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Member of the New York Bar

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THE ROLE OF ADMINISTRATIVE AGENCIES IN URBAN RENEWAL

EUGENE J. MORRIS*

We are now at a point in the cycle of urban development where whole segments of the living accommodations in the cities, towns and villages of America are becoming antiquated and consumed by decay. In earlier years, it was customary to abandon worn-out areas in favor of underdeveloped frontiers, or to tear down and rebuild at a profit without government aid. Now, however, it has become necessary to redevelop the urban area by imitating the therapeutic approach of medical science. We must start with what we have, conserve what is healthy, cure what is sick, and eliminate by surgery what is incurable.

This new approach is what modern parlance calls "land planning" or "urban renewal," and it can be accomplished only by an intricate coordination of individual enterprise and government assistance. The catalyst for bringing together the two basically disparate concepts of free enterprise and governmental control is the administrative agency. This is the best instrumentality yet devised to integrate all the complicated facets in the development of any urban renewal project.

The processing of an urban renewal program through the existing land planning agencies, however, is becoming increasingly complicated. More and more, new agencies are being superimposed upon a great number of already existing ones. Each new agency is calibrated to a particular function involved in the over-all urban renewal process and is organized to deal with new problems as they are revealed. While numerous attempts have been made, and indeed are still under way, to consolidate these agencies, the myriad factors entailed in urban redevelopment make it unlikely that there will ever be a complete escape from the necessity of dealing with a confusing multiplicity of independent bodies of varying jurisdictional derivation.

It is the purpose of this article to examine, primarily for those unacquainted with the planning field, the broad general structure of the administrative agencies involved in land planning today. Some general observations about these agencies will be set forth, followed by a classification of the various federal, state and local agencies in the United States. The state and local agencies will be treated by considering the complex administrative structure epitomized in the agencies involved in

* Member of the New York Bar.

1. It should be noted that dissertations dealing with administrative agencies usually touch upon the advantages and problems inherent in such bodies. See, e.g., Kintner, Administrative Law in the Decade of the Sixties, 47 A.B.A.J. 269 (1961). The same strengths and infirmities apply to the planning agencies.

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urban renewal in the City and State of New York, probably the most
fully matured and certainly the largest of the urban renewal administra-
tive organizations in the Nation.

I. GENERAL CHARACTERISTICS OF PLANNING AGENCIES

Because the basic body of controlling law in the field of land planning
is relatively meager, the administrative agency enjoys a dominant posi-
tion. Its discretion is broad, and its decisions, in practice, are largely un-
reviewable. As a result the practical handling of the various supervising
agencies is crucial to the success of any urban renewal venture. It is
therefore necessary not only to understand the jurisdiction, governing
statutes and regulations of each agency, but to know as well the personnel
and internal procedures of each.

The importance of the human elements involved cannot be over-
emphasized. Legally, of course, the nature and idiosyncrasies (political,
social and otherwise) of the people who staff these agencies should con-
stitute an area of minimal concern, but practically they assume an over-
whelming importance. Technicians, whether lawyers, architects, engi-
neers, planners, builders or realtors, who become enmeshed in the field
of land planning must be adequately schooled in the ways of supervis-
ing agencies, or, at least, associated with people who are. The profound
significance of the personality ingredient rests in the complexity and
magnitude of the operation and the fact that little precedent exists for
what must be done. As noted above, most of the crucial decisions upon
which urban renewal projects are based are therefore relegated to the
area of administrative discretion. Obviously, this means that these de-
cisions are made by the people who run the agencies, and their approval
is necessary before a project can be successfully commenced or com-
pleted.

Yet full familiarity with the handling of agency personnel is not
enough to insure success in processing a project. There is also involved
a problem of maintaining the balance between private entrepreneurs and
the supervising government. Since any urban renewal project grafts
elements of government aid, and its natural concomitant, governmental
control, upon a free flow of what is basically a private enterprise venture,
the need to coordinate these divergent economic approaches creates
major difficulties in the processing of an urban renewal project. Not in-
frequently, irreconcilable conflicts are presented, resulting in the demise
of otherwise worthy projects. Specific examples will illustrate the in-
terplay of these various factors.

The writer represented a promotional group in a large eastern city
which attempted to obtain approval from the FHA for a rental housing
project under Section 221 of the National Housing Act. The project involved the creation of housing for the relocation of families displaced by urban renewal and other clearance operations. In order to produce the project at a sufficiently low cost to meet the housing needs of the area, it became necessary to incorporate a partial tax-abatement provision and to develop the project through a statutory housing company authorizing such abatement. Approval of the project by a number of municipal and state agencies was required, as well as a certification of need from the Housing and Home Finance Agency, both in Washington and at its regional office.

After months of work to obtain these approvals and develop a project that was economically feasible, the matter was submitted to the local FHA office for processing. Almost no progress was made. It was subsequently discovered that some of the people in the local office were not happy with the idea of such housing. As a result, the application was put at the bottom of a pile to die the proverbial slow death. Months of work were then required to break the log-jam and continue operation of the project. Since the land had been reserved under an option contract by the promotional group, the delay in processing meant that final approval could not be obtained within the option period. Fortunately, an extension of the option period was granted. Yet the case illustrates how the predilection of one person in one administrative agency, superimposed upon the precise time schedule dictated by a purchase option, would have made impossible an economically feasible project filling an important need.

