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Carl B. Wachs

Kentucky Municipal League

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SLUM CLEARANCE AND REDEVELOPMENT

By CARL B. WACHS*

With the passage of the National Housing Act of 1949 and House Bill 444, Kentucky General Assembly, 1950, Kentucky cities will be able to eliminate their slums and redevelop them to more appropriate uses, and to provide low cost housing, as a part of a comprehensive national policy and program for improved housing and slum clearance. Cities have not been able to do much slum clearance and urban redevelopment because of the high cost of land and the difficulties in assembling tracts of land of adequate size and in writing down the re-value of the land for redevelopment for private enterprise or for public use. In addition, the problem of re-housing families which would be displaced by the clearance of slums or the construction of public improvements has held up many worth while projects.

The Housing Act provides for federal loans and grants to municipalities to assist them in the planning, assembly, clearance, and re-value of land for redevelopment purposes by public or private enterprise. It will also aid cities in providing new public improvements which will support the redeveloped uses of slum lands. The Act, however, requires that the cities make a proportionate contribution to the cost of redevelopment.

Although there was some legislation on the Kentucky statute books,¹ the pre-existing Kentucky law, KRS 99.010 to 99.320 applies only to cities of the first and second class and allows slum areas to be redeveloped only by *Private Redevelopment Corporations*. The Federal funds were only applicable to *Local Public Agencies*. There were many other features of the Kentucky enabling act for development which were not compatible with the Federal Housing Act of 1949. It was therefore thought advisable to write a new law to present to the 1950 session of the State Legislature in January. This was done, and the new law is now contained in KRS 99.330 to 99.510.

KRS 99.330 deals with existing conditions relative to slum and blighted areas, their effect on the health and welfare of the communities, the proposition that benefits would accrue through elimination of the conditions, and the necessity for legislation on the subject.

* Executive Secretary, Kentucky Municipal League, Lexington, Ky.

¹The Federal Housing and Home Finance Agency indicated that this legislation would not enable Kentucky cities to take advantage of Title I of the Federal Housing Act of 1949.

Section 99.350 provides for the creation of an agency, five in number and resident electors of the community, appointed by the mayor with the approval of the majority of the council. The terms of the first appointees are one, two, three, four, and five years, respectively, and thereafter for terms of five years. Selection of a chairman rests with the members. Actual and necessary expenses are provided but must be paid from the funds of the community. No member of the agency shall be financially interested in any of its activities, directly or indirectly. The council may appropriate money for the administrative purposes of the agency; reports shall be filed with the council at such intervals as council may prescribe.

In subsection (10) it is provided that any time after two years after the appointment of the first five members of the agency, if such agency shall not theretofore have redeveloped or acquired land, or commenced redevelopment, the council may by resolution declare that the offices of the members of the agency shall be vacated, and their power shall be suspended and shall remain suspended until the appointment of new members.

Section 99.360 provides that each agency shall constitute a public body, corporate and politic, exercise public and essential governmental functions, and have the following powers in addition to the others granted:

- (a) To sue and be sued
- (b) To make bylaws, rules and regulations
- (c) To select and appoint such officers, agents, counsel and employes subject, however, to the provision of its budget;
- (d) To purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise or otherwise, any real or personal property, together with any improvements thereon to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber or dispose of any real or personal property or interest therein to insure or provide for insurance to rent, maintain, manage, operate and repair such real property;
- (e) To borrow and accept loans and grants from the Federal Government or any agency thereof, or from any sources, public or private
- (f) Within its area of operation, to develop as a building site or sites, any real property owned or acquired by it
- (g) Within its area of operation, to prepare from time to time plans for the improvement or rehabilitation of slum and blighted areas
- (h) To invest any funds held in reserve or sinking funds or any funds not required for immediate disbursement
 - (1) To obligate lessees or purchasers of land acquired in a redevelopment project: (1) to use such land for the purpose designated in the development plan; (2) to begin the building of specified improvements within a period of time. and (3) to comply with such other conditions as in the opinion of the agency are necessary

(j) To exercise all or any part or combination of the powers herein granted.

Subsection (2) "Nothing contained in this section shall authorize such agency to construct any of the buildings for residential, commercial, industrial or other use contemplated by the development plan."

Section 99.370 sets out the prerequisites for the adoption of a development plan. A master plan of the community must be adopted by the planning commission of the community. The development plan must be approved by the planning commission and a public hearing must be held by the agency where all persons interested may be heard. The agency must provide a method for the temporary or permanent relocation of families displaced from the development area.

After public hearing, the agency must certify to council an estimate of the cost required for the redevelopment.

The council must find that the area is a slum area and a blighted area, as defined in KRS 99.340; that a shortage of housing exists in the community; that the demolition of residential units in a slum area under development plans will increase the need for housing accommodations; that existing conditions constitute a menace to public health, safety, and welfare; that development of the area is a part of an overall program for the elimination of slum areas; that the development will provide for an opportunity for private enterprise; that the development conforms to the general or master plan of the community as a whole; that federal assistance is necessary to enable the development area to redevelop and funds will be available; and that the council has approved the development plan.

