financing, but also the general recognition accorded by the private mortgage lending industry to the soundness and creditworthiness of the mortgages purchased by FNMA under its special support programs such as the one for urban renewal housing.

The author of *The Federal Bulldozer* mistakenly assumed that "most commitments made by FNMA are exercised by the lenders" and he estimated the degree of FNMA involvement by calculating the percentage of mortgages insured by FHA that were either purchased or under commitment to be purchased by FNMA. He provided the following example for the year 1960, based on his mistaken assumption:²⁷

As of December 31, 1960, FHA had insured about \$296 million of mortgages in urban renewal areas. At that time FNMA had purchased or issued commitments to purchase \$274 million or 92.5 per cent of these mortgages.

But, in fact, lenders had not exercised "most" of their commitments. In attempting to trace the \$274 million figure, the National Association of Housing and Redevelopment Officials obtained the following information from FNMA officials: FNMA purchased \$102 million of the \$277.6 million commitments made by 1960, for a thirty-seven per cent "involvement," rather than the 92.5 per cent cited by the author. As

^{25a} *Id.* at 28.

²⁶ Another important urban renewal role for private enterprise, not often considered in evaluating the program, has been the provision of working capital for project execution activities. Temporary loan notes, backed by the government, have been purchased by banking institutions at interest rates below the rate charged for direct federal loans. When the program began most loans were direct federal, but gradually private lenders have increased their participation until they account for approximately 90% of the funds borrowed by local public agencies to finance urban renewal project operations. These loans are repaid out of federal grants, the proceeds from land sales, and local cash contributions.

²⁷ ANDERSON 133.

of December 31, 1964, FNMA's cumulative purchases were \$209 million of its total \$434 million commitments for FHA section 220 mortgages, or forty-eight per cent involvement. FNMA's cumulative purchases up to 1962, the author's cut-off period, never exceeded forty-seven per cent of commitments.

Until 1962, FHA-insured urban renewal mortgages depended almost exclusively on FNMA assistance. But housing financing conditions have changed dramatically since then, and FNMA has changed its regulations to encourage more private financing. As a result, and with a significant drop in mortgage interest rates nationally, private lending institutions have purchased so many FNMA-held mortgages and cancelled so many commitments that FNMA's share of FHA-insured urban renewal residential mortgages had dropped to an annual commitment rate of approximately four per cent (or a cumulative rate of about twenty per cent) in 1964. The trend that has resulted in this drop, although noted and discussed at length by the author, was completely misunderstood by him. The author erroneously predicted that FNMA's share of urban renewal mortgages would level off at somewhere over fifty per cent. With the continued sharp decline in FNMA participation, the author's conclusions about the long-term public and private sources of funds for urban renewal residential construction, based on this prediction, are therefore discredited.

In addition to overstating the federal government's share of residential redevelopment financing efforts, through FNMA, *The Federal Bulldozer* claims that private funds for urban renewal commercial and industrial construction will not be forthcoming. The author based this claim on cumulative figures up to 1961 of \$115 million in private nonresidential construction, but by the end of 1964, the figure for this category had grown to more than \$1 billion. Together, the sharply-reduced FNMA participation, and the nine-fold increase (from \$115 to \$1,089 million) in private investment in commercial and industrial and institutional urban renewal construction have lowered the total share of "federal" money for "financing" private urban renewal construction from *The Federal Bulldozer's* alleged thirty-five per cent to about five per cent.²⁸ The book's conclusion about the significant federal share of the early 1961 total of \$824 million redevelopment financing is based on an array of figures from the past that can no longer be used to interpret the nature of the program. By December 1964, the total construction in urban renewal areas had increased to \$3,274 million and of that, private construction amounted to \$2,258 million.²⁹

²⁸ Greater availability of private banking resources for construction in urban renewal areas was made possible by changes in regulations governing the nearly 2,000 members of the Federal Home Loan Bank system. The Housing Act of 1964 eased investment limitations so that members of the system may now invest up to 5% (or \$3 billion) of their total assets in urban renewal construction. Furthermore, members are now, for the first time, authorized to become active redevelopers in their own right.

