

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
OFFICE OF COMMUNITY DEVELOPMENT

SUBJECT: Anti-Displacement/Relocation Policy Prohibits Permanent Relocation Assistance

Policy Bulletin #24

EFFECTIVE DATE: July 1, 2000

Rental rehabilitation, rental development, and many homebuyer projects receiving Office of Community Development (OCD) assistance are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) or Section 104d of the Housing and Community Development Act of 1974. This includes projects that result from acquisition, demolition, or rehabilitation (rental) for projects carried out by:

- Local units of governments
- Nonprofit organizations
- Private developers or others

Compliance may be in the form of **timely issued notices** (required for all rental rehabilitation and homebuyer projects), explaining the use of HUD assistance for the project, to relocation activities for individuals permanently displaced (either physically or economically) due to the project. Relocation can be costly both in terms of dollars spent and in staff hours.

In an effort to protect valuable resources for housing production, OCD has established a policy that is directed to minimizing the effects of relocation activities as mandated by URA. Projects that require permanent relocation of an individual or a business will not receive OCD funding (HOME, CDBG, or MSHDA funds) to finance any of the costs involved in the relocation.

This policy will cover:

- Overview of URA
- Homebuyer Notification Requirements
- Rental Rehabilitation/Development Notification Requirements
- Temporary Relocation Benefits
- Rent Burden/Economic Displacement

Overview of URA

- The Uniform Relocation Act protects the rights of persons and businesses who are forced to move or sell their property due to a federally-assisted project.
- Property owners are protected by the Uniform Relocation Act (URA) if their property is taken involuntarily through an agency with the power of eminent domain.
- Grantees who are working with homebuyers must be aware of the required notices to sellers that the sale of their home is voluntary, federal funds are involved, and that the sale is not covered by the URA. While the market value must be disclosed, the price may be negotiated.

- MSHDA requires that all properties being purchased by homebuyers must be vacant or owner-occupied.
- A person is “displaced” when they are forced to move due to a CDBG or HOME-assisted project. All displaced persons, despite income level, are covered by the URA.
- Low-income tenants who are displaced from a unit that is demolished or lost to the supply of permanent affordable housing have additional protection under Section 104(d).

Homebuyer Notification Requirements

Purchases or property assisted with CDBG or HOME funds are subject to the URA. However, when property is sold on a **voluntary basis**, the seller is not eligible for relocation benefits as a “displaced person” nor are the negotiations surrounding the sale covered by the acquisition requirements of the URA.

A “voluntary sale” is one in which:

- The purchaser does not have the power of eminent domain, such as a nonprofit or first-time homebuyer; or
- The purchaser might have the power of eminent domain, such as a city or a county, but they do not intend to acquire the property through condemnation.

Anytime there is an acquisition, the program administrator must provide the seller with a completed *Notification to Seller* (Attachment A) and have the seller complete an *Occupancy/Vacancy Certification* (Attachment B) prior to receiving the Purchase Agreement. **Note:** Acquisition of property also includes down payment assistance programs. As required under URA, by completing these notices timely, the program administrator will have:

- Informed the seller in writing that the purchase is assisted with federal funds.
- If the buyer has the power of eminent domain, informed the seller in writing that the buyer will not use its power of eminent domain to acquire the property if negotiations fail to result in a mutually-agreeable settlement.
- Informed buyers without eminent domain powers that this is a voluntary sale and that no eminent domain will be used.
- Revealed to the seller the fair market value of the property **prior to entering into a sales contract** (the value has to be established to assure it meets eligibility criteria), but if a lower sales price is negotiated, the buyer is not required to pay the full market value.

NOTE: If a tenant resides in the unit at the time of sale and the property is not being sold to the tenant, OCD funds cannot be used to acquire this unit. While owner-occupants are not entitled to relocation benefits if they are willing sellers (and the purchaser meets all the previous requirements), **tenants who are in the property are entitled to relocation benefits.**

Rental Rehabilitation/Development Notification Requirements

It is the responsibility of the funding agency/grantee (local unit of government or nonprofit) to insure that recipients of HUD funds (CDBG or HOME) administer their projects in such a way that every tenant understands the protection and entitlement they have under the URA.

