

11. Consideration of adopting Uniform Relocation Assistance and Real Property Acquisition Act (URA) Policies and Procedures.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Ibis S. Berardi, Community and Economic Development Acting Director

DATE: May 2, 2024

RE: Consideration of adopting Uniform Relocation Assistance and Real Property Acquisition Act (URA) Policies and Procedures

SUMMARY:

The City administers various state and federally funded housing grant programs to assist low- and moderate-income residents of Palm Bay with down payment assistance, owner-occupied rehabilitation, emergency repairs, utility hook up assistance, and rehabilitation/new construction of affordable housing. The U.S. Housing and Urban Development Department, under the Code of Federal Regulations, 49 CFR Part 24, to effectively administer each housing program under state and federal requirements, it is necessary for the City's Housing Division to have a Standard Operating Procedures Manual that outlines these requirements. The local URA Policies and Procedures establish how tenants would be relocated in accordance with the URA requirements.

Staff drafted URA Policies and Procedures in line with guidance from the Department of Housing and Urban Development (HUD). At a meeting held on April 17, 2024, the Community Development Advisory Board (CDAB) recommended approval of the URA Policies and Procedures to Council.

REQUESTING DEPARTMENTS:

Community & Economic Development

FISCAL IMPACT:

There is no fiscal impact.

STAFF RECOMMENDATION:

Motion to approve the Uniform Relocation Assistance and Real Property Acquisition Act (URA) Policies and Procedures.

Honorable Mayor and Members of the City Council

Legislative Memorandum

Page | 2

ATTACHMENTS:

1. Uniform Relocation Assistance and Real Property Acquisition Act (URA) Policies and Procedures

City of Palm Bay
Community and Economic Development Department
Housing and Community Development
Policies and Procedures – Rental Rehabilitation Program

PURPOSE:

The purpose of this document is to provide a procedure for implementing the provisions of the Uniform Relocation Act (URA) as applicable to a HOME funded rental rehabilitation program.

POLICY:

The URA policy provides relocation assistance to any person as defined at 49 CFR 24.2 (a) (9) (i) that is displaced as a result of a federally-assisted project involving acquisition, demolition, or rehabilitation. A displaced persons for the purposes of the rental rehabilitation program include bona-fide tenants.

In the rental rehabilitation program, the property owner must comply with all URA requirements for notices and applicable services. The requirements may include a minimum thirty (30) day notice to vacate in an instance of a temporary relocation, replacement housing payments, housing of last resort, and moving expenses. Tenants of properties receiving assistance that results from the funding of a property under the rental rehabilitation program may be either temporarily or permanently displaced. Relocation in the rental rehabilitation program is anticipated to be primarily temporary relocation activities, which is the principal focus of these procedures. Designated rental rehabilitation program staff members (hereinafter “Relocation Specialist”) will work with each tenant-occupied property to assist Landlords in complying with the URA requirements.

PROCEDURE:

The steps in the relocation process include:

1. Determination of eligibility for residential relocation;
2. Survey of persons to verify relocation eligibility, including establishing original occupancy date;
3. Interview to determine relocation needs of tenants;
4. Notification of relocation eligibility and assistance;
5. Provision of relocation services;
6. Appeals; and
7. Recordkeeping.

Determination of Eligibility

Displacement occurs when a person (or persons) is required to move as a direct result of a rental rehabilitation program-assisted project. It would not include persons evicted for cause, who do not have the legal right to occupy, or who occupied a property for the purpose of obtaining relocation benefits.

Survey of Displaced Persons

A Relocation Specialist, with assistance from the Landlord, must identify persons and perform surveys and interviews with each of those households early in the planning phase of the project. The purpose of these planning surveys and interviews is to determine who is eligible for relocation assistance and determine their housing and financial needs.

Typical information obtained includes:

1. Names of occupants and their relationships, identification of head of household;
2. Exact address of dwelling;
3. Telephone number(s) of residents;
4. Determination of language access assistance for persons with limited English proficiency ;
5. Age, sex, marital status, and minority group classification of each person;
6. Date person first occupied the dwelling (documented by rent payment or utility receipt);
7. Housing data, including size of current dwelling by number of rooms and square feet;
8. Employment status and place of employment;
9. Family income and assets, broken down by each wage earner in the household;
10. Financial obligations and debts, including dependents, loans, charge accounts;
11. Current housing-related expenses;
12. Housing preferences (e.g., neighborhood, rental or purchase, subsidized housing);
13. Special housing needs (e.g., proximity to day care or medical facilities);
14. Health status and health coverage; and
15. Household problems and deficiencies (such information is generally obtained through observation, rather than direct questioning; for example, lack of furniture, drug addiction, alcoholism, poor housekeeping standards).

