Mortgage on America. By Leonard Downie, Jr.

S. William Green
BOOK REVIEWS


Reviewed by S. William Green**

The basic thesis of this book is that real estate speculation is the cause of both urban blight and of suburban sprawl.

The book is an interesting one, but unfortunately it is flawed. It suffers from Downie's constant use of the pejorative as a substitute for logical analysis: after all, one man's "speculator" or "promoter" is another man's "entrepreneur." More important, the book suffers from Downie's casual assumption that because his theory explains some cases, it therefore explains all cases.

Take, for example, Downie's treatment of abandonment. He describes the "economic dilemma of our cities" as "the real estate industry's...role in...driving up central-city property values to impossible heights and then draining off much of that money to invest in speculation and development of initially lower-priced land in the suburbs, while continuing to bleed city properties and residents of every possible dime." An ad hominem attack on George Sternlieb is Downie's only response to the counter-theory developed by Sternlieb and others that abandonment is actually the result of the fact that inner city tenants and homeowners simply do not have incomes sufficient to pay rents or to carry housing expenses sufficient to maintain the properties in which they reside.

No one can deny Downie's argument that many owners of inner city properties have minimized maintenance (even when this involved major building code violations) to increase profits, or that lending institutions have improperly allowed racial factors

* Leonard Downie, presently the Deputy Metropolitan Editor of the Washington Post, has won numerous awards for his extensive writings on home improvement fraud and court reform in the District of Columbia.


2. P. 8. Mr. Sternlieb is identified by Downie as a "widely published university lecturer and writer on urban studies from the businessman's point of view...".
4. E.g., LOWRY, DESALVO, & WOODFILL, RENTAL HOUSING IN NEW YORK CITY (New York City Rand Institute pub. 1971) [hereinafter cited as LOWRY].

517
to influence urban lending policies. But Downie cannot, and does not even try, to sustain the case that his “slum landlords” were less rapacious or the lending institutions less racist prior to the mid-sixties than they were subsequent to that date. Yet, prior to that date, “slum landlords” evidently felt that they could maximize profits by keeping their buildings going as part of the housing stock, and lending institutions in fact financed them to do that. Since then, in a number of cities, these same owners and lending institutions are reaching an opposite conclusion. Downie simply does not have an explanation for this change. His confusion of real estate prices in downtown office neighborhoods with those in abandonment areas would be laughable, were it not so sad; abandonment area properties just are not selling at “impossible heights.”

In contrast to Downie’s approach is the New York City Rand Institute’s analysis of New York City’s housing problem. The Rand study did a detailed analysis of what it cost to run housing in New York City for apartments with varying numbers of bedrooms, and compared that with what families of varying incomes could afford to pay, based on rent-income ratios ranging from 29 percent for a single person to 17 percent for a family of eight. The study found that 1,006,000 households, or 36 percent of all households in New York City, could not, by these rent-income ratio standards, afford to pay in rent what it cost to maintain housing in standard condition in New York City.

While New York City is a high cost area as far as housing is concerned, income insufficiency as an element of the housing problem is clearly a national phenomenon. For example, the Harvard-MIT study, America’s Housing Needs, found income insufficiency to be a major element of the nation’s housing problem. It simply cannot be ignored as Downie tries to do.

Another aspect of the abandonment problem is the “multi-problem” family. This is, typically, a single-adult-headed family on welfare. I hasten to add that not every single-adult-headed family on welfare is a “multi-problem family,” and, conversely, that there are “multi-problem” families that are not on welfare,

5. The U. S. Department of Housing and Urban Development is currently offering vacant lots in parts of Brownsville and East New York for as low as $500 for a 25 foot by 100 foot lot. HUD New York Area Office Public Information Release (October 25, 1974).
or not single-adult-headed or both. Downie repeatedly recognizes the adverse impact of these families on housing, but never really comes to grip with how to cope with them. Because of the increasing number of such families, this is a critical problem. As the noted real estate economist Anthony Downs has written:

The most dramatic change that occurred in the composition of the metropolitan poor has been an increase in the number of poor persons in households headed by a female. While poor persons in households with a male head declined nearly one-half between 1959 and 1968, those with a female head (of all ages) increased by 22 percent in the same period. In 1968, half of all metropolitan poor were living in households headed by a woman . . . . To policy makers interested in eliminating poverty, particularly poverty in generations to come, these households pose the most intractable of all problems.