²⁹ It should be noted that the author does not discuss the new moderate-income housing program, § 221(d)(3), authorized by the Housing Act of 1961, which is entirely supported by FNMA. An updated review of the extent of FNMA involvement in all urban renewal residential development, however, would have to include § 221(d)(3) housing. It is reasonable to assume that most program analysts would place redevelopment expenditures for this housing in the public sector because of the below-market

D. Private Redevelopers' Attitudes Misrepresented

In addition to mistaking the amount of private investment in urban renewal, *The Federal Bulldozer* misrepresents the attitudes of private redevelopers. The author suggests that urban renewal was intended to provide quick and "lucrative" profits to redevelopers, while an examination of the law and other public documents shows that the price redevelopers have to pay for the land is fair value for the uses specified for the project. The federal law and the contract between the local renewal agency—documents not cited in the book—require continued redeveloper participation until construction has been completed according to the specifications of the publicly-approved urban renewal plan. This required long-term approach is part and parcel of the public-private relationship and the application of various governmental mechanisms to achieve the objective of the Declaration of National Housing Policy that "private enterprise shall be encouraged to serve as large a part of the total need as it can" and that "governmental assistance shall be utilized where feasible to enable private enterprise to serve more of the total need."

The principal governmental financing mechanism for this purpose is the special FHA federal mortgage insurance for residential reconstruction in urban renewal areas.

The Federal Bulldozer's discussion of the role of the private redeveloper in urban renewal focuses on the point that³⁰

Events are developing which seem to indicate that even some of the largest and most sophisticated private urban renewal redevelopers are becoming seriously disenchanted with the program.

To support this statement, the book cites the experiences of two well-known developers.³¹ One of them, Marvin Gilman, was quoted to the effect:³² "Yet, if we, as redevelopers, are to continue to sow, soon we shall have to reap, or one must be off to greener fields." When asked by the National Association of Housing and Redevelopment Officials to comment on this quotation, Mr. Gilman explained that it was taken out of context, and that he had been talking about his impatience at the groundbreaking delays in one particular project. He added:

interest rate, which under § 221(d)(3) makes FNMA purchase of the mortgage inevitable, and, in effect, provides privately-built housing financing with what amounts to an indirect federal loan.

³⁰ ANDERSON 121.

³¹ Redeveloper William Zeckendorf is also cited in *The Federal Bulldozer* as having lost interest in urban renewal, with the observation that "For example, in recent years, Mr. Zeckendorf has sold off most of his urban renewal interests to other investors." ANDERSON 108. But, as has been widely reported in the press, Mr. Zeckendorf's sale of his urban renewal interests had little to do with his attitudes on urban renewal; instead, it was the result of pressures on his financial holdings, recently reviewed in considerable detail in *Life*, Feb. 12, 1965, p. 74. Another carefully researched article, Kay, *The Third Force in Urban Renewal*, *Fortune*, Oct. 1964, p. 130, covers the role of large private redevelopers' attitudes and includes an account of Zeckendorf's sale of his urban renewal interests.

³² ANDERSON 108.

Martin Anderson has misused what I said in 1961 . . . when I was criticizing the delays caused by the lack of experience of all of us—in the private sector as well as the public sector.

Since 1961, the experience of developers has grown geometrically, and we have done much of the needed streamlining. This is exemplified by the fact that almost every developer I know is still interested in the program. I personally am anxious to expand my Baltimore project, and I have just broken ground on a new project in Wilmington. Those of us who understand how urban renewal works, know that it was never meant to provide “tantalizing high profits,” nor was it designed to provide a quick return for speculation. Redevelopment is a long-term investment that promises a fair return on dollar and labor invested.

The words of Leon Hickman, executive vice-president of the Aluminum Company of America (ALCOA) are used in *The Federal Bulldozer* as the author’s final citation in chapter seven, italicized by him to emphasize the disenchantment of private redevelopers with urban renewal.³³ “Our experience as a seed money angel was early in the game and relatively painless. *But we have seen enough to know that we have had it.*” This citation was taken by the author from a July 1964 magazine article, “Urban Renewal Stands Condemned as a Costly Failure,” which quoted a small part from a February 1964 speech by Mr. Hickman.

Had the author checked Mr. Hickman’s speech³⁴ he would have found an eloquent exposition of the government’s concept of partnership with private enterprise, and an explanation of how private investors have gradually been led into urban redevelopment. By only seeking the words he needed, the author was kept unaware of this passage in Mr. Hickman’s speech, immediately preceding the citation quoted above from *The Federal Bulldozer*:

Having mentioned three things that we have learned, namely that urban redevelopment is a good business for ALCOA, that a company like ALCOA is good for the urban redevelopment program, and that we ought to assume direct responsibility for the management of our projects, let me next mention three things that we have unlearned: First, we have unlearned any faith in the seed money concept of financing a redevelopment.

Thus, in the words cited by the author of *The Federal Bulldozer*, Mr. Hickman was merely indicating that ALCOA was adding to its “seed money” investment activity the direct responsibility for the planning, construction and management of its investments in urban renewal projects, and that ALCOA had “had it” as only a seed money angel.