Who needs a notice? Everyone living in a HOME or CDBG funded project (even if their unit is unassisted), starting with the **General Information Notice (Attachment C)**, **Notice of Non-Displacement to Residential Tenant (Attachment D)**. **Note:** The project file must contain a copy of the addressed notice and indicate the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery.

- The **General Information Notice (GIN) - Residential Tenant That Will Not Be Displaced (Attachment C)** must be given to each in-place tenant at the time that an application from the property owner for federal funds is received by the grantee (local unit of government or nonprofit). The GIN should explain the proposed project, caution the tenant not to move prematurely, and tell them that the URA protects their rights if they are forced to move as a direct result of the project. **Whoever is responsible for delivery of the GIN - and every other notice - should take great care to get proof of receipt from every household and keep files for each family.**
- The **Notice of Non-Displacement to Residential Tenant (Attachment D)** must be given to every tenant in the CDBG or HOME funded project at the time:
 - The application is approved by the grantee and a legally-binding agreement between the owner and the funding entity is signed; and,
 - Prior to the commencement of rehabilitation of the property.
- The **Notice to Prospective Tenant (Attachment E)** or “Move-In Notice” must be provided to any tenants before they sign a lease, or move into a project at any time after the application has been submitted, and during the time of rehabilitation. That is from the time the application is approved through the time the project is completed. The **Notice to Prospective Tenant** or “Move-In Notice” should state that an application has been submitted, or approved, and inform the tenants that they will not be eligible for relocation benefits if they are subsequently forced to move. If someone legally moves into a unit, and they are not told that they would be ineligible for URA benefits, **they are covered and must receive full coverage if they are displaced.**

Failure to issue timely, appropriate notices may result in creating liability for making relocation payments to tenants who otherwise would not have been eligible. For example: a developer applied for HOME or CDBG funds to rehabilitate a building on May 1. On June 15, the application was approved. However, a family moved from the building on June 1 without being given a General Information Notice. If the project proceeds, the family will have to be found and may be eligible for URA benefits.

Temporary relocation benefits must cover all increases in family housing expenses due to the project until they can return to their unit. The agency should offer a suitable unit for temporary use (this sets the upper limit on what you will pay for) and the family does not necessarily get the same unit in the project when the work is complete. Terms and conditions of the temporary move must be “reasonable”. (Experience shows that having written temporary relocation policies to give to families is a very smart thing to do to protect yourself and the families.)

Rent Burden/Economic Displacement

If a family's rent increases to the point where they can no longer afford to stay in the project, they are rent burdened because of HUD-funded rehabilitation. If they move, they are "economically displaced" and are eligible for relocation benefits. **Note:** Economic displacement occurs only if the rents of the unit(s) increases after rehabilitation.

How do agencies avoid economic displacement? They have several options:

- They can raise rents to a level within existing tenants "ability to pay" (defined as 30% of income);
- They can decide not to raise rents for existing tenants;
- They can use Section 8 Rental Assistance to make the new rent affordable; or
- They can decide not to do projects that will cause economic displacement.

Developers and owners of rental property need to be aware that if any agency can offer Section 8, these families are **not required** to remain in the project and use their assistance. They can take it to another project and be assisted, but they are not displaced and not eligible for URA benefits if they move under these circumstances.

In summary, URA applies when HOME or CDBG funds are used in the project, including project delivery costs. Grantees must be certain that proper and timely notices are provided to property owners and tenants for homebuyer (including down payment assistance) and rental rehabilitation activities, in order to avoid relocation payments. (Rehabilitation of owner-occupied units is exempt from URA.)

Any questions regarding this Policy Bulletin should be addressed to your Community Development (CD) Specialist or CD staff at (517) 373-1974.

Attachments

- A, Notification to Seller
- B, Occupancy Vacancy Certification
- C, General Info Notice, Notice of Non-Displacement to Residential Tenant
- D, Notice of Non-Displacement to Residential Tenant
- E, Notice to Prospective Tenant