My impression is that Downie does better when it comes to the relatively less complex question of what is going on in the suburbs. I have little doubt that suburban zoning and land use decisions have often been influenced by developers who hire politically connected zoning lawyers or by outright bribery of public officials. “Fiscal zoning” has also clearly been part of the pattern.

Downie’s answer to both urban and suburban problems is that government entities replace “speculators” as land developers. Though Downie does not make the differentiation, the practical issues may be quite different in cities and suburbs.

In those cities where there are high abandonment rates, municipalities can, through tax foreclosures, acquire property for free. Where HUD-FHA insured properties are involved, HUD is experimenting (when it appears that no significant realization can be achieved for the FHA insurance funds) with turning over foreclosed properties to the municipalities in which they are located for $1 apiece. These circumstances, in my opinion, give

10. For example, a recent study in three New Jersey counties showed that industrial zoning would permit development of 1,170,000 new direct jobs and 1,000,000 new support jobs, but residential zoning in the same area would permit housing for only 386,000 new residents. Middlesex-Somerset-Mercer Regional Study Council, Housing and the Quality of the Environment (1970).
11. HUD Newsletter 2 (March 25, 1974).
cities with an abandonment problem the opportunity to put together significant assemblages. These could be used for industrial parks, low cost office sites (to respond to Downie's concern about high urban office costs\(^\text{12}\)), or badly needed urban open space.

Downie's proposal that government take control of suburban development by acquiring developable suburban land is far more controversial. Land development is not quite so simple as Downie would suggest. Entirely apart from the political problem of how a city gets the statutory authority from a state government to acquire land outside its boundaries, there are losers as well as winners in the land development game. Downie recognizes this to some extent,\(^\text{13}\) but never really comes to grips with the issue of whether land speculation is the proper function of a municipality.

Although American municipalities have on occasion gone bankrupt, they have done so far less frequently than land speculators. Stockholm is cited by Downie as an example of one governmental entity which has generally done well in acquiring peripheral land.\(^\text{14}\) Despite that accomplishment, however, it still has a chronic housing shortage.\(^\text{15}\) Further, development in the United States has spread far past where it was in relation to the central city when Stockholm started acquiring peripheral land in the early 1900's. The hard times on which land developers in the United States have suddenly come\(^\text{16}\) raise serious questions as to whether this kind of enterprise is a suitable one for public agencies.\(^\text{17}\) It is, for example, generally impossible for public agencies to acquire land secretly, the way a private developer does to avoid driving up prices.\(^\text{18}\)

In summary, though Downie derides land use planning and zoning\(^\text{19}\) as effective controls on real estate excesses, perhaps

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12. See text at note 1, supra.
13. See pp. 71-72, therein describing the collapse of the Zeckendorf empire.
15. SWEDISH NATIONAL HOUSING BOARD, HOUSING IN THE NORDIC COUNTRIES 185-86 (1967).
17. New York State's Urban Development Corporation is engaged in three major "new town" efforts: one outside Buffalo in conjunction with a major State University facility being developed there, one outside Syracuse, and one on New York City's Welfare Island (now renamed Roosevelt Island). UDC's current financial difficulties at the least cast doubt on the suitability of a public agency as a large scale developer.
18. Downie gives a classic example of this in his description of how the land was assembled for the Columbia new town, a carefully developed and constructed community located between Washington D.C. and Baltimore, Maryland. P. 198.
strengthened area-wide planning offers the best approach to the
problems Downie raises. The recently passed Housing and Com-

munity Development Act of 1974 requires grantees under the
“701” planning program to come up with housing and land use
plans by August 22, 1977 in order to be funded thereafter.20 These
plans, in turn, will be used as part of the process of evaluating
local applications for community development block grant funds
authorized by the legislation. This provides significant incentives
for a local government to conform to the land use plan. Other
significant recent federal actions that will materially influence
local land use are Environmental Protection Agency restrictions
on air pollution21 and water pollution22 and the recent flood insur-
ance legislation,23 which will have the effect of significantly re-
stricting development in flood plain areas.