In another situation, an equally worthy project was disapproved and died at considerable expense to the private developers and the government agencies involved. The project embraced a substantial tract of land on the outskirts of a major city which was admirably suited to the development of partially subsidized middle income housing. The land was acquired by a group of developers. Extensive plans were prepared to permit a financing and tax-abatement subsidy. These plans were approved by the proper agencies, but while being formally processed for final approval by the required municipal authorities, a group of builders and owners of nontax-abated property expressed opposition to the development, arguing that it would impair the rentability of their private housing projects. The matter was discussed at an executive session of the final municipal authority, but the opposition of one local official caused the project to be tabled. Efforts to persuade the municipal authorities of the worthiness of the project proved fruitless. Although it was

conceded by all parties that a need for the contemplated housing existed, it was felt that overriding political considerations barred its approval. An administrative determination (or, more properly, refusal to determine) meant the end of the project. Since there was no effective legal method of review, all the time, effort and money spent by the government agencies and the private developers in bringing the proposal to that point were lost.

A third situation involved the promotion of a middle income housing project. A nonprofit group was selected as sponsor. The project received the necessary agency approvals and was processed to the final municipal authority for action. At an executive session, it appeared that one member of this authority had developed a predisposition against the group selected as sponsor and insisted that the project be tabled. When the professional group responsible for the project learned the reason for the resulting inactivity, efforts were made to persuade the public official to change his view, and, when these efforts proved unavailing, steps had to be taken to substitute another sponsor for the project on a basis satisfactory to all concerned. Only when this was accomplished was the project approved. Today this is one of the most successful of the modern private enterprise, government-aided middle income projects.

In still another project, located outside the State of New York, the successful bidder at a public auction of a Title I housing construction site paid a price in excess of the original estimated re-use land value because of the active competitive bidding. When this bidder took title to the land and sought to obtain his mortgage financing insurance, the local Federal Housing Administration office refused to approve the project at the land price paid. In effect, the Urban Renewal Administration of the Housing and Home Finance Agency had approved the sale under Title I at the price paid, but another arm of HHFA, the FHA, had decided that the price was too high, thereby refusing mortgage insurance. Although this anomalous situation ultimately was resolved in Washington, it took months of negotiation and bickering before one hand of the federal agency was able to know and go along with what the other hand was doing. Only the skill and perseverance of the sponsors salvaged the project from this administrative "donnybrook."

Thus, it should be clear that land planning procedures are blessed with an attraction not found in the ordinary administrative agency proceeding, namely, the existence or nonexistence of an urban renewal project can be conclusively determined at any moment by any officer in any one of a dozen agencies. This is quite different from the ordinary situation involving regulation by administrative agency where, for example, there is no question as to whether there will be a public utility

or railroad, the only issues being what kind of public utility or railroad, who shall handle it, and upon what basis. Yet, as noted before, the nature of land planning work requires a complex multiplicity of administrative agencies dominating every step of the way, possessing absolute veto power over the existence of any project up to the time of its completion, irrespective of the investments in time, skill and money necessary to reach that point.

II. The Internal Structure of the Planning Agency

The basic jurisdictional source of an administrative agency is based upon a statute or executive order enacted pursuant to constitutional or charter authority. Each agency, however, also enacts its own rules and regulations; these frequently are ad hoc procedures which are later formulated and expanded by a body of decisional law.

Administrative agencies in the field of land planning are of recent origin, although some of the more venerable date back to the 1930's. The big spurt in the field of urban renewal began a few years after World War II, when the economy had recovered sufficiently to eliminate war shortages in housing, business, industrial space, and other phases of life. However, soon after this spurt began, it became apparent that we could no longer push the frontiers of America back across the Continent whenever new areas for construction were needed. Nor could we, when some area became deteriorated, move on to new, vacant, cheaply acquired, underdeveloped land to build new communities. Beginning with the end of World War II, the barriers to further extension became more and more formidable. These barriers demanded that we think in terms of urban renewal.

The administrative agencies which have mushroomed to carry forward the dynamic thrust of urban renewal have each become a law unto themselves and each, accordingly, is organized differently. They vary in size from small-community, local public agencies consisting of a single director, to the huge multifloored agencies found in New York, Washington and other major urban centers.

In the large or medium sized agency, there is usually a director, a five-man board or a slightly larger committee in charge, an executive staff at the next level, and a staff of technicians and civil service employees below that. This type of agency may be subdivided either by region, type of work, or project. The larger agencies are composed of many highly paid technical employees, such as architects, engineers, real estate appraisers, mortgage specialists, economic analysts, lawyers, and accountants. Many agencies, however, rely upon consultants re-

tained for special jobs, e.g., planning, appraisals, architectural designs, relocation and management work.

While there are certain ingredients common to all planning agencies, there are differentiating features which require that separate treatment be given those agencies functioning under federal jurisdiction as distinguished from those functioning under state and local jurisdiction.

III. THE FEDERAL ADMINISTRATIVE AGENCIES

Housing and Home Finance Agency

There are many federal agencies presently active in the field of urban affairs. The parent is the Housing and Home Finance Agency, which consists of the Office of the Administrator, two constituent units—the Community Facilities Administration and the Urban Renewal Administration—and three constituent agencies—the Federal Housing Administration, the Public Housing Administration, and the Federal National Mortgage Association (Fannie Mae). In addition, HHFA supplies staff services to the Voluntary Home Mortgage Credit Program. The units and agencies will be treated here in the chronological order of their establishment.