When Mr. Hickman finished his exposition, he made this concluding summary statement at the end of the same speech:

There you have it. ALCOA is in urban redevelopment up to its neck. Like most people, we’re learning the hard way. We have the conviction that urban renewal is essential if

³³ *Id.* at 122.

³⁴ Hickman, *Alcoa’s Renewal Role Explained*, 21 J. HOUSING 190, 195 (1964).

our cities are to survive, and that ALCOA can play a constructive role in that battle and, at the same time, bring home to its shareholders a reasonable return on their investment.

E. Census Data Distorted

Perhaps the most serious "myth" cited by critics of urban renewal has been the one that goes to the very need for the program—the quality of housing in the United States. Until information on this subject is seen clearly, and understood thoroughly, no realistic appraisal can be made of the need for urban renewal or the magnitude of the efforts necessary to accomplish its goals.

The author of *The Federal Bulldozer* tried to substantiate a decline in the number of "substandard" housing units in the United States to support his argument that unaided private enterprise could successfully eliminate our housing problems and that there was no need for urban renewal. In support of his argument, he cited various national reports measuring the quality of individual dwelling units—which by themselves do not relate to the focus of urban renewal on the urban *environment*. A careful re-examination of the same figures he has studied, as well as pertinent others he has ignored, indicates that the actual deterioration of housing in this country has exceeded combined public and private efforts to stem urban blight and decay. His case rests largely on the use of percentages which obscure the real number of poor housing units that have remained in the United States for decades. Unfortunately, other critics of urban renewal have accepted his case uncritically, and have incorporated his distortions into their discussions.³⁵

The 1950 Census data on condition of housing showed 4.3 million dilapidated units³⁶ while the 1960 Census showed 2.9 million. However, after each of these censuses, the Bureau conducted a post-enumeration survey on a sample basis to obtain an evaluation of the differences that may have resulted from definitional changes or by enumerator error.³⁷ The results of these samples, weighted to produce national totals, revealed that there was no significant change in the number of dilapidated housing units over the decade. There were 4.1 million dilapidated units in 1950 and the same number in 1960! This finding is consistent with the results of the Components of Inventory Change Survey—taken by the Census Bureau in 1959—which reported 4.0 million dilapidated units.

The author of *The Federal Bulldozer* reported only the larger decrease in

³⁵ See Wilson, *Urban Renewal Does Not Always Renew*, Harvard Today, Jan. 1965, p. 2; Gans, *The Failure of Urban Renewal*, Commentary, April 1965, p. 29.

³⁶ The Census definition of "dilapidated" is a unit which "does not provide safe and adequate shelter and in its present condition endangers the health, safety, or well-being of the occupants."

³⁷ The Census Bureau employed a three-way classification (sound, deteriorating, dilapidated) in 1960 to measure condition, compared with a two-way classification (not dilapidated, dilapidated) in 1950. Although the 1950 concept of "dilapidated" was retained for 1960, the Bureau acknowledges that the change introduced "an element of difference" in the statistics. This "element of difference" was noted by others, who are cited in *The Federal Bulldozer*, but the author's effort to compensate for it failed. For the post-enumeration figures, compare U.S. DEP'T OF COMMERCE, BUREAU OF THE CENSUS, *The Post-Enumeration Survey: 1950*, table 14, with *Accuracy of Data on Housing Characteristics*, table 2A, EVALUATION AND RESEARCH PROGRAM OF THE UNITED STATES CENSUSES OF POPULATION AND HOUSING, 1960.

dilapidated housing units, without reference to the post-enumeration surveys or the Components of Inventory Change Survey. He reported it as a drop from 9.9 per cent in 1950 to 5.2 per cent in 1960.³⁸

There is no question, of course, about the overall increase in good housing in the United States since World War II. But the author's reported decrease in bad housing reflects only the addition of some 16 million new units during the decade. Thus, the core of his alleged findings—that dilapidated housing declined substantially—which forms the basis for his recommendation for the repeal of urban renewal, has been discounted and disproved by data in the Census itself. Based merely on percentages, the improvement is illusory.

The author also attempted to identify a substantial decline in the amount of "substandard" housing between 1940 and 1960.³⁹ But the definition of "substandard" rests mainly on the use of the Census term "dilapidated." The concept of "dilapidated" replaced the concept of "needing major repairs" which was used in the 1940 Census. The Census Bureau reports that the two terms differ significantly, and that the 1940 results are not comparable with either 1950 or 1960 results on condition. Yet the author fashions—from these "not comparable" terms—a line graph⁴⁰ which is described in his text as follows:⁴¹ "If we project the trends indicated in figure 13.1 it is entirely possible that the Census of 1970 may reveal that 90 to 95 per cent of the total amount of housing will be classified standard." But the same projection, as the author does not point out, could be realized without the elimination of a single "substandard unit." As with the percentage of dilapidated units discussed above, it depends on the pace of new construction.