These developments, plus recent state and local land use and
environmental laws24 that significantly restrict land develop-
ment, may already have significantly changed the rules of the
game that Downie describes. While Downie highlights serious
problems, his tunnel vision ignores the complexity of the issues
he confronts. It is a shame, because these issues deserve the kind
of public exposure that a lively writer like Downie could give
them.

comprehensive community development plan submitted by a local governmental agency
for the purpose of receiving federal aid pursuant to this act.
22. EPA Draft Guidelines for Areawide Waste Treatment Management, May 31,
1974.

Reviewed by Eleanor Holmes Norton**

As the 1960's began, there was special exhilaration in putting ourselves in the service of the civil rights movement, a cause for which a few dedicated NAACP lawyers had labored without much help for several lonely decades. But we were more militant than we were hopeful. I do not believe any of us ever seriously contemplated the possibility that in the 1970's, government itself would be chastised by universities and other large employers for pushing too hard in enforcing civil rights laws.

This is not to say that yesterday's sit-in generation are today's satisfied customers. The milieu for civil rights advancement has been severely chilled in the seventies, and that coolness can be felt everywhere. There is special disappointment in the government's phantom enforcement of the 1968 Fair Housing Act1 and the ominous expansion of racial ghettos to cover entire cities. Former President Nixon personally led the charge against school integration through busing, and retreat is in clear evidence even in the courts.2 The Equal Employment Opportunity Commission [hereinafter EEOC], almost alone, has kept on a relatively steady forward track, enough, at least, to have made employers more than a little uncomfortable and to have encouraged minorities and women to unprecedented new use of civil rights statutes.

Readers most inclined to pick up Gerald Benjamin's study of the New York City Human Rights Commission are likely to be motivated by a desire to know more about government antidiscrimination processes in the first era of civil rights advancement since the Civil War. But Benjamin has pointedly written about Race Relations and the New York City Commission on Human Rights, and the "race relations" perspective of his work forces him to view the structure narrowly and in ways it has clearly outgrown. Though the time period he studies—1943 to

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** Chairperson, New York City Commission on Human Rights. B.A. Antioch College, 1960; M.A. Yale University, 1963; LL.B. Yale University, 1964.

1969—strongly suggests the race relations focus, too often this span also makes this book seem beside the point for the purposes for which most readers might pursue it, and unreliable as a basis to draw conclusions about civil rights agencies today.

Nevertheless, this book will interest those with the slightest curiosity about the sometimes agitated history of the Commission, the various postures of civil rights forces in the city during the past three decades, and, to a lesser extent, the racial politics of the last three New York City mayors. Beyond its value as history, the book is an incisive guide through the thorny briar-patch that the New York City Commission (and undoubtedly others like it) traversed before law enforcement became its primary focus.

This book traces the Commission from its first incarnation as a small study group, the Unity Committee, created as a response to the Harlem Riots of 1943, through an intermediate form called the Committee on Intergroup Relations, to its final form as a commission. Mayor LaGuardia set up the Unity Committee as a research group to function much like today's federal Civil Rights Commission, to make a "thorough study" to obtain complete information "on the cause of discrimination, prejudice and exploitation . . . ." Here is perfect civil rights rhetoric from the forties. It was progress to study racial exploitation but still not possible, even for a liberal mayor, to propose to do anything about discrimination.

Nor is this book about discrimination. The author's perspective starts and ends with race relations, which he believes to have been a "central concern in most American cities for almost two decades," a theme he repeats throughout the book. In criticizing the obvious failure of the agency in race relations, he accepts the premise that it was possible to succeed at this nebulous task without doing something about discrimination against blacks, a mandate the agency received only late in its development. He thus accepts the assumption, grounded in the tentative racial attitudes and notions of the forties, fifties, and early sixties, that civil rights agencies should be held accountable for promoting good race relations, whether or not they had the power or support to attack racial discrimination. He takes seriously a period when

3. The current mayor and the Commission in the 1970’s are excluded from this study.
4. P. 34.
5. P. 19.
the problems of blacks were sought to be relieved by fostering tolerance rather than equality. This view was dominant until overturned by the actions of the civil rights movement which emphasized law and resulted in civil rights statutes. To tie civil rights agencies inevitably to the old race relations function is to set up a straw man that invites the wind to blow it down.