1. Federal Housing Administration

The Federal Housing Administration was created pursuant to the National Housing Act to facilitate sound home financing on reasonable terms. The FHA does not make any loans or engage in any building, but rather it insures mortgage loans for the construction of various types of

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6. This agency was created by Reorganization Plan No. 3 of 1947, § 1, 61 Stat. 954. In his special housing message to Congress, President Kennedy asked for the creation of a Cabinet-rank Department of Housing and Urban Affairs to take over and expand the functions of the HHFA, stating: “Urban and suburban areas now contain the overwhelming majority of our population, and a preponderance of our industrial, commercial, and educational resources. The programs outlined above, as well as existing housing and community development programs, deserve the best possible administrative efficiency, stature and role in the councils of the Federal Government. An awareness of these problems and programs should be constantly brought to the Cabinet table, and coordinated leadership provided for functions related in urban affairs but appropriately performed by a variety of departments and agencies.” 107 Cong. Rec. 3411 (daily ed. March 9, 1961). On April 18, 1961, the President sent to Congress his suggested proposal: the establishment of a Department of Urban Affairs and Housing, with a secretary, under secretary, three assistant secretaries and a general counsel. The Secretary would have the powers now vested in the administrator of the Housing and Home Finance Agency and its subdivisions. S. 1633, H. 6433, 87th Cong., 1st Sess. (1961). For a sectional analysis see 107 Cong. Rec. 5826 (daily ed. April 18, 1961).

housing, ranging from one to four-family housing\(^9\) to rental projects of eight or more units.\(^9\) It is charged with the administration of the so-called section 213,\(^{10}\) 220\(^{11}\) and 221\(^{12}\) programs, which are available to developers who purchase urban renewal project sites for residential use or developers and individuals who are displaced because of public action. These programs permit more liberal financing terms than are available under FHA's other programs.

FHA has recently undertaken an active part in the field of housing for the elderly under its section 231\(^{13}\) and 232\(^{14}\) programs. It is anticipated that this venture, together with the Public Housing Administration Elderly Program\(^{15}\) and the several state plans, will demonstrate the importance of this field in the over-all urban renewal process.

2. Public Housing Administration

The early forerunner of the Public Housing Administration was the United States Housing Authority, created in 1937.\(^16\) The function of PHA is to administer the federally-aided low-rent public housing program and housing for the elderly. It provides financial assistance to local housing authorities which undertake to construct low-income projects. Normally, loans are advanced by PHA to the local authority for the purpose of site selection, preparation of plans, specifications and construction.\(^17\) During the construction period, bonds are floated privately to pay for the final construction cost, and PHA, through its regional

16. Housing Act of 1937, ch. 896, § 3, 50 Stat. 589. The USHA was consolidated with other agencies into the HHFA by Reorganization Plan No. 3 of 1947, § 1, 61 Stat. 954. At the same time its name was changed to Public Housing Administration.
offices, enters into annual contribution contracts with the local authority to pay for the difference between the low-rate rental income and operating expenses, including repairs, maintenance and debt service.\(^8\)

3. Federal National Mortgage Association

Originally established as a subsidiary of the Reconstruction Finance Corporation,\(^9\) the Federal National Mortgage Association is charged with the responsibility of providing a nationwide secondary market for both FHA and VA-insured mortgages in the residential field. The FNMA purchases FHA and VA-guaranteed mortgages from lending institutions, thus making more capital available for lending on new construction programs.\(^20\) It is aimed at keeping mortgage financing available for housing programs where institutional sources are in short supply either because of regional conditions or a nationwide tight money market. Special functions are entrusted to it in financing certain types of mortgages under special housing legislation, such as Title I and the FHA's section 213, 220 and 221 programs.\(^21\) It manages a portfolio of mortgages which it holds available for sale to the general public for investment purposes.\(^22\)

4. Community Facilities Administration

The Community Facilities Administration\(^23\) program has a fourfold aspect. The first is the college housing program, which provides direct federal loans to accredited institutions of higher learning to finance student

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and faculty housing and related facilities, and loans to hospitals for housing facilities for student nurses and interns. The prerequisite for this assistance is that the institution be unable to obtain a loan on equally favorable terms from any other source.24

CFA is also charged with the public facility program which provides loans to state and local governments for the construction of necessary public works.25 In conjunction with this program is a system of advances to the same units for the purpose of preparing and maintaining a continuing reserve of planned public works which, when necessary, can be put into execution to promote the economy.26

The third function of CFA, which is carried out in conjunction with the Department of Health, Education and Welfare, deals with the school construction program applicable in areas affected by federal activities.27 This program, which may be federal or nonfederal, is serviced by CFA through engineering, legal and financial assistance. If the program is a federal one, it will be constructed generally on federal reservations, e.g., army bases, and CFA will handle all planning and construction functions. On the other hand, in nonfederal projects the local school boards will undertake the construction wherever it deems suitable, while CFA will be responsible only for site inspection.

