

## THE UNIFORM RELOCATION ACT: ELIGIBILITY REQUIREMENTS FOR RELOCATION BENEFITS—YOUNG V. HARRIS

Federal urban renewal programs, now terminated, have uprooted millions of people in unsuccessful efforts to eliminate urban blight.<sup>1</sup>

1. Title I of the 1949 Housing Act, introducing the federal urban renewal program, represents the first major piece of congressional legislation enacted for the purpose of engaging the community, private businesses, and the federal government in a cooperative effort to prevent the spread of urban blight. Housing Act of 1949, Pub. L. No. 81-171, tit. I, 63 Stat. 413 (1949) (current version at 42 U.S.C. §§ 1451-1492 (1976)). See C. ADRIAN & C. PRESS, *GOVERNING URBAN AMERICA* 504-05 (4th ed. 1972); M. ANDERSON, *THE FEDERAL BULLDOZER: A CRITICAL ANALYSIS OF URBAN RENEWAL* 4 (1964); P. SCHORR, *PLANNED RELOCATION* 71-75 (1975). Under the program, a local public agency carrying out a federally aided urban redevelopment project would acquire real property in the designated area from willing land owners by purchase and from unwilling land owners by the power of eminent domain. See M. ANDERSON, *supra*, at 4; P. SCHORR, *supra*, at 71-75.

Uprooted residents challenged the constitutionality of the federal urban renewal program, primarily on the ground that it violated private property rights. The Supreme Court, however, declared the program constitutional. In *Berman v. Parker*, 348 U.S. 26 (1954), the court effectively held that eminent domain, previously used only to acquire private property for public purposes, could now be used to acquire private property from individuals in furtherance of an urban renewal program and then sold to other persons for their private uses. *Id.* at 33-34. See M. ANDERSON, *supra*, at 183-93.

Forcibly displaced residents continued to criticize the federal urban renewal program on other grounds. First, since 1949 urban improvement programs displaced nearly a quarter of a million people each year. Approximately two-thirds of the people forced out of their homes were black, Puerto Rican, or members of some other minority group. Many of the minority residents were also poor or elderly or both. See *Uniform Relocation Assistance and Land Acquisitions Policies—1970: Hearings on H.R. 14898, H.R. 14899, S.1, and Related Bills Before the House Comm. on Public Works*, 91st Cong., 1st & 2d Sess. 458-60 (1969-1970) (statement of Kenneth Phillips) [hereinafter cited as *House Hearings*]; ADVISORY COMM'N ON INTERGOV'T RELATIONS, *RELOCATION: UNEQUAL TREATMENT OF PEOPLE AND BUSINESSES DISPLACED BY GOVERNMENTS* 34-39 (1965); M. ANDERSON, *supra*, at 7-8; P. SCHORR, *supra*, at 75-78. See generally AM. BAR ASS'N NAT'L INST., *UNIFORM RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES PROCEEDINGS* 58-115 (1971).

Second, urban renewal programs typically shifted poor residents from one substandard home to another. Thus, the actual number of blighted areas increased rather than decreased because these residents created pockets of urban blight in other areas.

With the enactment of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 (Uniform Relocation Act),<sup>2</sup> Congress responded to growing concern over the lack of uniformity in compensation and assistance to persons displaced by real property acquisitions in federal and federally-assisted programs.<sup>3</sup> Although the Supreme Court recently resolved a conflict over some eligibility requirements for relocation benefits under the Uniform Act,<sup>4</sup> the holding did not encompass all aspects of eligibility.<sup>5</sup> In *Young v.*

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*See* S. GREER, URBAN RENEWAL AND AMERICAN CITIES 55-64 (1965); E. MAY, THE WASTED AMERICANS 103-43 (1964).

Third, there was a short supply of replacement housing, therefore, many persons were displaced with no place to relocate. This problem was especially severe for black or large families as well as for the elderly. *See* ADVISORY COMM'N ON INTERGOV'T RELATIONS, *supra*, at 26-38.

Finally, many of the forcibly displaced residents suffered severe hardships and financial losses while other displaced persons were overcompensated. Differential treatment of persons adversely affected by real property acquisitions for urban renewal and other federally assisted programs created a growing number of complaints. *See House Hearings, supra*, at 1 (statement of James R. Grover); ADVISORY COMM'N ON INTERGOV'T RELATIONS, *supra*, at 26-38.

2. 42 U.S.C. §§ 4601-4655 (1976).

3. *See House Hearings, supra* note 1, at 1 (statement of James J. Howard). *See also* ADVISORY COMM'N ON INTERGOV'T RELATIONS, *supra* note 1, at 4-6.

4. *Alexander v. HUD*, 441 U.S. 39, 47-49 (1979) (relocation benefits not available to displaced tenants who receive written notice to vacate premises where such orders were not motivated by a government acquisition of real property for a public purpose).

5. The Supreme Court construed the written order clause of § 101(6) of the Uniform Relocation Act. Relocation benefits are available under the Act for persons who satisfy either the "written order" or "acquisition" clause of this definition. *See* note 31 and accompanying text *infra* for a complete reading of § 101(6). The written order clause covers the class of persons who move, upon written notice, in anticipation of the acquisition of their property for a federal program. *See Alexander v. HUD*, 441 U.S. at 46-49.

Since the Courts of Appeals for the Seventh Circuit and District of Columbia Circuit adopted conflicting interpretations of the written order clause, the Supreme Court granted *certiorari*. *Id.* at 39. In the Seventh Circuit the court held that § 101(6) applied the written order clause only to displacement programs designed to benefit the public as a whole, not dislocation as a result of federal demolition proceedings. Thus, tenants, ordered to vacate so that demolition plans could proceed, were not "displaced persons" as defined under the written order clause of § 101(6). *See Blades v. HUD*, 555 F.2d 166 (7th Cir. 1977).

The District of Columbia Circuit held, conversely, that the written order clause was applicable to displacement programs designed to benefit the public as a whole, and that a federal demolition plan was such a program. Thus, tenants who move upon written notice of demolition plans were "displaced persons" under the written order

*Harris*,<sup>6</sup> the Eighth Circuit Court of Appeals strictly construed other eligibility requirements by holding that evicted residents of an urban redevelopment area were not eligible for benefits as "displaced persons" under the Act since a government agency or an agency receiving federal financial assistance did not force them to move.<sup>7</sup>

The City of St. Louis declared an area blighted and designated it for redevelopment by a Chapter 353 urban redevelopment corporation.<sup>8</sup> As a corporate incentive to aid the municipality in eliminating urban decay, the city offered the corporation powers of eminent do-

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clause of § 101(6) entitled to receive relocation benefits. *See* *Cole v. Hills*, 571 F.2d 590 (D.C. Cir. 1977).

The Supreme Court, affirming the Seventh Circuit's decision, held that the written order clause encompasses only those persons ordered to vacate in connection with the actual or proposed acquisitions of property for a federal program. *Alexander v. HUD*, 441 U.S. at 46-48. The Court necessarily limited the clause's application and it does not extend to the range of requirements for acquiring property or benefits under the Uniform Relocation Act.

6. 599 F.2d 870 (8th Cir. 1979).