The fact is that racial tension in the North has not been a matter of poor relations but developed in the virtual absence of relations between blacks and whites; a factor that helps explain why race riots have tended to occur in the North and not the South. Large-scale black migration to the Northern cities did not bring “relations” between blacks and whites. There was more that could be called relations between the races in the South, where blacks lived in the same communities with whites, sharing cultural and physical proximity, albeit with a rigidly enforced sense of place. In the Northern ghettos that “place” was far more remote, and in its own understated way, just as rigid. Residential ghettos kept blacks more rigorously separated from whites than had ever been the case in the South. In the forties, Duke Ellington and Lionel Hampton had to live in Harlem along with the rest of the blacks. Nor did employment promise much in the way of relations; jobs were equally ghettoized. A college degree paved the way to becoming a post office clerk, where bright and ambitious black men so often found their way. In this context, to engage in race relations without more was to be involved in a well-intentioned sham.

With all the flaws Benjamin rightly perceives in New York’s early civil rights machinery, he fails to note this obvious birth defect, and indeed seems to believe it was possible to succeed at race relations in the absence of a true mandate to move against discrimination. He is too little impressed that the predecessor agency, with its race relations focus was created to deal with the wrong disease, i.e., race relations, to which it devoted most of its time until the law was strengthened and attitudes changed in the city in the late sixties. The occasional race riot, such as occurred in Harlem in 1935 and 1943, was symptomatic not of strained race relations but of legally allowed and culturally enforced discrimination whose effects were more alike than they were different from those in the Southern states. Indeed, two factors made and continue to make Northern discrimination more dangerous than its Southern counterpart. First, the effects of discrimination were not softened by the personal relations and proximity that characterized black-white relations in the South. Second, of course,
were the elevated expectations of black migrants who took the absence of laws mandating their place to imply real mobility.

The climate of the forties and fifties worked against a focus on discrimination and kept the Commission trying to attend to peripheral and vague concerns; the point was to do something about prejudice, and not discrimination. Not until 1961 were the goals defined in terms even roughly similar to what we expect of such agencies today. The predecessor Committee on Intergroup Relations [hereinafter COIR] then finally spoke of “equal privileges and responsibility for all in housing, schools and employment.” But in the early 1950’s, Benjamin reports such stated goals of the Unity Committee as “stimulation of neighborhood organization, . . . cooperating with city and private agencies, and . . . better public relations.” Even in the late fifties COIR’s own view of itself was not sharply focused on eliminating discrimination; it saw itself as a “catalytic agent and coordinator” [to] officially . . . encourage and bring about mutual understanding and respect among all groups in the city.”

Benjamin recognizes throughout that the agency was steadfastly avoiding enforcement or anything resembling coercion. He accurately stresses its “role conflict” — to protect whoever the mayor happened to be rather than to uncover discrimination. If there is any fault to be found in this analysis then, it is not in its accuracy but in Benjamin’s consistent failure to paint a full picture that might have more clearly revealed the context of racial isolation and hostility in which a civil rights agency of the 1950’s had to function. Only infrequently and in small slices does this author discuss what kind of an issue race was in New York City or the nation during the period under study. For the most part he confines himself to the in-fighting among the liberals who gathered around the Commission. One yearns to know more about what race meant to blacks and to whites in those days, especially in the context of New York City politics and life. More historical context would have added depth to this study and avoided the feeling one gets throughout that the Commission was suffering from an uncommon reluctance. In fact, I fear, its halting and ineffective actions were well ahead of what most whites in the city would have condoned or, sadly, most pre-movement blacks

7. P. 61.
would have ventured. In an era when civil rights advocates have been on a clear offensive for two decades, it is easy to lose sight of how late the country and even the more progressive Northern cities came to care anything about the disadvantages it imposed on black people or about bigotry. What by today's standards was clear timidity would have been more accurately portrayed had Benjamin been more generous in revealing the total framework in which the early agency operated.