To determine accurately the family or individual's ability-to-pay for replacement housing, it will be necessary to verify the income information provided during the interview(s).

Notice of Relocation Eligibility

The City contacts applicants to determine if the rental units are currently occupied or have been occupied up to sixty (60) days before the date of application. If so, the City verifies that the General Information Notice (GIN) was provided to the tenants. If not, the City explains the GIN process to the applicant(s) who must notify the tenants and obtain the required tenant acknowledgement.

Once received, the applicant submits either the certified mail return receipt signed by the tenant or a tenant acknowledgement letter, if the GIN was hand-delivered. If these documents are not received within thirty (30) days from delivery of the GIN, the City contacts the applicant to follow up.

The application cannot move forward until the tenant acknowledges receipt of the GIN. If the tenant acknowledgement is not received within sixty (60) days, the application is deemed incomplete and the applicant is notified.

Once it is determined that there will be tenants in need of temporary relocation assistance, a Relocation Specialist is assigned to work with the Landlord and tenants to ensure a compliant process and to provide ancillary relocation assistance (counseling, housing search assistance, transportation).

The Relocation Specialist completes the following:

- a) Collects documentation and verifies information from the rental rehabilitation program applicant about tenants, those currently occupying units as well as any that were occupied at the time of the storm or up to sixty (60) days prior to the submission of the rental rehabilitation program application.
- b) For properties with occupied units, contacts the rental rehabilitation program applicant to discuss the applicability of the relocation requirements to his/her property.

The appropriate HUD brochure must accompany this notice, *Relocation Assistance to Displaced Tenants*, which is available at <https://www.hud.gov/sites/documents/tenadisp.pdf>. Tenants who will be displaced will acknowledge receipt by initialing on the cover of the brochure.

The appeals procedure should be included with the *Notice of Relocation Eligibility* and receipt documented.

All notices must be written in plain, understandable language. In an instance where a Landlord or Relocation Specialist is aware that a tenant does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English because of their national origin, the Relocation Specialist will facilitate services for the tenant so that they are able to understand in a language most familiar to them that describes their rights and obligations.

Notices must be either hand delivered with receipt documented or sent by certified or registered mail, return receipt documented. Hand delivery may be preferable because it gives the Relocation Specialist and the Landlord the opportunity to explain the relocation process face to face and answer questions.

The Notice of Relocation Eligibility includes the following:

- Project name;
- Owner contact person and contact information;
- Relocation Specialist contact name and contact information;
- The nature and extent of advisory and counseling services available (see below);
- The amounts and types of financial assistance available (see below);

- A clear statement that the Relocation Specialist must inspect replacement housing chosen to assure that it is decent, safe, and sanitary and free from unreasonable adverse environmental hazards, as defined by the HUD HQS, and that relocation payments can be made only for replacement housing that passes inspection;
- A clear statement that the household will not be required to relocate without at least ninety (90) days advance written notice;
- A clear statement that self-relocation without coordination with the Relocation Specialist may jeopardize the availability of rental rehabilitation program funding; and
- Fair Housing information.

The tenant should be required to sign an acknowledgement of receipt of this information and a copy provided to the Relocation Specialist for the client file.

Advisory and Counseling Services

All advisory services are designed to keep households informed of their status, options, and choices. Advisory services include information provided orally and in writing. The Agency expects the Relocation Specialist will work with the owners and tenants to develop sound rapport with those to be relocated to minimize the possibility of confusion and concern.