7. *Id.* at 877-78. The written order clause under § 101(6) of the Uniform Relocation Act was not at issue in the present case. Appellants in *Young* did not question the issuance of legal notice to vacate, but were complaining about the "extralegal" procedures of constructive eviction through the termination of vital building services. Constructive eviction occurs when a tenant's possession is interrupted by material impairment of his beneficial enjoyment of premises so that he is compelled to vacate. Brief for Appellants at 14-15, *Young v. Harris*, 599 F.2d 870 (8th Cir. 1979) [hereinafter cited as Appellants Brief].

The Eighth Circuit adopted the plain meaning rule in interpreting the Act's remaining eligibility clauses for relocation benefits. 599 F.2d at 877-78. The plain meaning rule is a rule of statutory construction that requires a strict or narrow interpretation of statutory language to determine the statute's applicability to a given set of facts. Consequently, whenever the plain meaning rule is adopted, the likelihood that the statute will apply is reduced. *See* Kernochan, *Statutory Interpretation: An Outline of Method*, 3 DALHOUSIE L.J. 333, 338-45 (1976); Murphy, *Old Maxims Never Die: The "Plain-Meaning Rule" and Statutory Interpretation in the "Modern" Federal Courts*, 75 COLUM. L. REV. 1299, 1304-05 (1975). *See generally* Jones, *The Plain Meaning Rule and Extrinsic Aids in the Interpretation of Federal Statutes*, 25 WASH. U. L. Q. 2 (1939). Had the Eighth Circuit in *Young* not adopted the plain meaning rule, as the appellants hoped, the outcome of the case may have been different.

8. Recognizing deteriorating conditions in the "Pershing-Waterman" area in 1971, the city declared the 106-acre area to be "blighted" and designated it for redevelopment. *Young v. Harris*, 599 F.2d 870, 873 (8th Cir. 1979). Missouri's Urban Redevelopment Corporations Laws defines "blighted area" as:

that portion of the city within which the legislative authority of such city determines that by reason of age, obsolescence, inadequate or outmoded design or physical deterioration, have become economic and social liabilities, and that such conditions are conducive to ill health, transmission of disease, crime or inability to pay reasonable taxes.

main together with tax abatements.<sup>9</sup> The city then applied for and

MO. REV. STAT. § 353.020(2) (1978).

Missouri law provides two means of establishing redevelopment projects by private entities. First, under the Land Clearance for Redevelopment Authority Law, an authority or commission having municipal powers may acquire land in an area for which it has development plans and then sell or lease the land to a private enterprise for redevelopment. MO. REV. STAT. §§ 99.010 to .715 (1978). Second, under the Urban Redevelopment Corporations Law, private redevelopment corporations initiate plans for redevelopment subject to the approval and authority of the appropriate legislative or administrative agency. The redeveloper then acquires the land by condemnation or purchase. *Id.* §§ 353.010 to .180 (1978).

Both the Land Clearance for Redevelopment Law, *id.* §§ 99.010 to .715 and the Urban Redevelopment Corporations Law, *id.* §§ 353.010 to .180 were enacted pursuant to the authority of Article VI of the Missouri Constitution. MO. CONST. art. VI, § 21. The Missouri courts have declared both laws constitutional. *See, e.g.,* Annbar Ass'n v. West Side Redev. Corp., 397 S.W.2d 635, 639 (Mo. 1966) (declared Urban Redevelopment Corporations Law constitutional); Land Clearance for Redev. Auth. of St. Louis v. City of St. Louis, 364 Mo. 974, 976, 270 S.W.2d 44, 64 (1954) (Land Clearance for Redevelopment Law is constitutional).

In *Young*, the City of St. Louis employed the latter means of redevelopment. 599 F.2d at 873. A Missouri urban redevelopment corporation is defined as:

a corporation organized under the provisions of this chapter, provided, however, that any life insurance company organized under the laws of, or admitted to do business in, the state of Missouri may from time to time within five years after the effective date of this law, undertake, alone or in conjunction with, or as a lessee or any such life insurance company or urban redevelopment corporation, a redevelopment project under this chapter, and shall, in its operations with respect to any such redevelopment project, but not otherwise, be deemed to be an urban redevelopment corporation for the purpose of this [and other sections].

MO. REV. STAT. § 353.020(10) (1978).

9. Chapter 353 urban redevelopment corporations are granted special privileges such as the power of eminent domain. MO. REV. STAT. § 353.130 (1978). *See* note 64 and accompanying text *infra* on the doctrine of eminent domain. Other privileges include the authority to employ several agencies to cooperate in land assemblage and acquisition. St. Louis, Mo., Ordinance 57,217(b) (June 22, 1976). These corporations receive major tax abatements. MO. REV. STAT. § 353.110 (1978). All privileges are subject to the corporation's declared purpose of promoting public health, safety, and welfare. Net earnings derived from development projects, however, can never exceed the sum of 8% per year. *Id.* § 353.030(11)(1978).

Although Chapter 353 corporations have many public features, they are, by law, organized and administered like any other private corporation. Articles of agreement must be prepared and filed with the Secretary of State containing, among other items, the amount of corporate capital stock, the number of shares and directors, and the location of the corporation's principal place of business. MO. REV. STAT. § 353.030 (1978). These corporations may buy and sell property, borrow money, and issue securities. *Id.* §§ 353.130 to .150 (1978). For a thorough discussion on the Missouri Chapter 353 program, see D. MANDELKER, G. FEDER & M. COLLINS, *REVIVING CITIES WITH TAX ABATEMENT* (1980) [hereinafter cited as *REVIVING CITIES*].

In *Young*, the urban redevelopment corporation received federal mortgage insurance from HUD. *Young v. Harris*, 599 F.2d 870, 874 (8th Cir. 1979). This type of

received federal financial assistance for redevelopment of the area, but none of these funds were used for real property acquisitions.<sup>10</sup>

federal aid, however, is not considered federal financial assistance as defined under § 101(4) of the Uniform Act because federal mortgage insurance was specifically excluded from the definition of federal financial assistance. 42 U.S.C. § 4601(4) (1976). Since the redevelopment corporation did not receive federal financial assistance, it was not required to make relocation payments to persons displaced by urban redevelopment. See notes 66 and 84 and accompanying text *infra*.

The city purportedly adopted the redevelopment plans of the Pershing Redevelopment Corporation pursuant to the city code. ST. LOUIS, MO., REV. CODE §§ 29.010 to .390 (1979); Brief for Appellees Pantheon Corp. and Pershing Redev. Corp. at 3-9, *Young v. Harris*, 599 F.2d 870 (8th Cir. 1979). City approval of Chapter 353 redevelopment plans and the accompanying grant of eminent domain power are void if the stringent procedural requirements of Chapter 29 are not satisfied. Unfortunately, the issue of whether the Pershing-Waterman redevelopment plan conformed with the numerous detailed requirements set out in Chapter 29 was not raised on appeal. It is highly unlikely that the plan met the requirements. See note 14 and accompanying text *infra*.