The fourth function of CFA is the supervision and liquidation of various programs in the housing and educational field, as, for example, the program for loans and grants for construction of defense community facilities28 or for public works constructed under Title II of the Lanham Act.29

5. Urban Renewal Administration

The urban renewal program deals primarily with slum clearance and urban redevelopment. It was initiated because of congressional findings29 that there existed a growing lag between production and need in the field of housing, resulting from the scarcity of materials following the war and from the creeping paralysis of blight consuming the large urban

centers of the country. Regarding this lag as too vast to be dealt with successfully at the local level, Congress in 1949 instituted the Title I program of local and federal cooperation to fight urban blight. It was based upon the idea that slum clearance could be accomplished by condemning deteriorated areas, relocating the residents, demolishing the old structures and allowing private enterprise to build new housing on the cleared area. The cleared area would be sold to private redevelopers at its fair re-use value, and the difference between the sale price of the land and the cost of its original acquisition with the slum property still on it would constitute the land cost writedown. This, then, would be made part of the net project cost, two-thirds of which is paid by the federal government with the balance paid by the locality—partly in cash and partly in facilities that serve and support the project.

A new program of rehabilitation was instituted under the Housing Act of 1954. For the first time, the problem of fighting urban decay was approached on the three-pronged conservation, rehabilitation and clearance basis rather than on the single “bulldozer clearance” approach of the 1949 program. The Housing Act of 1954 established the requirement of a “workable program” for using public and private resources.

36. The broadening effect of the 1954 amendments is reflected in the definition of “urban renewal project” in § 110(c). Originally a “project” included only the acquisition of a slum, an otherwise deteriorated area, or an open area; demolition and removal of buildings, installation of streets, utilities, and so forth, and transfer to public agencies or private redevelopers. 63 Stat. 420 (1949). The 1954 act extended the definition to include “under takings and activities . . . for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment. . . .” The elements of the 1949 definition were made descriptive only of “slum clearance and redevelopment.” “Rehabilitation or ‘conservation’ may include the restoration and renewal of a blighted, deteriorated, or deteriorating area by (1) carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan; (2) acquisition of real property and demolition or removal of buildings and improvements thereon when necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities. . . .” 68 Stat. 627 (1954).
placing upon the chief executive officer of the locality the responsibility of evaluating the condition of the community in terms of long-range planning. The existence of a workable program was made a condition precedent to the use of federal financial assistance from the Urban Renewal Administration and PHA irrespective of the stage of the redevelopment process in the community. The 1954 law also provided for grants to metropolitan or regional areas, state planning agencies and certain localities for the preparation of studies leading to the preparation of general or master plans.

With the passage of the 1959 Housing Act, the community renewal program was inaugurated. This program authorizes grants for the analysis of the blight-producing factors of the community; selection of future areas for renewal action; determination of the appropriate treatment for such areas (clearance, conservation or rehabilitation); analysis of the resources necessary to carry out such a program; and, finally, planning a program of action in the field of urban renewal. For communities more sophisticated in their planning and objectives, the answers to many of the questions arising in the preparation of such a program might be found already to exist. Consequently, they would be in a position to seek advances from the Urban Renewal Administration to survey and plan urban areas for the undertaking of a project. The plans would consider such matters as programs for voluntary repair and rehabilitation, enforcement of state and local codes, appraisals, title searches, and other preliminary work for the acquisition of project lands.

In addition to the above funds, the local agency can ask for funds to prepare a general neighborhood renewal plan for “urban renewal areas of such scope that the urban renewal activities therein may have to be carried out in stages, consistent with the capacity and resources of the respective local agency, over an estimated period of not more than ten years.” The advances for this purpose are conditioned upon the agreement of the local agency to undertake “promptly” after the completion of the GNRP a project embracing at least ten per cent of the area. The GNRP advances are repaid out of the first funds later made available to this project.

Once a survey and planning application for a specific project has been approved at the local and federal levels, the locality can requisition funds to execute specific project planning leading to the preparation of an

urban renewal plan. This is the plan for the development of the area and it includes the method of financing the project locally, acquiring the slum properties, relocating the families, demolishing the old structures, selling the land, installation of the necessary improvements by the locality, and building and completing the project. It also contains the various restrictions and controls to which the land is subjected when it is sold, such as height, density, coverage, set-back, and the like. These controls, in many cases, are greater than those expressed in local zoning and building codes or ordinances.

A major feature of the GNRP concept is that in the case of any public facility within the plan area which is built to serve and support one of the project areas, the credit for such facility is protected for a period not exceeding ten years from the date the plan is approved. In a regular urban renewal project, any facility for which credit is claimed cannot have been constructed more than three years prior to the date of the loan or capital grant contract.

Voluntary Home Mortgage Credit Program

The Voluntary Home Mortgage Credit Program was established in 1954 to provide a source of funds for residential mortgages in areas where a shortage of local funds exists and where FNMA assistance is unavailable because FHA or VA insurance cannot be obtained. In effect, this program provides a nationwide clearing house for conventional mortgages and assists borrowers who cannot obtain FHA or VA assistance from their local lending institutions. As a prerequisite to receiving financial assistance from VHMCP, the applicant must state that he has been refused by at least two private sources in his attempt to obtain either a FHA or VA-insured mortgage. The VHMCP is of considerable assistance to minority groups in areas where financing for such housing is not available on terms comparable to those offered others.

