



The Case of Max Morris and Urban Renewal: Integrity in Washington, D.C.

Handout A: Narrative

BACKGROUND

With respect to property rights, the Fifth Amendment to the U.S. Constitution provides that “No 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.” It has long been recognized that the government has the legal power to take private property when necessary. For example, if a community needs a new road, park, or school, but the best location for that new facility is private property, the government may force the owner to sell the property in order to benefit the common good. The Fifth Amendment’s “Takings Clause” ensures that the government must deal with the property owner fairly.

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In the context of diseases, a “blight” refers to an infection that overtakes living organisms, specifically plants. Leaves wither and drop off, branches stop growing, and, if untreated, the plant will not only die, but the disease will spread and kill nearby vegetation as well. “Urban blight” refers to the decay of buildings and deterioration of neighborhoods that result from a number of causes, including overcrowding, an increase in criminal activity, and lack of proper maintenance of the structures. In 1945, in order to correct blighted areas in Washington, D.C., Congress passed the District of Columbia Redevelopment Act, which created the five-member District of Columbia Redevelopment Land Agency (RLA) and gave it the power of eminent domain. After conducting surveys to identify neighborhoods in need of beautification, rebuilding, and “revitalization,” the RLA published its plan in 1950 to take over property in the District’s southwest quadrant, starting with bulldozing the 76-acre Project Area B.

About five thousand people lived in this neighborhood, 98% of them African American. According to the RLA surveys, 58% of the residential units had only outdoor toilets, 29% had no electricity, and 64% of the dwellings were beyond repair. The area’s inhabitants were also significantly more likely to suffer from diseases common in overcrowded conditions. Though the RLA did not provide a specific definition of “blight,” this area was considered to be a slum in need of urban renewal.

However, like many neighborhoods, it was a study in contrasts. Project Area B included the bustling and prosperous Fourth Street commercial district, a place where immigrant Jews, African Americans, and many mom-and-pop businesses dwelt peacefully as friendly neighbors, enjoying a high degree of racial harmony. Max Morris and Goldie Schneider

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operated successful businesses on Fourth Street. Morris's small department store and Schneider's hardware store were thriving examples of the benefits for people who worked hard to meet the needs of their neighbors and conducted their business with integrity.

These men and their families, like the other business owners in the blocks of bustling stores, found their identity in diligence, customer service, and treating their patrons with respect. They worked long hours and maintained vital civic connections in their community. In the Fourth Street commercial district, the buildings were well-maintained, safe, and included barber shops, sandwich shops and a movie theater. About 17 percent of the area's structures met appropriate health and safety standards.

The planning commission proposed to demolish all but a few of the houses and businesses, create parks, streets, and schools for public use, and then lease or sell the remaining land to private developers. The buyers would then build apartment houses and various kinds of other structures. The comprehensive plan would only provide dwellings for 60 percent of the people whose original single-family homes would be bought and demolished. Additionally, much of the new housing would be unaffordable for the working-class residents. Furthermore, the residents would have nowhere to live as construction was underway.

Morris and Schneider were among the business owners who refused to sell their property to make way for the bulldozers. Their challenges to the Redevelopment Act were combined in a case that came to be called *Berman v. Parker*. They brought suit against the planning commission, maintaining that the taking of their property violated the 5th Amendment.

Morris argued that the RLA should not be able to take his property because it was not substandard or blighted. Additionally, the plan did not provide for public use of the land where his store stood, since it was to be turned over to a private developer. Morris's lawyers argued that the taking of property from one businessman to benefit another businessman did not qualify as public use; it therefore violated the Fifth Amendment's takings clause. Morris's integrity demanded that he take a stand against what he perceived to be a gross injustice.

Furthermore, while most of the structures in the neighborhood were slated for the wrecking ball, some well-maintained buildings—but not Morris's—were exempted. This raised more questions about the fairness of the plan as a whole. Morris died as his case was being reviewed, but his family wanted to continue to operate the business. The executor of Morris's estate, Samuel Berman, continued the fight against what the family saw as an unjust taking of property.

The Supreme Court agreed to hear the case and in 1954 they rendered a unanimous opinion. The Court ruled that the Fifth Amendment does not limit Congress's power of eminent domain to any specific purpose. In a decision written by Justice William O. Douglas, the Court explained:

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“Miserable and disreputable housing conditions may do more than spread disease and crime and immorality. They may also suffocate the spirit by reducing the people who live there to the status of cattle... If those who govern the District of Columbia decide that the Nation’s Capital should be beautiful as well as sanitary, there is nothing in the Fifth Amendment that stands in the way...The rights of these property owners are satisfied when they receive that just compensation which the Fifth Amendment exacts as the price of the taking.”

After the Court’s ruling, the Project Area B neighborhood was demolished according to the RLA plan. However, the renewal process encountered many obstacles, and the anticipated waterfront office on the Potomac River, the promised residential and hotel complex, the upscale retail district did not live up to expectations. By 2005, the area was dominated by boxy federal office buildings and decaying housing projects, with few of the small, locally-owned businesses that helped create a sense of community. Where Max Morris’s department store once welcomed friendly customers stood a two-block long, featureless apartment building.