But the greatest disappointment in this book is the author's failure to use the experience of the New York City Commission to say something meaningful to commissions that must live in the world of today. Yet his stated raison d'etre for this study is that "New York City's experience" can offer guidance to other cities.\(^9\) Benjamin can hardly believe that cities are going to abolish their civil rights commissions and disperse their functions to other agencies, the course he strenuously advocates,\(^10\) without seeming to believe it is practical. More important, his study stops in 1969, before the present decade when law implementation rather than race relations manipulation has been the decided trend. Thus he makes recommendations for today based on outdated evidence, a serious flaw in this study. There would have been little to quarrel about, had he confined his conclusions to the material to which he admittedly confined his scrutiny — an agency whose main focus was race relations. That agency died of obsolescence some years ago, or at least has been radically transformed by new court decisions, techniques, and remedies that have created a new law of civil rights and a fresh path for civil rights agencies.

Still, a study of the old race relations model has some relevance to today's agencies which the author might have used more adroitly. But this book foregoes the chance to link up its criticisms with urgent problems of success and failure many civil rights agencies are facing today. This is best seen in the open controversy that surrounds the Equal Employment Opportunity Commission. As one commentator has noted, the federal agency "has achieved substantial successes and has caused many large companies to spend huge sums to change their employment practices," all while the federal commission has been undergoing "enormous problems and serious internal conflicts . . . hamper-

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10. P. 259.
ing . . . efforts to stamp out employment discrimination.”

These are some of the very “problems” and “conflicts” — such as squabbling among commissioners and ambiguous relations with other government agencies — that Benjamin has studied in this volume. But he has failed to acquaint himself with the operations of such agencies during the last five or six years, thereby making it difficult to draw relevant parallels.

Inevitably, vague race relations concerns were the focus of most commissions until recent years, but this was largely because they had little if any enforcement authority, no mandate from society, and scant support from the courts to enforce what authority they had. For example, the New York City Commission functioned with no enforcement power whatever for its first fifteen years when it received housing enforcement jurisdiction only. Though employment discrimination is today the heart of anti-discrimination work, the Commission had no job discrimination power until 1966. Without looking at the years when law enforcement became the primary work of the Commission, Benjamin feels confident that the agency’s earlier failure at now outmoded race relations functions it no longer performs disqualifies it from continuing to exist.

Whatever his intention, this is a kind of scholarly irresponsibility we can do without in 1975, when the glow is off the country’s civil rights resolve. Benjamin suggests dispersing the functions of the Commission among three or four different city agencies that do not have the Commission’s “past history of lack of achievement.” 11 But should not this history, much of it documented in this volume, be balanced against the administrative handicap of inadequate focus that has an even longer history of failure? At a time when it is axiomatic that government performs poorest when it has no organizational focus, Benjamin would disperse civil rights responsibility, advising that, “[i]f done properly, political protest against abolition could be minimized, especially if replacing the commission with other administrative devices is stressed.” 12

It is precisely the effect a collection of scattered “administrative devices” has had that has led environmentalists, consumer advocates, and energy conservation experts to reject uncoordi-

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12. P. 259.
13. Id.
nated agency action as hopelessly old-fashioned and highly ineffective in meeting modern complexities. Businessmen who recently beat back the proposed Federal Consumer Protection Act clearly preferred to keep consumer policy from becoming a coordinated concern of government. Can Benjamin really believe that civil rights would be anywhere but at the bottom of large piles if it were distributed, as he suggests, among the Corporation Counsel, the Mayor's Complaint Bureau, the Housing and Development Administration, and the Human Resources Administration? His other alternative, the complete surplanting of the city by the state agency, is hard to take seriously, and he seems to toss it in only for good measure, since he offers no discussion of this alternative. Given the inherent conflicts he finds in the city agency, it is hard to believe he would simply pass on its functions to the state agency, on which the City Commission is patterned.