The participants in the VHMCP program are mainly savings banks and insurance companies. The National Committee which administers the program, in addition to HHFA representatives and members of other government agencies, serving in advisory capacities, consists of members of private financial, building and real estate organization. Although the

program has been recently reduced in volume, it continues to serve a useful purpose, its functional organization being its most valuable asset.

Veterans Administration

The Veterans Administration, originally established in 1930, was authorized in 1944 to guarantee and, in 1945, to insure home, farm and business loans to veterans of World War II and the Korean conflict. Aside from being limited to specified veterans' groups, VA's housing program is restricted solely to private house construction, within severely limited cost categories, for personal occupancy by the veteran. Although it has been responsible for the construction of a large number of private homes for veterans, it is not a significant factor in the urban renewal program since it has been employed largely on vacant land in suburban areas.

Bureau of Public Roads

The function of the Bureau of Public Roads, a branch of the Department of Commerce, has recently increased in importance because of the emphasis on our arterial highway systems connecting metropolitan areas throughout the country. In November 1960, the Secretary of Commerce and the HHFA Administrator announced a cooperative agreement whereby the planning funds of both HHFA and the Bureau of Public Roads would be coordinated to achieve the optimum use of federal funds. Under the present administration steering committees have been established and in one midwestern state the joint use of HHFA and Bureau of Public Roads planning funds is being implemented.

Corps of Engineers

The United States Corps of Engineers of the Department of Defense is primarily concerned with regulating the use of navigable bodies of water, harbors and dams. The activities of the Corps have become increasingly significant in view of the floods which affected the eastern part of the United States in August and October 1955. Congress took cognizance

50. The Bureau was established as the Office of Road Inquiry under authority of the Agricultural Appropriation Act of 1894, ch. 169, 23 Stat. 729. After several name and organizational changes, it was transferred, under its present name, to the Department of Commerce by Reorganization Plan No. 7 of 1949, 63 Stat. 1070.
of this problem in the Housing Act of 1956, setting up a special category of urban renewal projects known as disaster projects.\(^3\)

**Other Agencies**

Federal agencies with a minor role in the urban affairs field are the Federal Aviation Agency, which controls heights in and around major airports, and the Department of Health, Education and Welfare, which participates in school construction and housing related to health and welfare programs.

**IV. The New York State Administrative Agencies**

The operations of the State of New York in the field of urban renewal and housing are handled through the Division of Housing and Community Renewal,\(^4\) except in a few instances where other state agencies have jurisdiction by virtue of the peculiar nature of the facilities involved. The Division of Housing and Community Renewal conducts its services under four basic programs.

**Public Housing Program**

The Commissioner of Housing and Community Renewal is authorized to assist a municipality or a local housing authority\(^5\) to clear blighted areas, construct low-rent housing, and maintain its character as such. The state assistance takes the form of 100 per cent loans to cover the project cost plus working capital,\(^6\) and cash subsidies, matching the municipal subsidy and paid out of the state’s general fund, to maintain rents at a low level.\(^7\) In this program, the state funds cannot be commingled with federal funds,\(^8\) as it can in other programs. Since 1956, special provision has been made for housing for the aged.\(^9\)

The Division assists local officials in establishing a housing authority and informs them of their responsibilities, financial and otherwise. Likewise, assistance is extended in the preparation of the application and the submission of the various data required for approval of a project. These

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54. The title of this division of the executive department was changed from Division of Housing to Division of Housing and Community Renewal by N.Y. Sess. Laws 1961, ch. 398.
55. Municipal housing authorities are created as public corporations by special act of the Legislature, N.Y. Pub. Housing Law § 30, and are given broad powers in the planning and construction of housing and urban renewal projects, including the power to contract with the federal government. N.Y. Pub. Housing Law § 37. Seventy such authorities have been established throughout the state. N.Y. Pub. Housing Law §§ 400-73.
56. N.Y. Pub. Housing Law § 70.
57. N.Y. Pub. Housing Law § 73.
58. N.Y. Pub. Housing Law §§ 70, 75.
Projects must first be approved by the local legislative body or planning commission, if any. After being locally approved, the contracts are forwarded to the Commissioner for the necessary findings and approval. The Division supervises the projects through their planning, construction and management until amortization of the loan is completed.

Urban Renewal Assistance Program

A major part of the state's urban renewal assistance program is actually a broadening of its low-rent housing program. As noted, the loans and subsidies in assistance of low-rent housing cannot be commingled with federal funds. But in 1956 this restriction was removed where the funds were provided to an agency authorized to participate in federal urban renewal programs. In 1958, the subsidy provision was broadened to allow subsidies to a municipality to assist in clearance, replanning, reconstruction and rehabilitation of substandard and insanitary areas under the federal housing acts. At the same time, the state's voters approved a hundred million dollar housing bond issue, twenty-five million of which was earmarked for assistance of federal urban renewal projects. In the case of both the subsidy and the loan arising from the bond issue, the state funds cannot exceed half the required local grant-in-aid. Another step was taken in 1961 with the authorization of state capital grants from current revenues in lieu of the system of loans and periodic subsidies. In approving this legislation, Governor Rockefeller remarked: "Capital grants serve the dual purpose of providing financial assistance to municipalities more promptly and, very importantly, at a considerable saving of State funds."