In another attempt to identify a substantial decline in the amount of "substandard" housing by 1970, in order to demonstrate *no need* for urban renewal, the author cited a report prepared for the National Association of Home Builders⁴² which was based on quite the opposite assumption—that urban renewal will continue at an *active level*:

The 1960-1970 data are extrapolations of these data assuming a reasonably high level of economic activity during the 1960's, as well as an active housing program by local and Federal governments assisting private enterprise in eliminating poor housing and constructing an adequate supply to meet the demand as it develops.

Other distortions in the author's discussion of housing quality can only be summarized here. He has attributed the increase of good housing for Negroes dur-

³⁸ ANDERSON 198-200.

³⁹ The term "substandard" is not employed in the Census. It was developed by users of the Census reports—including the Public Housing Administration and the National Association of Home Builders—to combine Census data on housing condition with that on plumbing facilities, for a more comprehensive index of the quality of housing.

⁴⁰ ANDERSON 198 (figure 13.1).

⁴¹ *Id.* at 197.

⁴² Reprinted in *Hearings on Housing Legislation of 1961 Before a Subcommittee of the Senate Committee on Banking and Currency*, 87th Cong., 1st Sess. 428 (1961).

ing the 1950s by falsely citing a figure of all newly-available standard public *and* private housing as though it did not include public housing. He has alleged that middle-class families are still in the majority in central cities by conveniently assigning to them a minimum annual income level of \$4,000 (thereby including families eligible for public housing in most large cities and many smaller ones), and by equating the term "central cities" with "all cities in the United States with populations over 100,000" (thereby including those with city limits ten miles removed from the core). And he has estimated the size of the rehabilitation need in the United States by the number of "substandard" housing units (thereby omitting approximately five million units classified by the Census as deteriorating in condition but including all dilapidated units).

CONCLUSION

It is unfortunate that urban renewal, so sorely in need of careful study, has become clouded with myth and misunderstanding. Much otherwise productive time must be spent dispelling the haze cast by its critics. This article has discussed only a few of the faults in a book which, more than any other work, has collected and compounded the errors and distortions recited by critics of urban renewal. Although critics usually approach their topics with special interests, the author of *The Federal Bulldozer* labored under an unusual handicap. He set out to evaluate a government program which is based on cooperation with private enterprise, with the preconceived notion that the two are in competition.⁴³ "In 1949 . . . two forces set to grapple with the problems of housing and cities. One of these forces was private enterprise . . . and the other was the federal urban renewal program. . . ." Furthermore, he approached this program—which requires the taking of private property for the benefit of the public—with the conviction that private property is paramount to the public interest.⁴⁴

The attitude of the government of the United States toward the concept of private property rights has been slowly changing. The right to own private property is synonymous with freedom, and in the earlier years of this country was treated with the utmost respect. . . . [B]ut we are now at the point where many people will argue that the traditional rights of property must not stand in the way of broader social objectives or "human rights." The concept of broader social objectives has never been clearly defined, but it usually means that the rights of some will be sacrificed to the advantage of others. As for "human rights," it need only be noted that the right of property is probably the most important of all human rights.

As discussed earlier, the author failed to see what is the traditional concept of private property in the United States. But, given the prejudices cited above, it is not likely that knowing the truth would have freed him to make an objective study.

⁴³ ANDERSON 228.

⁴⁴ *Id.* at 184.

Other specialists approaching urban renewal critically—as “housers,” “planners,” “sociologists,” or from other disciplines—bring with them a tendency to see the program in their own terms. But urban renewal is a comprehensive approach to a many faceted problem. What is needed for a realistic evaluation is a specialist who can rise above his field, or a generalist well acquainted with the program and its origins.

Certainly, a city with one or two projects in planning or in execution cannot be said to have “an urban renewal program,” if a “program” implies broad scope and continuity. Only in such cities as New Haven, Pittsburgh, or Philadelphia can we see the potential of a comprehensive program. Unfortunately, those who know from first hand what this potential is are often too busy working to achieve it to be able to write about it. Since the Congress has not seen fit to provide adequate funds for research on urban renewal, an extra responsibility rests on those private institutions that finance research in this field to make sure it will be better spent.