The Relocation Specialist will be responsible for the following activities as needed to ease the relocation process:

- Personally interview each household to be displaced, determine specific relocation needs and preferences, explain the relocation assistance and advisory services to be provided by the Landlord which may be available, the related eligibility requirements, and the procedures for obtaining relocation assistance and advisory services. ;
- Facilitate transportation services for persons who are to be relocated to comparable dwelling units that do not have access to transportation;
- Ensure that prior to displacement, comparable replacement dwellings will be available for displaced persons;
- Supply information concerning Federal and state housing programs and services;
- Ensure that the relocation process does not result in different or separate treatment on account of race, color, religion, national origin, sex, age, familial status, handicap, or source of income; and

In addition to the services specifically related to the relocation itself, the Relocation Specialist will also provide information about non-housing services that could be helpful to the household. The Relocation Specialist may provide information directly or may provide referrals to public or private agencies that could assist with:

- Family and personal counseling;
- Access to medical care;
- Information on social security, food stamps, veterans' benefits, or other similar financial assistance programs;
- Transportation needs;
- Employment counseling and job training;
- Aging issues;

- Financial management and planning;
- Family planning; and
- Legal aid.

Relocation Assistance

The Landlord shall be responsible for the payment of all relocation costs associated with the rehabilitation of their property. The financial assistance portion of the relocation process comprises the following:

- All moving and related expenses using either a fixed moving expense and dislocation allowance or reimbursement for actual reasonable expenses; and
- During the period where a property is being rehabilitated and a tenant(s) must be temporarily relocated to another dwelling unit, the tenant will be responsible for the payment of the amount of rent specified in their lease with the Landlord. Any cost differential payable as a result of the temporary relocation of a tenant shall be paid for by the Landlord from their own resources.

Moving and Related Expenses

All families and individuals who are permanently and involuntarily, or temporarily displaced are eligible for moving and related expenses, either as a fixed payment *or* documented reasonable expenses. The Relocation Specialist in conjunction with the Landlord will assist tenants that are to be displaced to organize moving and (if necessary) storage arrangements as they work with their respective Landlords.

The fixed payment consists of a moving expense and dislocation allowance, as set by the Federal Highway Administration (FHWA). The *Residential Moving Expense and Dislocation Allowance Payment Schedule* is published annually in the Federal Register. A copy can be obtained from Agency, or at www.fhwa.dot.gov.

The following actual reasonable and documented expenses are eligible for reimbursement:

- Transportation of the displaced person and personal property to the replacement housing. (Transportation costs beyond 50 miles are not eligible);
- Packing, crating, unpacking, and uncrating of personal property;
- Storage of personal property not to exceed twelve (12) months or longer, if determined to be necessary;
- Insurance of displaced person's personal property in connection with the move and necessary storage;
- Deposits and credit checks; and
- Replacement value of property lost, stolen, or damaged in the process of moving.

Replacement Housing Payment

A replacement housing payment (cost differential) is meant to minimize any negative financial effects of involuntary relocation.

Replacement housing payments (RHP) are available to occupants who have actually and lawfully occupied the acquired dwelling for at least ninety (90) days prior to displacement.

The RHP is calculated as using the lesser of the difference between the monthly housing cost of the original dwelling and the monthly rental payment plus utilities (based on the Utility Fee Schedule) of the newly-occupied and approved unit or a currently available, comparable replacement housing unit:

- For the duration of displacement term, if temporary; or
- Multiplied by forty-two (42) months, if permanent.

The RHP to a tenant may be applicable only in a circumstance where there is a permanent relocation event.

Identification of Replacement Housing Needs and Resources and Securing Replacement Housing

One of the purposes of the Survey of Displaced Persons discussed earlier is to provide the data needed to determine replacement housing needs. All replacement housing must be comparable.

There are two key criteria to comparable replacement housing.

- The replacement housing unit, it must be decent, safe, and sanitary. The regulations define this as the replacement unit must meet local housing or occupancy codes. The only times that local housing or occupancy codes do not define decent, safe, and sanitary are when such codes do not exist or when the replacement unit is Section 8 assisted. In the latter instance, Section 8 Existing Housing Quality Standards (HQS) define decent, safe, and sanitary. The unit must also be free of architectural barriers, if serving a person with a disability.
- Second, the replacement unit must also be functionally equivalent. This means that the unit to which a tenant is relocated must be substantially the same or comparable (with respect to the number of rooms and living space unless additional or larger rooms are needed to meet the decent, safe, and sanitary criteria, i.e., two persons per sleeping/living space).

Having identified the replacement housing needs, the Relocation Specialist must take an inventory of available housing resources. In doing this, the Relocation Specialist must be aware of fair housing criteria that must be met when relocating low-income and minority persons. The regulations encourage the Agency to identify comparable replacement housing that are available to low-income or minority tenants in areas that do not have significant concentrations of either low-income or minority households if such opportunities are available.