The New York Legislature, in its 1961 session, repealed the urban renewal provisions formerly found in Sections 72-k to 72-o of the General Municipal Law and enacted in their place a single comprehensive article combining the formerly separately programmed facets of urban renewal. Perhaps the most far-reaching change in policy under the new legislation is the authorization of the sale of land by a municipality to any sponsor by negotiated bid.

60. N.Y. Pub. Housing Law § 150.
61. N.Y. Pub. Housing Law §§ 71, 73.
63. N.Y. Pub. Housing Law § 73.
69. N.Y. Muníc. Law § 507(2)(d), added by N.Y. Sess. Laws 1961, ch. 402. Sales by negotiated bid formerly could be made only to a limited-profit housing company or a
Middle-Income Housing Program

Three principal legislative devices have been created to deal with the middle-income housing problem in New York State: the Limited-Dividend Housing Companies Law of 1926,\textsuperscript{10} the Redevelopment Companies Law of 1942,\textsuperscript{71} and the Limited-Profit Housing Companies Law of 1955.\textsuperscript{72} All are designed to encourage privately financed construction of housing for middle-income families by extending to private companies or corporations formed under the laws such governmental aids as tax exemptions\textsuperscript{73} and the power of eminent domain for site assembly.\textsuperscript{74} Moderate rentals are assured by limitations on the investment return to the companies (six per cent)\textsuperscript{76} and by rent regulation by the Commissioner\textsuperscript{76} or by contract with the city.\textsuperscript{77} That the benefits will be enjoyed by those for whom they were designed is assured by restricting admission to tenants within certain income limits.\textsuperscript{78} The limited-dividend and limited-profit projects are supervised by the Commissioner;\textsuperscript{70} the redevelopment projects, by the chief financial officer of the municipality.\textsuperscript{80} The most important feature of the limited-profit housing provisions, making this a somewhat more popular program than the others, is the authorization of direct

\textsuperscript{10} N.Y. Pub. Housing Law §§ 169-93.


\textsuperscript{73} For limited dividend housing companies, on all or part of value of improvements above assessed valuation before development, N.Y. Pub. Housing Laws § 190; for redevelopment companies, on all or part of value of improvements above assessed valuation at acquisition, N.Y. Unconsol. Laws § 3426 (McKinney 1949); for limited-profit housing companies, up to 50% of assessed valuation, N.Y. Pub. Housing Law § 320.

\textsuperscript{74} N.Y. Pub. Housing Law § 120 (limited-dividend housing companies); N.Y. Unconsol. Laws § 3420 (McKinney 1949) (redevelopment companies); N.Y. Pub. Housing Law § 316 (limited-profit housing company).

\textsuperscript{75} N.Y. Pub. Housing Law § 73 (limited-dividend housing companies); N.Y. Unconsol. Laws § 3408 (McKinney Supp. 1960) (redevelopment companies); N.Y. Pub. Housing Law § 315 (limited-profit housing companies).

\textsuperscript{76} N.Y. Pub. Housing Law §§ 182-84 (limited-dividend housing companies); N.Y. Pub. Housing Law § 318 (limited-profit housing companies).

\textsuperscript{77} N.Y. Unconsol. Laws § 3415 (McKinney 1949) (redevelopment companies).

\textsuperscript{78} N.Y. Pub. Housing Laws § 182 (limited-dividend housing companies); N.Y. Unconsol. Laws § 315 (limited-profit housing companies). There are no such limits with regard to redevelopment companies.

\textsuperscript{79} N.Y. Pub. Housing Law § 181 (limited-dividend Housing companies); N.Y. Pub. Housing Law § 319 (limited-profit housing company).

\textsuperscript{80} N.Y. Unconsol. Laws § 3403 (McKinney 1949).
state or city low-interest loans for the construction of the project up to ninety per cent on a mortgage up to fifty years.\textsuperscript{81}

\textit{Mortgage Facilities Corporation}

Created in 1956,\textsuperscript{82} the Mortgage Facilities Corporation, a privately owned and operated institution, provides first mortgage loans in areas "which, because of heavy in-migration and other factors, have been characterized by overcrowding of population, extensive absentee ownership, and concentrated occupancy particularly by racial minorities. Because of the special appraisal and servicing problems peculiar to such areas the supply of available mortgage money in these areas is insufficient."\textsuperscript{83} MFC loans are limited to eighty per cent of appraised value, except where FHA or VA insurance or guarantees are obtained.\textsuperscript{84}

\textit{Other Activities of the Division of Housing and Community Renewal}

In addition to the above programs, the Division establishes regulations and standards for the preparation of building construction codes, model housing codes, multiple dwelling laws and multiple residence laws, state sanitary codes, and so forth. Each of these codes are administered through functional units of the division, which are subdivided into the following categories: Bureau of Urban Renewal and Community Services; Bureau of Low-Rent Housing Development; Bureau of Management; Bureau of State Building Codes; and Service Bureaus.

The division conducts urban renewal demonstration studies financed pursuant to Section 314 of the Housing Act of 1954.\textsuperscript{85} The state agency which administers the section 701 urban planning program\textsuperscript{86} is the Bureau of Planning of the Department of Commerce.\textsuperscript{87}

\section*{V. The New York City Administrative Agencies}

The Board of Estimate, consisting of the Mayor, the Comptroller, the President of the City Council, and the Presidents of the five boroughs comprising the city,\textsuperscript{88} is the key agency through which all urban renewal procedures in the city must pass. Any aspect of urban renewal requiring a legal commitment by the City of New York must be approved by the Board of Estimate after public hearing.