Chapter 29 expressly requires, among other items, that the plan for redevelopment contain a detailed statement providing for the relocation of those families displaced by the redevelopment project and a proposed method of financing. Consequently, Chapter 353 corporations have consistently failed to comply with all of the required procedures. The primary reason for Chapter 353 corporations' noncompliance is that neither the city nor the courts have strictly enforced the code in the past. Recently, however, courts have construed and enforced Chapter 29 to the detriment of the redeveloper and to the benefit of potentially displaced persons. See *e.g.*, *Maryland Plaza Corp. v. Greenberg*, Nos. 40697 & 40846 at 7 (E.D. Mo. Nov. 13, 1979) (redeveloper's financing plan so desolate of any detail required by Chapter 29 so as to be completely inadequate); *Schweig v. City of St. Louis*, 569 S.W.2d 215, 226 (1978) (plaintiffs' claim that city approved a redevelopment plan which contained no statement of financing was contrary to provisions of Chapter 29 and stated a cause of action).

10. The city received a federal community block grant from HUD. *Young v. Harris*, 599 F.2d 870, 878 (8th Cir. 1979). Congress authorized the Community Block Grant program to consolidate and finance all activities previously eligible under separate categorical community development programs. Housing and Community Development Act of 1974, 42 U.S.C. § 5301 (1976 & Supp. I 1977). These programs, some of which date back to 1949, include urban renewal and neighborhood development programs; historic preservation, urban beautification and open space land programs; the model cities program; and water and sewer facilities and neighborhood facilities programs. See U.S. DEP'T OF HOUSING AND URBAN DEV., COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM 15 (3d ann. rep. 1978).

The city's 1978 application for federal financial assistance was, in part, a request for continued support for the Pershing-Waterman area redevelopment. *Young v. Harris*, 599 F.2d at 875. This was a grant of federal financial assistance within the meaning of the Uniform Relocation Act. 42 U.S.C. § 4601(4) (1976). Nevertheless, this grant did not trigger the Uniform Act because the city was not the agency actually acquiring the real property. 599 F.2d at 876-77. Under the Act, the agency acquiring real property must be the agency receiving federal financial assistance. 42 U.S.C. § 4601(6) (1976). See note 66 *infra*.

The redevelopment forced area residents out of their residences<sup>11</sup> and denied them relocation benefits because they did not qualify as "displaced persons" under the Uniform Relocation Act.<sup>12</sup>

Resident representatives, who had been forced to move from the redevelopment area,<sup>13</sup> initiated action in federal district court claiming they were "displaced persons" as defined in the Uniform Act and entitled to receive relocation assistance.<sup>14</sup> The appellate court affirmed the district court's denial of the residents' motion for a preliminary injunction restraining the private corporation from continuing redevelopment activities.<sup>15</sup> The court held that the definition of "displaced persons" did not encompass persons dislocated by programs undertaken by private agencies not receiving federal financial assistance.<sup>16</sup>

The idea of relocation as a formal, ongoing process subject to federal control evolved from the United States Housing Act of 1949.<sup>17</sup>

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11. The \$75 million, 1,500 unit redevelopment project undertaken by the Pershing Redevelopment Corporation displaced more than 1,000 residents from the Pershing-Waterman area. The Pershing Redevelopment Corporation is a subsidiary of Pantheon Corporation. St. Louis Post-Dispatch, Sept. 6, 1979, at 3A, col. 3 [hereinafter cited as Post-Dispatch]. See generally Appellants Brief, note 7 at 13-15 *supra*.

12. The court adopted the position of HUD, the urban redevelopment corporation, and the city and denied relief to residents of the redevelopment area. It ruled the residents were not "displaced persons" within the technical meaning of § 101(6) of the Uniform Relocation Act. *Young v. Harris*, 599 F.2d 870, 877.

13. Appellants were predominately black, lower-income residents or former residents of the Pershing-Waterman redevelopment area. 599 F.2d at 872; Post-Dispatch, *supra* note 11, at col. 5.

14. Appellants alleged violations of the Housing and Community Development Act, 42 U.S.C. §§ 5301-5319 (1976 & Supp. I 1977) and the National Environmental Policy Act, 42 U.S.C. §§ 4321-4347 (1976). Both of these alleged violations are beyond the scope of this Comment.

Residents' initial complaint also alleged violations of the federal Civil Rights Act of 1968, 42 U.S.C. § 2000(d) (1976 & Supp. I 1977), the Missouri Relocation Assistance Act, Mo. REV. STAT. §§ 523.200 to .215 (1978), and selected city ordinances, St. Louis, Mo., Ordinances, 56125 (March 20, 1972), 56126 (Apr. 5, 1972), 56127 (Apr. 5, 1972), and 57217 (June 22, 1976). None of these arguments was raised on appeal. *Young v. Harris*, 599 F.2d at 873.

15. 599 F.2d at 879.

16. *Id.* at 877. Appellants will apply for *certiorari* from the United States Supreme Court. Interview with Margaret Morrison, Attorney for Appellants (Sept. 19, 1979) [hereinafter cited as Morrison Interview].

17. The Housing Act of 1949 and its subsequent amendments provided limited relocation payments to persons forcibly displaced as a result of federal urban renewal programs. See notes 1 *supra* and 22 *infra* for a discussion of the legislative history of the relocation benefit provisions of the Housing Act.

Early relocation assistance, however, lacked uniformity and adequacy,<sup>18</sup> resulting in severe hardship for the elderly,<sup>19</sup> the poor,<sup>20</sup> and minorities<sup>21</sup> who suffered disproportionately as a result of urban improvement programs. During the social revolution of the 1960s, which heightened awareness of the housing and human needs of slum residents, urban renewal<sup>22</sup> and highway programs<sup>23</sup> showed

18. See *House Hearings, supra* note 1, at 1 (statement of James R. Grover); ADVISORY COMM'N ON INTERGOV'T RELATIONS, *supra* note 1, at 26-28.

19. See *House Hearings, supra* note 1, at 458-60 (statement of Kenneth Phillips); ADVISORY COMM'N ON INTERGOV'T RELATIONS, *supra* note 1, at 26-39; M. ANDERSON, *supra* note 1, at 7-8; P. SCHORR, *supra* note 1, at 75-78.

20. See S. GREER, *supra* note 1, at 55-64; E. MAY, *supra* note 1, at 130-43.

21. See *House Hearings, supra* note 1, at 458-60 (statement of Kenneth Phillips); ADVISORY COMM'N ON INTERGOV'T RELATIONS, *supra* note 1, at 26-39; M. ANDERSON, *supra* note 1, at 7-8; P. SCHORR, *supra* note 1, at 75-78.

22. Urban renewal was the first public program which clearly caused major displacement. See Hartman, *Relocation: Illusory Promises and No Relief*, 57 VA. L. REV. 745, 747 (1971). Prior to the 1960s, the federal government restricted demolition in residential areas and provided temporary relocation benefits in the event that such demolition could not be avoided. The Housing Act provided:

There be a feasible method for the temporary relocation of families displaced from the project area, and that there are or are being provided, in the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families displaced from the project area, decent, safe, and sanitary dwellings equal in number to the number of and available to such displaced families and reasonably accessible to their places of employment: *Provided*, That in view of the existing acute housing shortage, each such contract entered into prior to July 1, 1951, shall further provide that there shall be no demolition of residential structures in connection with the project assisted under the contract prior to July 1, 1951, if the local governing body determines that the demolition thereof would reasonably be expected to create undue housing hardship in the locality.