Would that structural fiddling or shuffling could liquidate the problems of civil rights agencies today. More fundamental change than Benjamin advocates is necessary. Civil rights agencies need to be greatly tightened so that they exist almost totally as law enforcement agencies, performing race relations functions only in well-defined ways not already serviced by other agencies. The fact is that in the past ten years, dispersal has occurred, but it has been dispersal of the race relations function throughout city government, a result I applaud because it makes the entire government and not one small part of it accountable on racial issues. In the context of specific agency mandates, race relations does have meaning today. But as a lump function it has too little content. Benjamin sees this dispersal as reflecting lack of confidence in the Commission. This may have been partly true, but it is hard to envision any single agency to which a large city could or should have assigned all racial matters, given pervasive racial developments in the cities, especially since 1963. The fact that many mayors today are themselves black reflects a change in the American city that often makes race the central concern of government itself.

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14. P. 257. No such agency exists today. The reference may be to the Mayor's Action Center, a citizen's complaint bureau, that receives mostly phoned-in complaints, but these are relayed to the relevant agency, and are usually emergency items such as lack of heat or hot water.

15. Id. Far from adding jurisdiction, the current mayor is dismantling the latter two agencies into smaller ones, because he believes they are too large to give the requisite attention to the problems already assigned to them.

16. Id.
The conversion to law enforcement is the best way to improve the civil rights function in government today and would go further toward erasing the history of poor achievement that leads Benjamin to advocate dispersal of Commission functions. After all, almost all government agencies have had to outlive past problems, some such as corruption and mismanagement, more serious than the problems of structure, statutory authority, cooptation, polarization, and internal conflicts that Benjamin attributes to the Commission in former years. But seldom has anyone suggested that dispersing the functions of traditional service agencies would be better than trying to improve them. I do not know why we should be any more anxious to rid ourselves of civil rights agencies, particularly given the Herculean effort it took to get government to focus on civil rights at all.

I do not underestimate the prestige problem attending agencies that began and operated in some confusion for years, and with almost no power or resources. The Commission is still working its way to the point of being taken as seriously as more traditional agencies. But there are no short cuts. Nothing that Benjamin advocates or that readily comes to mind would be more effective than the law enforcement transformation that has been the predominant trend in the New York City Commission and similar agencies. The evidence for this has been developing for the past five or six years.

In the first place, public pressure is making the law enforcement focus irresistible and all but total. The EEOC has a 98,000 case backlog. Similar increases are occurring in all commissions with enforcement authority. The Commission recently became the first city agency in the country to be named a Section 706 deferral agency, 17 a status accorded mainly to state agencies to whom the EEOC defers its complaints. In addition to its own case load, the agency is now charged with adjudicating an additional docket of federal cases, another factor which can change the image of non-achievement that worries Benjamin. Thus, the sheer pressure of cases from a public which takes the remedy more and more seriously is taking care of the unflattering history that Benjamin documents.

This public response to the agency is also seen in the aggressive drives of new categories of complainants seeking coverage 18

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18. Among the most recent in seeking coverage were the physically handicapped. See
precisely because they view the agency entirely in terms of its strong law enforcement functions. Benjamin’s recommendations for abolition are based entirely on the Commission’s history with the race issue. His suggestions are uninformed by the agency’s experience with women, the largest potential and fastest growing group of complainants. For women, the agency’s past history with racial tension is entirely beside the point, since sex discrimination does not have the skewed and perverse history of race prejudice in America and is almost entirely a law enforcement issue in its civil rights context. The impact of this mammoth new and important category could almost by itself have brought law enforcement functions into dominance, even if minorities had not led the way.

Law-related functions are best dramatized by looking at the kinds of remedies that are typical today, a subject totally omitted from this study because the author confines himself to the race relations period of the Commission. No one who has followed the Commission in recent years is surprised today by monetary and other remedies that are the equivalent of what might be achieved in court. Moreover, the fact that many of these remedies are accomplished by settlement, during Commission conciliation and without a hearing, indicates that, whatever its history, the Commission is taken seriously in its law enforcement role.

