

Honorable Philip H. Goodman
Mayor of Baltimore City

(continued)

It provided that only those sections of the City which are slums, blighted areas, or arrested areas, as therein defined, should be declared redevelopment areas, and that the Commission should exercise its powers only in those areas so declared by an ordinance or ordinances of the Mayor and City Council of Baltimore, upon recommendation of the Commission . . ."

(It should be noted that Baltimore Redevelopment Commission, created by Ordinance No. 718 mentioned above, has been abolished and the Baltimore Urban Renewal and Housing Agency established in its stead by Ordinance No. 692, approved December 31, 1956. This ordinance also provides that the Urban Renewal Agency shall exercise its powers only within Renewal Areas so designated by ordinances of the Mayor and City Council of Baltimore.)

A distinction may be drawn between the ordinary exercise of the power of eminent domain by the City and said exercise pursuant to the authority vested in the Urban Renewal Agency in a Renewal Area designated by ordinance. In the first situation, it is incumbent upon the City to establish affirmatively the justification for the taking. In the latter situation, as stated above, any land acquired for purposes pursuant to an Urban Renewal plan approved by ordinance of the Mayor and City Council of Baltimore is declared "to be needed or taken for public use".

In the same Herzinger case cited above the Court went on to say, at page 62:

"Ordinarily, and for most purposes such as the order of proof, it is true that the burden is upon the condemning body to establish its right and power to condemn and the necessity therefor . . . But where the authority is based upon an ordinance or other legislative enactment, it would seem that reliance thereon would make a prima facie case and shift the burden to the person attacking it to show that it is arbitrary or unreasonable . . ."

It is apparent from the language in the above case that the authority of the Urban Renewal Agency is limited to that which is clearly spelled out in existing legislation and that it may exercise its powers only in those areas declared to be redevelopment areas by ordinances of the Mayor and City Council of Baltimore.