Housing Act of 1949, Pub. L. No. 81-171, ch. 338, § 105(c), 63 Stat. 417 (1949) (current version at 42 U.S.C. § 1451 (1976 & Supp. I 1977)).

In 1959 Congress amended the Housing Act of 1949 to provide relocation payments by public agencies to persons displaced from urban renewal areas. The amendment expanded the previous temporary relocation payment provision which was limited to \$100 in the case of family or \$2,500 for business concerns. Housing Act of 1959, Pub. L. No. 86-372, § 409(a)(1), 73 Stat. 673 (amending 42 U.S.C. § 1456(f) (1949)). The 1959 amendment provided that

the term 'relocation payments' means payments by a local public agency to individuals, families, and business concerns for their reasonable and necessary moving expenses and any actual direct losses of property except goodwill or profit. . .resulting from their displacement from an urban renewal area made necessary by (i) the acquisition of real property by a local public agency or by any other public body, (ii) code enforcement activities undertaken in connection with an urban renewal project, or (iii) a program of voluntary rehabilitation of buildings or other improvements in accordance with an urban renewal plan: *Pro-*

some progress toward providing economic equity to displaced persons. This awareness also culminated in the passage of the landmark Uniform Relocation Act in 1970.<sup>24</sup> The Act's purpose is to eliminate differential treatment of persons adversely affected by real property acquisitions for public purposes.<sup>25</sup>

Before the federal government enacted the Uniform Relocation Act, Congress passed only piecemeal legislation regarding relocation benefits.<sup>26</sup> Earlier legislation provided compensation for relocation expenses to those persons displaced as a result of selected federal programs.<sup>27</sup> The Tennessee Valley Authority (TVA) Act illustrates this

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*vided*, That such payments shall not be made after completion of the project or if completion is deferred solely for the purpose of obtaining further relocation payments.

*Id.*

In 1964 Congress allowed additional payments to small businesses, individuals, and families with excessive relocation costs. Housing Act of 1964, Pub. L. No. 88-560, § 113, 78 Stat. 790 (amending 42 U.S.C. § 1456 (1959)). This amendment effectively tightened requirements for relocation assistance and expanded provisions for payment of relocation benefits. H.R. REP. NO. 1703, 88th Cong., 2d Sess., reprinted in [1964] U.S. CODE CONG. & AD. NEWS 3417. Congress' rationale for expanding the relocation payment provision was that assisting and compensating displaced persons for the hardship of relocating is a legitimate cost of urban renewal. *Id.* at 3431.

23. The federal highway program generates urban relocation of some magnitude accounting for over one-third of all displacements. See Note, *Relocation: An Investigation into Relocation under the Federal-Aid Highway Program*, 7 COL. J. OF L. & SOC. PROB. 466, 467 (1971); U. S. DEP'T OF HOUSING AND URBAN DEV., DISPLACEMENT REPORT 74 (1979).

The Federal-Aid Highway Act of 1962 authorized states to make limited payments for relocation expenses. Pub. L. No. 87-866 § 5(a), 76 Stat. 1146 (1962) (current version at 23 U.S.C. §§ 101-156 (1976)). Federal highway trust funds, previously restricted to property acquisitions and road construction, were made available by Congress for relocation assistance. Because the federal law merely authorized and did not require that relocation assistance be provided, many displaced residents were without assistance. See P. SCHORR, *supra* note 1, at 78-79.

24. 42 U.S.C. §§ 4601-4655 (1976). For a general background on major provisions of relocation legislation that preceded passage of the Uniform Relocation Act, see Hartman, *Relocation: Illusory Promises and No Relief*, 57 VA. L. REV. 745, 747 (1971).

25. 42 U.S.C. § 4621 (1976).

26. See, e.g., Tennessee Valley Authority Act of 1933, ch. 32, 48 Stat. 58, as amended by ch. 836, 49 Stat. 1075, 1080 (1935); Act to Authorize Certain Construction of Military and Naval Installations, ch. 434, § 501(b), 65 Stat. 364 (1951). See generally *Alexander v. HUD*, 411 U.S. 39 (1979); ADVISORY COMM'N ON INTERGOV'T RELATIONS, *supra*, note 1, at 82-85.

27. See note 26 *supra*.

point.<sup>28</sup> After the Depression, Congress authorized the Secretary of the Army and the Secretary of the Interior to make relocation payments to persons forcibly displaced by TVA land acquisitions.<sup>29</sup>

Section 101(6) of the Uniform Relocation Act defines those persons entitled to relocation benefits by designating which dislocated persons are eligible for relocation assistance.<sup>30</sup> To be a "displaced person," one must show dislocation as a result of acquisitions of real property for a public purpose by a federal agency or by a state agency receiving federal financial assistance.<sup>31</sup>

The decision in *Young* is consistent with case law<sup>32</sup> and the Act's legislative history.<sup>33</sup> Courts have held the Uniform Relocation Act

28. 16 U.S.C. § 831(q) (1976). To obtain the site known as Cove Creek Dam and the water rights to the reservoir above the dam, Congress authorized the government to enter into contractual agreements with railroads, railroad corporations, common carriers, and all other public utility commissions and any other persons, firm, or corporation, for the relocation of railroad tracts, highways, highway bridges, mills, ferries, electric-light plants, and any and all other properties, enterprises, and projects whose removal may be necessary in order to carry out the provisions of this chapter. *Id.* It is unclear whether this statute provided relocation benefits to natural persons because all the potential beneficiaries named in the statute are public utilities, corporations, and other legally defined persons. Apparently, Congress could have provided relocation benefits to natural persons since the ambiguity of the statute can withstand such a liberal construction. See ADVISORY COMM'N ON INTERGOV'T RELATIONS, *supra* note 1. In any event, no cases have construed the statute and the government has completed the Cove Creek Dam project.

29. 16 U.S.C. § 831(q) (1976).

30. 42 U.S.C. § 4601(6) (1976).

31. Section 101(6) provides in its entirety:

The term "displaced person" means any person who, on or after the effective date of this Act, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as a result of the written order of the acquiring agency to vacate real property for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purpose of sections 202(a) and (b) and 205 of this title, as a result of the acquisition of or the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

*Id.*

The definition of "displaced person" governs basic eligibility for a variety of benefits under the Uniform Relocation Act. These benefits include limited compensation for reasonable moving expenses, *id.* § 4622; replacement housing for homeowners and limited replacement housing payments, *id.* § 4623; replacement housing for tenants and others, *id.* § 4624; and relocation assistance advisory services, *id.* § 4625.