Thus, a female professor denied promotion and tenure because of sex discrimination was awarded $23,000 in back pay and $1,500 in damages for mental pain and suffering after a hearing.19

N.Y.C., N.Y., ADMIN. CODE ch. 1, § B1-7.1 (1971). Homosexuals have also waged a strong drive, thus far unsuccessfully in New York.

The Commission’s present jurisdiction covers discrimination by reason of race, creed, color, national origin, sex, or physical handicap in employment, housing, and public accommodations and by reason of marital status in housing, and age (persons 40-65) in employment. Id. §§ B1-7.0 & B1-7.1.

The Commission is empowered to issue subpoenas, hold hearings, and at conclusion of such hearings to state findings of fact, issue orders requiring respondent to cease any unlawful discriminatory practices found, to take a wide range of affirmative action, and to pay damages to the complainant. Id. § B1-8.0.

The Commission’s orders may be appealed in the New York County State Supreme Court. Id. § B1-9.0.


Damages for mental pain and suffering, virtually unheard of before this decade, are routine today at the New York City Commission.
A black mechanic terminated because of race discrimination won $1,784 in compensatory damages (having subsequently found other employment), $500 of that for pain and suffering, after a hearing.20 A blind secretary refused employment because of her handicap won $6,935 (the equivalent of a year's salary) plus $1,000 for pain and suffering.21 A Jewish airlines serviceman harassed and terminated as a result of religious discrimination won $11,889, $5,000 of that for "humiliation, outrage and mental anguish," after a hearing.22 A professor discharged in retaliation for testifying in a colleague's discrimination suit won a settlement of $17,000, plus a $4,305 contribution to his retirement fund and other benefits.23 Such remedies as these are revising the Commission in ways that no amount of structural change could accomplish.

Finally, Benjamin was willing to advocate abolition of the agency without having educated himself about the most important tool yet developed in civil rights work, one that is revolutionizing enforcement and the agencies that undertake it. It is the use of the commission-initiated pattern and practice complaint to bring about total personnel reform in large companies. This is a new technology that stands in sharp contrast to the slow case-by-case approach that scatters an agency's resources without reference to impact in numbers on protected classes. It puts a premium on system reform and target selection. Large companies are chosen based on their size, statistical profile of women and minorities, and use of often neutral practices that have a discriminatory effect — non-job related tests and credentials, promotion only from certain job categories, and the like. Every aspect of the employment system is revised, including recruitment, hiring, promotion, testing, credentialism, benefits, assignment, classification, and unequal pay, to name the major areas. The result is wholesale, including everything from radically different and more diverse recruitment to the insertion of a fair maternity benefits policy. The Commission has helped perfect this methodology under annual grants from the EEOC.

This is a decidedly different way for a civil rights agency to do business. In only four years, between 1969 and 1973, this meth-

21. Case closed by a stipulation of settlement, which provides for confidentiality.
23. Case closed by a stipulation of settlement, which provides for confidentiality.
odology produced $45 million worth of jobs for minorities, a figure not even remotely approached in the Commission's entire history. The effectiveness of new pattern-and-practice techniques has been tested in the roughest of waters, for New York City has experienced a steady decline in jobs since 1969. In companies where the Commission was doing pattern-and-practice compliance, the work force declined by almost 14.5 percent from 1970 to 1974. Yet there was a 21 percent increase in minority employment during this same period, and 61 percent of the net increase was in professional and technical occupations. Continuing strong results from the most recent data covering the first nine months of 1974, when the country has been in deep recession, are especially significant. More than one-third, or 34.1 percent of the total hired were minorities during this period of precipitous economic decline.

These results bear watching, and, certainly, looking into, before one decides to dispense with the New York City Commission and others like it. Such results would not have been possible if civil rights responsibility had been spread across several different agencies, unfocused and low on the agendas of departments long accustomed to the hectic priorities of other city business. Indeed, these results constitute a breakthrough in civil rights
compliance that has been twenty years in coming and for which minorities have waited a hundred years. Nor are women and other groups likely to want to give up civil rights agencies just as they are crossing over the great divide where tangible results are at last clear for all to see and demand for themselves.