\textsuperscript{81} N.Y. Pub. Housing Law §§ 311-12.
\textsuperscript{84} N.Y. Unconsol. Laws § 5145(3) (c) (ii) (McKinney Supp. 1960).
\textsuperscript{87} N.Y. Commerce Law § 100(21), (27).
\textsuperscript{88} New York, N.Y., Charter § 61 (1957).
The City Planning Commission, which is the basic planning agency for the City of New York, must likewise approve, after public hearing, all aspects of urban renewal involving a legal commitment by the City of New York.\textsuperscript{89} The City Planning Commission consists of the chief engineer of the Board of Estimate and six members appointed by the Mayor\textsuperscript{90} and has jurisdiction of all aspects of planning and zoning.\textsuperscript{91}

The two coordinating agencies which govern the actual processing of urban renewal procedures within the city are the New York City Housing Authority, which deals exclusively with public housing, and the New York Housing and Redevelopment Board, which deals with all other aspects of urban renewal. To these agencies attention is now turned.

\textbf{New York City Housing Authority}

The New York City Housing Authority is composed of a chairman and two members appointed by the Mayor, with powers derived from the statute authorizing the creation of the Authority.\textsuperscript{92} This agency handles all public housing in the City of New York. Although its programs are financed through federal, state and city governments, the selection, design, construction, rental and management of these projects rest exclusively in the Housing Authority. The Authority also has the power to issue its own bonds and debentures for public sale as tax-exempt securities.\textsuperscript{93} In addition, annual subsidies may be obtained from the various governmental agencies when required to keep rents at a level which low-income families can afford. The annual subsidies are created partially by the city in the form of tax exemption, or abatement, and partially by direct payments out of city funds or through federal or state agencies.

This program aims at the creation of housing at rent levels ranging from ten to twelve dollars a room a month to approximately twenty-four dollars a room a month. Occupants of public housing are required to meet specific income limitation standards, and if their income exceeds the amount specified, they are required to pay a surcharge on the rental or to vacate the project.\textsuperscript{94}

The program of state low-rent housing, as noted earlier, is administered through the Division of Housing and Community Renewal. Loans amounting to 100 per cent of the cost of construction of a project and annual cash subsidies toward its maintenance are made by the state.

\begin{itemize}
  \item \textsuperscript{90} New York, N.Y., Charter § 192 (1957).
  \item \textsuperscript{92} N.Y. Pub. Housing Law §§ 30-57, 400-402.
  \item \textsuperscript{93} N.Y. Pub. Housing Law §§ 30, 41.
  \item \textsuperscript{94} N.Y. Pub. Housing Law § 156.
\end{itemize}
The loans, though not the subsidies, are repaid in annual installments, usually within a fifty-year period and at an interest rate equivalent to the rate paid by the state in borrowing the money through state tax-exempt bond issues.\textsuperscript{95}

Irrespective of how these projects are financed and subsidized, they are administered from their earliest planning stages by the New York City Housing Authority. All aspects of this type of housing are handled directly by the personnel of the Housing Authority itself except where it retains outside technicians, such as architects and general contractors for the construction of the buildings. The Authority's functions are usually performed by its planning, construction and management divisions, thus necessitating large permanent staffs of technicians of all types. Its activities are subject generally to the supervision of the governmental agencies under whose program its projects are financed.

\textit{Housing and Redevelopment Board}

All forms of urban renewal activity in the City of New York are governed by the Housing and Redevelopment Board,\textsuperscript{96} except public housing and publicly owned facilities such as schools, hospitals, streets, highways, bridges, tunnels, government buildings, and the like, owned directly by federal, state or municipal governments or by specific authorities designated by one or another branch of the government. Thus, the Board administers all forms of urban renewal which employ the combination of private enterprise and government aid, \textit{i.e.}, the core of the urban renewal program as we know it today.

The Housing and Redevelopment Board is administered by a chairman and two members, one of whom is designated as a vice-chairman. Under the chairman is an executive director and counsel. The functions of the board are subdivided as follows: Title I projects; public housing; limited profit and limited dividend housing company projects; urban redevelopment; and redevelopment company projects. The Board initiates all projects under its jurisdiction and handles the processing of the projects through the various agencies whose approval is required, which involves coordination with federal, state and city agencies. The permutation and combinations of the agencies involved vary, of course, with the particular project. Although it is impossible within the scope of this article to delineate exhaustively the manner in which these combinations occur, a single project will be traced through these agencies to illustrate the combinations and procedures encountered.

\textsuperscript{95} N.Y. Pub. Housing Law § 72.
The West Side Urban Renewal Title I Project, located on the west side of Manhattan, between 87th and 97th Streets and between Central Park West and Amsterdam Avenue, is selected. This twenty square block area is to be redeveloped as part of a program involving the demolition of unsalvageable slum buildings, the rehabilitation of buildings in poor condition but susceptible of being remodeled and repaired, and conservation of good buildings which merely require adequate maintenance and repair.

The first phase in the development of the project was a city request in 1956 for a demonstration grant from the federal government for a planning study of the West Side area. This study, conducted by the City Planning Department, concluded that rehabilitation was practical, desirable and economically feasible.