32. See notes 34-45 and accompanying text *infra*.

33. The legislative history of both the Uniform Relocation Act generally and the section specifically governing the eligibility requirements for relocation benefits shows

only applies when all conditions of the "displaced person" test have been met. Thus, dislocation resulting from orders to vacate or acquisitions of private property for a private purpose by a federal or state agency receiving federal financial assistance is outside the Act's scope. Consequently, the Supreme Court in *Alexander v. HUD*<sup>34</sup> denied relocation benefits to dislocated tenants who received written orders to vacate because such orders were not motivated by a government acquisition of real property for a public purpose.<sup>35</sup>

Likewise, dislocation as a result of acquisitions of real property for a public purpose by a federal or state agency *not* receiving federal financial assistance is not within the scope of the Act. Thus, in *Feliciano v. Romney*,<sup>36</sup> indigent families were denied relocation benefits under the Uniform Relocation Act because they were dislocated by the city's acquisition before the city entered into a contract with the federal government for federal financial assistance.<sup>37</sup>

Similarly, the Act does not encompass dislocation as a result of acquisitions for a public purpose by a private agency receiving federal aid in any form other than as required by the Act. Consequently, in *Conway v. Harris*<sup>38</sup> tenants dislocated as a result of

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that Congress intended to limit the number of persons eligible to receive relocation benefits. *See* ADVISORY COMM'N ON INTERGOV'T RELATIONS, *supra* note 1, at 7 (prior to the Uniform Relocation Act, Congress passed only piecemeal legislation providing limited relocation benefits to persons displaced as a result of particular federal programs and courts strictly construed the concept of just compensation such that displaced persons were most often denied relocation benefits); HOUSE SELECT SUBCOMM. ON REAL PROPERTY ACQUISITION, 88TH CONG., 2D SESS., STUDY OF COMPENSATION AND ASSISTANCE FOR PERSONS AFFECTED BY REAL PROPERTY ACQUISITION IN FEDERAL AND FEDERALLY ASSISTED PROGRAMS 19-26 (Comm. Print 1964); *Alexander v. HUD*, 411 U.S. 39 (1979).

The Fair Compensation Act is the basis for many of the provisions ultimately codified in § 101(6) of the Uniform Relocation Act. HOUSE SELECT SUBCOMM. ON REAL PROPERTY ACQUISITION 145-67. It was proposed in 1964 to provide fair and equitable treatment on a basis as nearly uniform as practicable for those persons adversely affected by acquisitions of real property in federal and federally assisted programs. Congress never enacted this proposal. Congress' replacement legislation, the Uniform Relocation Act, was enacted to improve and standardize the assistance the Fair Compensation Act provided, which consisted of relocation benefits only to persons displaced by government acquisitions of real property for public purposes. *Id.* at 1-2, 122, 147-67. *See Alexander v. HUD*, 411 U.S. at 49-55.

34. 411 U.S. 39 (1979).

35. *Id.* at 62.

36. 363 F. Supp. 656 (S.D.N.Y. 1973).

37. *Id.* at 671-72.

38. 586 F.2d 1137 (7th Cir. 1978).

acquisitions by a private developer aided by federal rent subsidies did not receive relocation assistance due to the Act's definition of federal financial assistance.<sup>39</sup> In *Parlane Sportswear Co., Inc. v. Weinberger*,<sup>40</sup> the court found a manufacturer ineligible for relocation benefits, although the acquiring private university received federal grants.<sup>41</sup>

Finally, dislocation as a result of acquisitions for a public purpose by a private agency not receiving federal financial assistance, as in the *Young* case, is beyond the scope of the Act. Thus, for two reasons the Eighth Circuit in *Moorer v. HUD*<sup>42</sup> denied relocation benefits to residents dislocated by a private developer not receiving federal financial assistance. First, persons displaced by private acquisitions of real property, which are aided by federal financial assistance through mortgage insurance and interest rent subsidies, are not displaced persons because mortgage insurance and rent subsidies are specifically excluded under the Act.<sup>43</sup> Second, area residents were not forced to move by a government agency through eminent domain but by a private entity without such power.<sup>44</sup> The Uniform Relocation Act was intended to benefit those forcibly displaced by public agencies with coercive powers such as eminent domain.<sup>45</sup>

In *Young*, the first requirement for relocation assistance, dislocation,<sup>46</sup> was present because the developer forced the residents to move. Conflict arose, however, as to whether the residents met the remaining requirements.<sup>47</sup> This conflict required judicial interpreta-

39. *Id.* at 1140.

40. 381 F. Supp. 410 (D. Mass. 1974), *aff'd*, 513 F.2d 835 (1st Cir. 1975), *cert. denied*, 432 U.S. 925 (1975).

41. 381 F. Supp. at 412; 513 F.2d at 836-37.

42. 561 F.2d 175 (8th Cir. 1977), *cert. denied*, 436 U.S. 919 (1978).

43. 561 F.2d at 179.

44. *Id.* at 183.

45. *Id.*

46. Dislocation may occur when a government agency possessing the power of eminent domain or a non-government entity possessing powers to condemn real property uses or threatens to use that power to force a family or individual to vacate a dwelling unit. 42 U.S.C. §§ 4601-4655 (1976). See notes 1 and 11 *supra*, and note 66 and accompanying text *infra*. For a general background on the impact of dislocation, see Note, *The Interest in Rootedness: Family Relocation and an Approach to Full Indemnity*, 21 STAN. L. REV. 801, 802 (1969).

47. Appellants argued they were displaced as a result of acquisitions of real property by the interdependent efforts of the city as a recipient of federal financial assistance and the urban redevelopment corporation which possessed limited eminent

tion of "displaced persons" in Section 101(6) of the Uniform Relocation Act.<sup>48</sup>

The Eighth Circuit reasoned that Chapter 353 corporations, designed to foster the redevelopment of blighted areas, are neither federal nor state agencies but rather are private corporations.<sup>49</sup> Furthermore, even if Chapter 353 corporations were federal or state agencies, they do not receive the requisite type of federal financial assistance.<sup>50</sup> Since *Young* residents were dislocated as a result of acquisitions of real property for a public purpose by a private corporation not receiving federal financial assistance as defined by the Uniform Relocation Act, the court held the Act was inapplicable.<sup>51</sup> Therefore, area residents failed to establish a claim upon which the court could grant injunctive relief.<sup>52</sup>

Although the outcome of this case is legally defensible,<sup>53</sup> especially after *Alexander*,<sup>54</sup> the result is unfortunate. The critical issue in

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domain power. Brief of Appellents *supra*, note 7 at 13-15. Appellees, on the other hand, argued that residents' dislocation was a direct result of deterioration, not redevelopment. Furthermore, the urban redevelopment corporation, as the acquiring agency, did not receive federal financial assistance as required under § 101(6) of the Uniform Relocation Act. Brief for Appellees Pantheon Corp. and Pershing Redev. Corp., at 3-11, *Young v. Harris*, 599 F.2d 870 (8th Cir. 1979).

48. *Young v. Harris*, 599 F.2d 870, 876 (8th Cir. 1979).

49. Missouri urban redevelopment corporations are organized and operated for profit, MO. REV. STAT. § 353.030(11) (1978); are subject to federal and state taxes, *id.* § 353.110, and are subject to the general corporations laws of Missouri to the extent allowed under specific provisions of Chapter 353, *id.* § 353.070. See note 9 *supra*, on the unique character of Chapter 353 corporations. See generally REVIVING CITIES, *supra* note 9.

In 1978 the Missouri legislature enacted the so-called "Sunshine Act" which eliminated confusion over the status of redevelopment corporations by specifically excluding them from its definition of "public governmental body." MO. REV. STAT. § 610.010(2) (1978).

50. See notes 9 *supra* and 84 *infra*.

51. *Young v. Harris*, 599 F.2d at 878.