Section 99.380 deals with the issuance of building permits and certificates of occupancy in the development areas. It restricts such permits to those structures or uses that conform to the development plan.

Section 99.390 provides for appeals from actions of the agency, to the circuit court. Hearings de novo are held by the judge, and appeals may be taken to the Court of Appeals.

Section 99.400 provides that any community within the area of the development may grant funds to the agency, and that to obtain funds for this purpose the community may levy taxes or may issue and sell its general obligations or revenue bonds. Sections 99.330 to 99.510 provide the manner and limits of issuing the bonds.

Section 99.410 grants powers to public bodies to aid an agency as follows:

(a) Dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges

- (b) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities to be furnished
- (c) Provide streets or ways or other public places
- (d) Plan or replan, zone or rezone, or make exceptions from building regulations
- (e) Cause services to be furnished
- (f) Enter into agreements relating to the repair, closing or demolition of unfit or unsafe dwellings;
- (g) Incur the entire expenses of any public improvement
- (h) Do any and all things necessary or convenient to aid in the redevelopment

There is also a provision that "Any sale, conveyance, lease or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement or public bidding."

Section 99.420 provides the proceedings for the exercise of eminent domain. The proceedings for condemnation shall be in the circuit court of the county in which the greater part of the property sought to be condemned lies. After filing the petition, application to the court may be made to appoint commissioners to assess the damages. The court shall then appoint three disinterested, impartial housekeepers of the county who are owners of land. These commissioners shall view the property and award to the owner the value thereof. They shall also award to the owner any incidental damages resulting to his adjacent lands, considering the purposes for which it is taken, but they shall deduct from the damages the value of any advantages and benefits that will accrue to such adjacent lands from the proper use of the property. After the commissioners have filed their report the judge shall by interlocutory judgment grant to the community immediate possession and full use and control of said land, provided the community shall have paid into court the sum required by the commissioners in their report. The court shall cause a deed of conveyance of the land to be executed and delivered to the community.

After the commissioners report is made, either party may file written exceptions to the report, except that the community's exceptions, if any, shall be made and filed prior to the entry of the interlocutory judgment. If exceptions are based on the ground that the damage awarded is too small or too great, the differences shall be deemed the amount in controversy for the purposes of appeal. The court may require the parties to plead to an issue of fact, and shall require the community to execute a bond conditioned upon the community paying the parties the difference between the sum paid into court and that which thereafter may be finally determined to be the

value of the property. When all parties are ready the court shall cause the case to be docketed for trial by a jury as other common law cases are tried. In assessing damages the jury shall be governed by the same rules prescribed for the commissioners in making the report, and the court shall so instruct the jury.

An appeal may be taken by either party to the Court of Appeals, but no appeal or supersedeas shall suspend the right of the community to have possession of the property, easement, or right of way condemned.

Section 99.430 grants the power to issue revenue bonds by the agency and to issue refunding bonds. The principal and interest may be paid exclusively from the revenues of the redevelopment project, or from that income plus grants and contributions from the federal government or other sources. The bonds may be additionally secured by mortgage, deed of trust or other lien on the property in the redevelopment project. Members of the agency are relieved from any liability personally on the bonds, and it is declared that the bonds shall not be a debt of the State, county, city or other political subdivision. The bonds may be sold at not less than par, and shall be exempt from all taxes.

The agency is given a number of specific powers with respect to the terms of the bonds and a general power to do any and all things necessary or desirable to secure them or make them more marketable.

All public officers, public bodies, banks, building and loan associations, insurance companies, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys, or other funds in any bonds issued by the agency; and such bonds and other obligations shall be authorized security for all public deposits.

Section 99.440 provides that work shall commence within two years after the approval of the council or the certification of the vote of any bond issue submitted to the voters.

Section 99.450 provides for the disposal of the property of the development area. The agency may sell, exchange, lease or otherwise transfer the property acquired under the provisions of this section to one or more private individuals or to public bodies, and thereafter the real property shall be used only with the limitations set forth in the development plan. Maximum opportunity, consistent with the sound needs of the locality, shall be given private enterprise in the redevelopment of the development area. The agency shall sell all of the property in such development area as soon as feasible in the public interest.

Section 99.460 provides the method of modifying the plan.

Section 99.470 provides for temporary leasing during development, and at the same time provides that no leases shall be made for a term longer than three years.

Section 99.480 provides that the agency shall make the schedule of prevailing wages a part of the specifications for the contract for work on the development and shall conform to all requirements of KRS 337.510 to 337.540, inclusive.

Section 99.490 provides that the exercise of the agency's powers may be vested in the local housing commission. That may be done by the council.

The closing Section 99.500 provides that two or more communities may jointly exercise the powers granted, and in such case the planning commissions, councils and agencies may hold joint meetings.

This act challenges public officials and private citizens to accomplish the clearance and redevelopment of slums in our cities and to create additional, better, and more economical housing.