Up-to-date information on the availability and prices of comparable replacement rental housing and comparable sales (if applicable) must be provided. All units must be inspected using the HUD HQS inspection form 52580 and certified as meeting code before being placed on a referral list.

Some tenants will not wait for the Relocation Specialist to locate suitable units. They will search for their own units and relocate themselves. Occupants who relocate themselves risk not receiving the compensation to which they are entitled. This can happen because:

- The occupants do not know they are entitled to it and fail to apply;
- The Relocation Specialist is unable to trace them to their new quarters; or
- The new quarters are substandard (in which case the tenants will receive moving expenses only).

If the Agency fails to make referrals to comparable replacement housing and the tenant makes a self-move to a decent, safe, and sanitary dwelling unit, the Agency will deem the household displaced and the RHP and will provide for the tenant's increased housing expenses for a period not to exceed forty-two (42) months.

Completing Relocation and Processing Claims

The Relocation Specialist shall refer at a minimum, one comparable replacement dwelling to the permanently and involuntarily displaced person. Where possible, three or more available replacement dwellings should be referred in a timely matter. The displaced person must be afforded the opportunity to enter into a negotiated lease agreement. The relocation claim will be filed with and paid for by the Landlord.

Notice of Temporary Relocation (30 days prior to relocation)

After the Relocation Specialist has made a reasonable choice of suitable replacement housing opportunities available to the tenant, a designated representative of the rental rehabilitation program may issue the *Notice of Temporary Relocation*. The notice will be sent to the tenant at least thirty (30) days prior to the date by which the property must be vacated and indicate that a second notice will be issued at least ten (10) days in advance of the date the property must be vacated.

The timing of the notices is very important. If a notice is sent in anticipation of a construction start date and there are unforeseen delays, the Relocation Specialist should inform the occupant of the delay and indicate the expected date that a property must be vacated.

Notice to Vacate (10 days prior to relocation)

In addition to the Notice of Temporary Relocation that is to be sent by a representative of the rental rehabilitation program, a Landlord is required to send a Notice to Vacate. The Notice to Vacate a property is to be sent to a tenant a minimum of ten (10) days prior to start of rehabilitation. The Landlord is to obtain written confirmation of receipt that the tenant received the Notice to Vacate. The evidence of receipt should either be signed by the tenant on the original copy of the Notice to Vacate, or if that is not possible then a separate Certification of Receipt that acknowledges that the Notice to Vacate was delivered should be obtained from the tenant and included in the file.

Continuation of Assistance

Prior to and following the fifteen (15) day notice, the Relocation Specialist continues to work with the tenants by inspecting units, certifying they meet code; assisting in the review of the leases as appropriate; assisting or preparing claim forms; verifying that claims have been processed; and documenting claims to confirm payment.

(Note: The HUD claim forms must be used. They can be found in HUD Handbook 1378 (www.hud.gov)).

Notice to Return to Primary Residence

Upon completion of the rehabilitation of the unit(s) in the rental rehabilitation program-assisted property and approval of the dwelling unit for occupancy by the local municipality (as applicable), the Relocation Specialist or designated rental rehabilitation program representative shall send a Notice to Return to Primary Residence to the tenant. The purpose of the Notice to Return to Primary Residence is to confirm that the property is available for occupancy by the tenant, and that the tenant should move from the property where they have been living during the rehabilitation period and return to their primary residence.

Time Limitations for Filing Claims

All claims may be filed up to eighteen (18) months following the completion of the move. If there is undisbursed relocation assistance at the time of grant close out, the Relocation Specialist will calculate maximum payments for each potential claimant, document as unpaid costs, maintain documentation in the files, and note amount of unpaid costs on the *Final Financial Report*. Failure to comply with this requirement could result in the funds remaining in the rental rehabilitation program Grant Agreement being recaptured.

Relocation Payments

The Relocation Specialist is responsible for ensuring that all payments are made in a timely fashion. The Relocation Specialist should confirm that the recipient has signed a letter acknowledging receipt of relocation payments.

Lump sum payments are prohibited. In the event of the death of the claimant(s), the remaining amount set aside for relocation costs shall be used to cover current housing expenses; be disbursed to remaining household members; or pay the obligation of a deceased person's estate for the replacement dwelling.