52. The Eighth Circuit considered whether appellants could prove they would prevail to keep the preliminary injunction from being dissolved. The district court found that representatives of residents forced to move failed to show they were likely to succeed on the merits regarding statutory violations. Appellants were not wrongly displaced because the Uniform Relocation Act did not apply; therefore, they were ineligible to receive federal relocation benefits. The appellate court agreed, and affirmed the district court's denial of appellants' request to enter a preliminary injunction. 599 F.2d at 879.

53. See notes 32-45 and accompanying text *supra*.

54. See notes 4-5 *supra*.

*Young*, whether a Chapter 353 corporation is a government agency under the Act, received a negative response from the court.<sup>55</sup> The court focused on the source of capital of Chapter 353 corporations as the defining characteristic.<sup>56</sup> Because Chapter 353 corporations are financed by capital contributions from stockholders<sup>57</sup> and not government grants, the court concluded that these were private corporations for the purposes of the Uniform Relocation Act.<sup>58</sup> The court's focus is perhaps warranted by the legislative intent of Missouri when it created Chapter 353 urban redevelopment corporations. The legislation attempted to solicit private help for distressed cities unable to bear the burden of redevelopment.<sup>59</sup> Nevertheless, the court overlooked several significant public features of this unique corporate creature. First, the reason for creating Chapter 353 corporations was to serve the public purpose of redeveloping blighted urban areas.<sup>60</sup> Second, the Chapter 353 corporation is a limited-profit corporation<sup>61</sup> receiving substantial tax abatements.<sup>62</sup> Third, and most importantly, Chapter 353 corporations have broad powers of eminent domain.<sup>63</sup>

Eminent domain is the power to take property for public purposes and is an inherent power of the sovereign which can be delegated.<sup>64</sup> Missouri, unlike other states, delegates powers of eminent domain along with tax abatements to Chapter 353 corporations.<sup>65</sup> Except for delegation powers, these corporations effectively have authority comparable to a city's in dislocating people. Consequently, government action indirectly forced *Young* area residents to relocate.<sup>66</sup> If the city

55. See notes 8-9 and 49-52 and accompanying text *supra*.

56. *Young v. Harris*, 599 F.2d 870, 877 (8th Cir. 1979).

57. *Id.* at 874.

58. *Id.* at 877.

59. See REVIVING CITIES, *supra* note 9 (legislative history of Missouri Chapter 353 corporations).

60. See notes 8-9 and accompanying text *supra*.

61. *Id.*

62. *Id.*

63. *Id.*

64. U.S. CONST. amend. V. The Fifth Amendment provides in part that "[n]o person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." See MISSOURI BAR, MISSOURI CONDEMNATION PRACTICE §§ 1.1-1.4 (1979).

65. See REVIVING CITIES, *supra* note 9.

66. Because urban renewal programs failed to eliminate urban blight, the current trend is toward redevelopment programs undertaken by private developers subject to approval of their redevelopment plans by a federal or state agency. See note 1 *supra*

had not entrusted Chapter 353 corporations with the power of emi-

for the reasons why federal urban renewal programs failed. More than a dozen states have adopted urban redevelopment corporation laws similar to those in Missouri. *See* Morrison Interview, *supra* note 16; ILL. CONST. art. 2, § 13; ILL. ANN. STAT. ch. 67 ½, §§ 251-94 (Smith-Hurd 1979).

Thousands of people are denied relocation assistance simply because the public program is not actually undertaken by a federal or state agency but by private redevelopers. *See* Post-Dispatch, *supra* note 11 at 3A, col. 3. Even where a municipality receives federal financial assistance, as defined by the Uniform Relocation Act, and actively participates in the redevelopment process, short of actually acquiring private property, the Act does not apply. *Young v. Harris*, 599 F.2d at 873-78. Therefore, if a federal or state agency receiving federal financial assistance undertakes an urban renewal program, displaced persons may receive relocation benefits. If, on the other hand, an urban redevelopment project is undertaken by a private developer not receiving federal financial assistance, displaced persons are denied relocation benefits.

But the Uniform Relocation Act does not define the term "to undertake" a public program. Cases indicate that "to undertake" means to acquire real property for a public purpose by the power of eminent domain. *See, e.g., Conway v. Harris*, 586 F.2d 1137, 1140 (7th Cir. 1978) (public program undertaken by private developer acquiring private property); *Goolsby v. Blumenthal*, 581 F.2d 455, 463 (5th Cir. 1978) (public program undertaken by city acquiring private property); *Parlane Sportswear Co. v. Weinberger*, 513 F.2d 835, 835-37 (1st Cir. 1975) (public project undertaken by private university acquiring private property); *Tullock v. State Highway Comm'n*, 507 F.2d 712, 716 (8th Cir. 1974) (public program undertaken by state acquiring private property).

With this in mind, the court should consider two questions. First, has the city established a public purpose? Second, if so, who has the power of eminent domain to acquire real property in furtherance of the public purpose?

The purported public interest of the city is not in question. MO. REV. STAT. § 353.020(2) (1978). The economic interest in implementing a financially feasible redevelopment plan is legitimate, and the health-safety interest in removing unsanitary conditions and reducing crime is compelling. Once the public purpose has been established, the means of executing the project is within the eminent domain power of the municipality.

These interests, however, are not being served. Obviously, if persons are forced to move from their residences they must go somewhere. The "somewhere" for many of the Pershing-Waterman displaced residents was more than 30 miles away from the redevelopment area. The high cost of housing; the shortage of dwelling units available, especially for single parents with more than two children or with two children of the opposite sex; the inability to secure bank loans; and the wait on welfare resources have made the burden of relocation unnecessarily severe. Morrison Interview, *supra* note 16. *See* note 1 *supra*.

This process of uprooting disproportionate numbers of lower income, elderly and minority residents is not only detrimental to the victims, but also to the city because urban blight tends to follow these displaced persons. As a result, many of the same residents are forced to move again and again as the blight-redevelopment cycle continues. Morrison Interview, *supra* note 16. *Young v. Harris*, 599 F.2d at 879-80 (McMillian, J., concurring). *See* note 1 *supra*.

Besides the city's interest not being served, dislocation also has racial overtones. Predominantly poor blacks are being moved out of the redevelopment area into other

ment domain, potential evictees could hold out for the taken property's fair market value to cover relocation costs.<sup>67</sup> It is, however,

racially segregated neighborhoods while more affluent whites moving into the redevelopment area are the predominate beneficiaries of the project. Certainly the city's scheme, allegedly designed to benefit the public as a whole, has failed to do so. See Post-Dispatch, *supra* note 11, at 3A, Col. 3.

The rights of residents not to be subjected to racial discrimination in government redevelopment programs is a right the courts will protect. The plaintiff need not show that the government action which resulted in racial discrimination was motivated or intended by the city, but only that there was a discriminatory impact or effect as a result of such a program. See, e.g., *United States v. City of Black Jack*, 508 F.2d 1179, 1184-85 (8th Cir. 1974); Schwemm, *Discriminatory Effect and the Fair Housing Act*, 54 NOTRE DAME LAW. 199 (1978).

Assuming a public purpose, who has the power of eminent domain? Responsibility for assisting displaced persons arises out of the government's exercise of eminent domain in real property acquisitions and its concern for the economic and social welfare of such persons. U.S. CONST. amend. V. See ADVISORY COMM'N ON INTERGOV'T RELATIONS, note 1 and accompanying text *supra*. It logically follows that if the city delegated the benefits of the power of eminent domain to Chapter 353 corporations, the burdens were also delegated, thus shifting the responsibility for assisting displaced persons to the Chapter 353 corporation.