Subsequently, the project was initiated as an urban renewal project under Title I of the Housing Act of 1949 and Section 72-m of the New York General Municipal Law.

The Housing and Redevelopment Board (or, in this instance, its predecessor, the Urban Renewal Board) delineated a study area and filed an application with the HHFA for a survey and planning advance for this area, after first having obtained approval from the necessary local agencies or bodies. Although, of course, it could not be done in the case of the West Side Urban Renewal Area, the survey and planning application may be preceded by a grant under the urban planning assistance program available to communities with a population of 50,000 or under. However, before any survey and planning application can be approved, the locality must have received approval of its program for community improvement (workable program).

To obtain local approval of the application, the Housing and Redevelopment Board submits it to the City Planning Commission and the Board of Estimate. It is then submitted to the New York regional office of the HHFA and URA and then processed through to the HHFA and URA in Washington. If approved in Washington, it is referred back to the regional office, which enters into a survey and planning contract with the City of New York. The city then retains planning con-

98. The basic provision enabling municipalities to take advantage of Title I is N.Y. Munic. Law § 72-k. But this section authorized only the clearance and reconstruction of substandard areas; the addition of § 72-m in 1957 was necessary to authorize a combination of clearance, rehabilitation and conservation such as the West Side Renewal Area involves.
99. See note 41 supra and accompanying text.
101. See note 37 supra and accompanying text.
sultants and proceeds with the survey and planning of the proposed project area, the cost of which is paid by the federal government.

The above planning is performed by employees of the Housing and Redevelopment Board itself, or by technicians retained by the board to perform specific functions such as planning and layout of the project, architectural studies, street patterns and traffic flow, economic surveys, and statistical data concerning the tenants living in the area, which is to be used in evaluating relocation problems. The reports of the consultants are assembled and combined with the studies made by the agency itself to constitute the urban renewal plan for the redevelopment of the area. Following another public hearing, this plan is then resubmitted for approval to the City Planning Commission and the Board of Estimate. After approval by these agencies, the plan is again submitted to the regional and Washington offices of the HHFA and the URA. If approved there, it is returned to the Housing and Redevelopment Board, whereupon a grant contract is signed by the federal government and the city. The contract authorizes the city to acquire title to specific properties in the project areas through condemnation or purchase, and to resell the property to a redeveloper for the re-use designated in the urban renewal plan and at a re-use price approved by HHFA.

While the processing outlined above is being conducted through the various federal, state and city administrative agencies, the Housing and Redevelopment Board selects private sponsors for the proposed project. It advertises for interested sponsors and requests a resume of their qualifications as well as data on their proposals for redevelopment. The selection of a tentative sponsor is usually done early in the course of processing the project so as to permit him to work as closely with the Board as possible.

The selection of a tentative sponsor in New York City gives him the right to match the bids of all other bidders for the property at the public auction. Under certain circumstances, the city is authorized to sell to the sponsor without public auction.

The final plan prescribes controls limiting the nature of the re-use and the extent of the project. Accordingly, anything can be built on the project within the framework of these controls. Thus, the sponsor, while the project is being processed for approval, usually proceeds with his plans for the development of the project with his own architects, engineers, planners, realtors, builders, lawyers and accountants. The sponsoring group, acting as a team, plans the project within the framework of the controls and under the direction of the local public agency.

In the West Side Urban Renewal Area, which involves rehabilitation as well as demolition and new construction, separate sponsors were selected for each site contained in the project. In setting aside each site, the Board directs the nature of the redevelopment consistent with the over-all concept of the entire plan. Thus, some areas are designated for low cost public housing to be developed by the New York City Housing Authority while others are designated for middle-income housing to be developed under the various middle-income housing programs available in New York State. Each sponsor proceeds under a different program and requires the approval of different administrative agencies for the redevelopment of the site assigned to him by the Housing and Redevelopment Board. This processing is superimposed upon the ordinary processing required in order to obtain approval of the basic Title I project itself.

For example, in the sites designated for middle-income housing, if the project is financed under the state limited-profit housing program, then processing through the New York State Division of Housing and Community Renewal is required to obtain approval of the financing. In addition, processing through the City Planning Commission, the Board of Estimate, the Comptroller, the local Borough President and the Department of Real Estate is required to obtain approval of the partial tax exemption. All phases of design, construction and operation after construction are likewise supervised as required by the Limited-Profit Housing Company Law. Similarly, with respect to the FHA projects, the financing is required to be carried on under FHA mortgage insurance and entails processing of the proposed new project through the local and Washington FHA officers. This is, of course, superimposed upon the usual local administrative agencies which supervise construction such as the Departments of Housing and Buildings, Traffic, Water Supply, Gas and Electricity, and so on.

Conclusion

It has been shown in the body of this article that each planning agency has its own rules and regulations and is governed by different statutory provisions. Similarly, each agency has, within the scope of its jurisdiction, the power to review a project and either kill it or approve it as a matter of administrative discretion. Simultaneously with the processing of a project through the varied public agencies, it is incumbent upon the sponsor to control the private enterprise facets of the operation, such as arranging the primary financing and making appropriate fee arrangements with the builders, architects, attorneys and the other technicians. It also entails making sure of the economic feasibilility and rentability of the project when it is completed.