If a person makes a claim for payment that must be denied because the unit is substandard, the Relocation Specialist must inform the claimant why the claim is being denied, indicate the assistance available for bringing the current unit up to code, and the on-going opportunity to qualify for rental rehabilitation program funds by the tenant moving to a standard unit.

In any instance in which payments are not made, the Relocation Specialist must be able to fully document its efforts to facilitate the payments, the reasons payments were not made. The regulations mandate that a claim for payment be submitted within a period of eighteen (18) months after permanent and involuntary displacement. The Relocation Specialist should strictly adhere to this limitation and fully document its initial notification of this requirement and all subsequent reminders.

If relocation has not been completed within six (6) months of the date of issuance of the Notice of Relocation Eligibility, the Relocation Specialist must provide in its files a written explanation of delay and plan for timely completion.

Permanent Relocation

In certain instances a tenant may be permanently and involuntarily relocated, and in turn qualify for relocation assistance as described in the Uniform Relocation Act. These benefits include the following:

- All moving and related expenses component using either a fixed moving expense and dislocation allowance, or reimbursement for actual reasonable expenses; and
- A Replacement Housing Payment (RHP) which is a cost differential component using a specific formula to make up the difference between an occupant's current rent and the new rent they will be required to pay if they are permanently and involuntarily displaced.

A more detailed description of the eligible moving and related expenses cost and the RHP is included in the Temporary Relocation section of these procedures. As previously stated the rental rehabilitation program is intended to focus on circumstances of Temporary Relocation and permanent and involuntary relocation is expected to be limited circumstances.

Complaints and Appeals

Written complaints and appeals shall be considered regardless of form. If the person needs assistance in filing one, the Relocation Specialist shall provide appropriate assistance.

Actions That May Be Appealed

Persons being displaced may file an appeal if they believe the Relocation Specialist has:

- Made a mistake in determining eligibility for payment;
- Made an error in figuring the amount of payment;
- Been unfair in refusing to waive the time limit for filing a claim or the purchase and occupancy requirements;
- Not provided a reasonable choice of comparable replacement housing;
- Not properly inspected the replacement housing; or
- Failed to comply with the provisions concerning the notice of right to continue in occupancy.

Appeals will first be forwarded to the rental rehabilitation program Relocation Specialist. If the rental rehabilitation program Relocation Specialist is unable to resolve the issue, the tenant will be provided with information on his/her right to appeal, and the process to be followed.

Appeals are limited to actions or decisions that the individual making the appeal (petitioner) believes to be in conflict with stated program policies or to be based on contestable facts. Program policies established by the Agency are not appealable.

Appeals Process

Appeals must be submitted in writing to the City of Palm Bay, 120 Malabar Rd SE, Palm Bay, FL 32907. The request must contain the following information:

- Tenant's name
- Tenant's mailing address
- Tenant's telephone number
- Email address (if available)
- The reason(s) the decision or action is being appealed

- Documentation that supports the request to overturn the decision or action.

Appeals will be received and processed by the City staff. Appeals will be date stamped when received and placed on a log for tracking. An acknowledgement of receipt will be sent by mail to the appellant. City staff will review appeals relating to actions or decisions made by the Relocation Specialist. (This staff is independent from the rental rehabilitation program staff that originally made the decision being appealed.).

If appropriate, the City appeals staff will overturn the decision and take corrective action. If the appeals board determines that the action or decision should stand, the Relocation Specialist will prepare a statement and documentation to support the decision for the submission of the appeal to the City. The City will review the recommended action for further consideration.

An appeals staff member will review the appeal documentation presented by the applicant and by the Relocation Specialist. If necessary, the appeals staff member will contact the applicant to allow him/her to provide additional documents, or to be interviewed to determine the merits of the applicant's appeal.

If the action or decision of the Relocation Specialist is overturned, the notification will specify the corrective action to be taken. For contested cases where ineligibility has been determined, the City will render a decision and notify the applicant of the decision in writing. For non- contested cases, the City will issue a final decision.

The time limit for a person to file an appeal is thirty (30) days after the person receives the written notification of the Relocation Specialist's determination.

Recordkeeping

The Relocation Specialist must maintain a separate relocation file for each displaced person for at least five (5) years after final project closeout, or after the person has received his/her final relocation payment, whichever is later.

Each separate relocation case file shall be documented sufficiently to demonstrate full compliance with the information specified above.