The fact that an urban redevelopment corporation has received powers of eminent domain and other privileges does not transform it into a government agency or instrumentality. See *United States v. Orleans*, 425 U.S. 807 (1976). Accord, *Zurm v. City of Chicago*, 389 Ill. 114, 120-21, 59 N.E.2d 18, 22 (1945). Cf. Note, *The Private Use of Public Power: The Private University and the Power of Eminent Domain*, 27 VAND. L. REV. 681, 681-718 (1974) (expansion of a private university through the use of eminent domain under the federal urban renewal program). But the concern is not with whether Chapter 353 corporations are transformed into government agencies for all purposes by the grant of the eminent domain power. The narrow question is whether these corporations are quasi-government agencies for the purposes of the Uniform Relocation Act. If the city had acquired the property by the power of eminent domain, then transferred the property to the developer, as usually occurs, the strength of the question diminishes. In the present case, however, the private corporation undertook a government program to further the government purpose, with broad government powers and privileges. Surely these facts are sufficient to classify Chapter 353 corporations as government agencies for purposes of the Uniform Act.

Even if these facts are not wholly persuasive, someone is responsible for assisting displaced persons when the power of eminent domain is used or can be used. If the government transferred this responsibility to the Chapter 353 corporation simultaneously with the grant of eminent domain power, then the developer should be held liable to the displaced residents for losses incurred as a direct result of redevelopment in the blighted area. If the city did not transfer the burden of assisting displaced residents to the developer, it necessarily reserved that responsibility. Thus, the city would be liable to those forcibly displaced by community development. For a general background on the inadequacies of compensation provided to Young-type residents, see Leary, Jr. & Turner, *The Injustice of "Just Compensation" to Fixed Income Recipients—Does Recent Relocation Legislation Fill the Void?*, 48 TEMP. L. Q. 1, 36-40 (1974).

67 Setting aside the issue of the area tenants' property rights, if the redeveloper

precisely because Chapter 353 corporations possess eminent domain powers that potential evictees have no leverage,<sup>68</sup> and even if they did, the value of blighted property is necessarily low.<sup>69</sup> Since the Act's overall objective is to soften the adverse effects of public programs on forcibly displaced persons by providing some compensation,<sup>70</sup> the denial of benefits based merely on the source of capital of a Chapter 353 corporation clearly frustrates stated goals of the Uniform Relocation Act.

The *Young* decision is not only questionable on the issue of whether a Chapter 353 corporation is a government agency for purposes of the Act. It also raises considerable doubt whether residents were displaced by a government agency receiving federal financial assistance as defined by the Act. The *Young* court stated no reasoning for community development block grants being given to the city for general redevelopment and not specifically for the city's real property acquisitions in the designated redevelopment area.<sup>71</sup> Given *Alexander*<sup>72</sup> and the strict causality test between federal or state action and displacement therein outlined,<sup>73</sup> the court correctly denied benefits for relocation under the Uniform Act. Practically speaking, however, federal funds may well assume a key role in eliminating urban blight whether these funds are used generally or specifically by the recipient.<sup>74</sup> In any event, the evictee does not care whether he was forcibly displaced by direct or indirect government action,<sup>75</sup> by specific or general federal funding,<sup>76</sup> or by a government or quasi-government corporation,<sup>77</sup> because all result in displacement.

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had to purchase land from the residents, the property owners could at least bargain for a price sufficiently high to cover relocation expenses.

68. See note 9 *supra*.

69. The value of a blighted building may be so low that even if the property owner received the fair market value of the property from the government or the developer, it may be insufficient to cover the relocation costs. Relocation expenses may be abnormally high for poor, elderly, and minority residents who tend to have difficulty finding alternative housing. See note 66 *supra*.

70. 42 U.S.C. § 4621 (1976).

71. *Young v. Harris*, 599 F.2d at 878.

72. *Alexander v. HUD*, 441 U.S. 39 (1979).

73. *Id.*

74. See ADRIAN & PRESS, *supra* note 1, at 504-08.

75. See notes 8-9 and 49-52 *supra*.

76. See note 9 *supra*.

77. See notes 8-9 and 49 *supra*.

The consequences of the *Young* decision highlight the Uniform Relocation Act's inherent flaws. Current efforts to reform the Act by Congress<sup>78</sup> and HUD<sup>79</sup> consider victims displaced for a public purpose by private redevelopment corporations. Successful efforts to aid persons displaced under a public program performed by a private entity must address certain problems. First, there is a lack of uniformity and adequacy in the distribution of relocation benefits because these benefits depend on whether a government or private

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78 Senator James Sasser (D-Tennessee) proposed amendments to the Uniform Relocation Act in April 1979 to force private developers with the power of eminent domain to pay displaced tenants relocation benefits. Under § 101(3), the term "state agency" is expanded to include any entity which has the power of eminent domain pursuant to state authority. S. 1108, 96th Cong., 1st Sess. § 2 (1979). Thus, a Chapter 353 corporation that delegated the power of eminent domain would be a state agency under the proposed language. By expanding the list of recipients of federal financial assistance to include state agencies, Chapter 353 corporations would be state agencies receiving federal financial assistance under the Act. *Id.* §§ 2, 9. Also, the Sasser amendments broaden the definition of "displaced persons" to include those dislocated by a program undertaken by a state agent. *Id.* If the private developer, now defined as a state agent, undertakes a government program, it is liable to displaced residents for relocation benefits under the proposed amended Act.

Additionally, the Sasser proposal would require the President to establish uniform guidelines for all agencies acquiring real property for public purposes. *Id.* § 14. The purpose of this provision is to further the original purpose of the act by providing fair and more uniform treatment to those displaced as a result of government programs. *See* Post-Dispatch, *supra* note 11.

Sen. Edward W. Brooke (R-Massachusetts) and Rep. Robert F. Drinan (D-Massachusetts) have also introduced legislation extending the Uniform Relocation Act provisions to other federally funded programs such as the Federal Housing Administration, which receives federal mortgage guarantees and contributes to removal of disadvantaged families. *See* Gale, *Dislocation of Residents Endangers Neighborhood Conservation Efforts: What Solutions are Possible?*, 35 J. HOUSING 232 (1978). *See generally* *Problems of Dislocation and Diversity in Communities Undergoing Neighborhood Revitalization Activity. Hearings Before the Senate Comm. on Banking, Housing, and Urban Affairs*, 95th Cong., 1st Sess. 48-54, 94-100 (1977) (statements of Robert Schur and Carl Westmoreland).

79. In 1978, Patricia Harris, then Secretary of HUD, met with the Task Force of Relocation and Displacement Policies of the National Association of Housing and Redevelopment Officials to study the effect of displacement and possible action. The department's recommendations included the identification of programs and classifications of persons for which uniform and adequate assistance is not presently available through the Uniform Relocation Act. *See* Editorial Staff, *Association News*, 35 J. HOUSING 142 (1978).

entity acquires the real property.<sup>80</sup> Second, dislocated persons are treated unfairly and inequitably, especially lower-income, predominately black inner-city residents.<sup>81</sup> Last, the Act, designed to benefit the public as a whole, results in the perpetration rather than prevention of disproportionate injuries to dislocated persons.<sup>82</sup> Therefore, if the scope of the Uniform Relocation Act is not expanded, its declared purpose will continue to be defeated.

At least three remedial alternatives are available to Congress.<sup>83</sup> These alternatives shift liability for relocation from displaced residents, who are least able to bear it, to either the private undertaker or government authorizer of urban redevelopment programs, who are better able to bear the burden. Congress could redefine "federal financial assistance" to include federal mortgage insurance and guarantees.<sup>84</sup> A private corporation acquiring real property would thereby receive federal financial assistance as required under the Uniform Act, and displaced persons would then be eligible to receive relocation benefits. Congress could also redefine "displaced persons"

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80. See notes 1, 8-9, and 49-52 *supra*.

81. *Id.*

82. *Id.*

83. The United States Supreme Court and the Seventh and Eighth Circuits have stated that any extensions of the Act's scope must be left to Congress. See *Alexander v. HUD* 441 U.S. 39 (1979); *Conway v. Harris*, 586 F.2d 1137, 1140 (7th Cir. 1978); *Moorer v. HUD*, 561 F.2d 175, 183 (8th Cir. 1977), *cert. denied*, 436 U.S. 919 (1978).

84. Section 101(4) provides: "The term 'Federal financial assistance' means a grant, loan, or contribution provided by the United States, except any Federal guarantees or insurance and any annual payments or capital loan to the District of Columbia." 42 U.S.C. § 4601(4) (1976).

Since this language expressly excludes private redevelopment corporations receiving federal mortgage guarantees, private developers, like the one in *Young*, are not required to provide relocation assistance. Congress could, however, redefine § 101(4) as follows: "The term 'Federal financial assistance' means a grant, loan, contribution provided by the United States, *or any Federal guarantees or insurance*, except any annual payment or capital loan to the District of Columbia." (Italicized portion shows proposed change.) Thus, a private corporation acquiring real property would receive federal financial assistance as defined in the proposed § 101(6) of the Relocation Act. See note 9 and accompanying text *supra*. Therefore, urban redevelopment corporations, aided by federal mortgage insurance or guarantees, would bear the burden of relocation. It is doubtful that this burden would be sufficiently great to discourage private developers from continuing to assist metropolitan areas in eliminating blight because of the numerous privileges and benefits these corporations enjoy. See note 9 *supra*. The mandatory payment of relocation benefits would simply be included as one of the cost of doing business.

to embrace those displaced by a private agency.<sup>85</sup> Thus, persons displaced by a private developer would meet the eligibility require-

85. See note 31 and accompanying text *supra* for a complete reading of § 101(6). Under this section, a private entity, such as an urban redevelopment corporation, can acquire real property for a public program resulting in displacement without paying any relocation assistance to displaced persons. As long as there is a public purpose, whether the property is actually acquired by a public or private entity should be incidental. *Accord*, *Berman v. Parker*, 348 U.S. 26, 33 (1954). See generally note 66 and accompanying text *supra*.

Congress could eliminate this unnecessary distinction by redefining § 101(6) to read:

The term "displaced person" means any person who, on or after the effective date of the Act, moves from real property, as a result of the acquisition of such real property, in whole or in part, as a result of the written order of the acquiring agency to vacate real property for a program or project undertaken by a Federal agency, or a program or project authorized by a Federal agency or by a State agency receiving Federal financial assistance, regardless of who undertakes such project, and solely for the purpose of sections 202(a) and (b) and 205 of this title, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

Congress would also need to amend those sections of the Act regarding local cooperation by the state agent with the federal government in achieving the ends of the legislation. Section 207 now reads in part:

Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the program or project may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency. . . 42 U.S.C. § 4627 (1976). As amended § 207 would read:

Whenever real property is acquired by *or for* a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the program or project may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency. . . . (Italicized portion indicates proposed amendment.)

Also note § 208 which now reads:

Whenever real property is acquired by a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for the purposes of this Act, be deemed an acquisition by the Federal agency having authority over such program or project.

42 U.S.C. § 4628 (1976). This language should be modified to read:

Whenever real property is acquired by *or for* a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for purposes of this Act, be deemed an acquisition by the Federal agency having authority over such program or project. (Emphasis indicates proposed language).

This new language would cover those persons displaced by urban redevelopment corporations; thus, relocation assistance would be available to such persons as required under § 202(a) of the Act. 42 U.S.C. § 4622 (1976). These revisions would place the burden of relocation on the federal agency authorizing land acquisitions for public purposes.

ments for relocation assistance. Alternatively, Congress could extend the provision for benefit payments to displaced persons and encompass the federal agency authorizing the acquisitions for public programs by private entities, rather than limit the payment of benefits to federal or state agencies undertaking public programs.<sup>86</sup> Then the Act would require a federal or state agency receiving federal financial assistance to provide benefits to persons displaced by private redevelopment corporations whose plans are approved and adopted by a federal or state agency.

These alternatives are more consistent with congressional intent in enacting the Uniform Relocation Act than is the present wording of the statute. The reforms will remedy the current evils of a lack of uniformity, inadequacy, unfairness, inequity, and disproportionate injury.<sup>87</sup> By eliminating differential treatment of persons adversely

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86. Section 202(a) reads in part:

Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after the effective date of this Act, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head. . .

42 U.S.C. § 4622 (1976).

This reading of § 202(a) does not provide for the payment of relocation benefits unless a federal agency undertakes the actual acquisition. Thus private corporations undertaking public programs are not required to make relocation payments and neither is the federal agency receiving federal assistance. This "loophole" in the law could be closed if § 202(a) were rewritten in part as follows:

Whenever the acquisition of real property for a program or project undertaken *or authorized* by a Federal agency in any State will result in the displacement of any person on or after the effective date of this Act, the head of such agency shall make a payment to any displaced person, upon application as approved by such agency head. (Italicized portion shows proposed change.)

This new reading would allow for payment of relocation benefits to displaced persons even if the acquisition of real property was not undertaken by the federal agency receiving federal financial assistance. This revision shifts the burden of liability for relocation from displaced residents to the federal agency authorizing these acquisitions.

87. See notes 1, 22 and 66 and accompanying text *supra*.

affected by real property acquisitions for public programs,<sup>88</sup> the purpose of the Uniform Relocation Act is reinstated.<sup>89</sup>

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88. *Id.*

89. Under any one of these proposals the number of "displaced persons" eligible to receive relocation benefits would probably increase as would the need for additional funds. Perhaps it is impossible to design a comprehensive relocation policy that addresses the conflicting goals of providing uniform and adequate federal assistance to displaced persons. For a general background on the relative weights of conflicting values for public policy alternatives, see T. DYE, UNDERSTANDING PUBLIC POLICY 27-29 (1972). We may be forced to choose between a uniform minimum relocation benefit plan for a large number of displaced persons and an adequate maximum relocation assistance plan for a small number of dislocated persons. Socioeconomic tradeoffs like these promote lengthy debate, but perhaps it is better to implement a relocation policy that is either uniform or adequate than to continue with our present policy which is neither.