

City of Minot

CITY OF MINOT, NORTH DAKOTA RESIDENTIAL TENANT RELOCATION ASSISTANCE PLAN

Introduction. The purpose of this plan is to define benefits and advisory services that are available from the City of Minot, North Dakota and its use of Community Development Block Grant (CDBG) funds in the City's Voluntary Acquisition Program. Although residential owners participating in the Voluntary Acquisition Program are not eligible to receive relocation assistance, residential tenants displaced by the acquisition of the property may be eligible for relocation assistance.

Purpose. This relocation assistance plan is intended to provide the preliminary analysis of the relocation requirements associated with the City's Voluntary Acquisition Program. Displaced residential tenants may be entitled to relocation benefits and assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended and as modified by the HUD's "waiver provisions" published in the Federal Register Volume 77, No. 73 Docket Number FR-5628-N-01.

Policy. The City of Minot, North Dakota will provide relocation assistance to all eligible displaced residential tenants that are displaced by the 2011 flood and the acquisition of the property by the City of Minot through its Voluntary Acquisition Program. The services and payments described herein shall be provided to all displaced persons in accordance with applicable laws, rules, regulations and administrative procedures.

The City will provide assistance to eligible displaced residential tenants on a nondiscriminatory basis and shall not discriminate because of race, color, religion, national origin, age, sex, gender, or handicap.

Definitions.

Acquisition. Purchase of property using, in whole or in part, CDBG funds by the City on a voluntary basis.

Comparable Housing. A dwelling that is functionally similar to the present unit, is decent, safe and sanitary, and is currently available on the private market.

Comparable Unit. A residential unit similar in size, similar in function, reasonably accessible to the person's employment, located in equal to or a better area than the displaced unit vis-a-vis public utilities and commercial and public facilities, currently available, decent safe and



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sanitary.

Decent, Safe and Sanitary. A structurally sound, weather tight and in good repair unit including wiring that is safe and adequate for lighting and other devices; a heating system capable of sustaining a healthful temperature; adequate in size for the household including separate, well-ventilated bath with sink, bathtub or shower and toilet in good working order and properly connected; a kitchen area with sink, potable water, sewage drainage, and space and connections for stove or refrigerator; an unobstructed egress to safe, open space at ground level; free from any barriers which would preclude a person with mobility impairments from ingress, egress or use of the dwelling; all as determined by the City of Minot.

Demonstrable Hardship. Demonstrable hardship is defined using its two component words:

- Demonstrable-proved or shown, by objective evidence (not subjective feelings).
- Hardship-an economic impact which is burdensome or very difficult to bear, causing economic distress well beyond mere inconvenience.
- A demonstrable hardship is a substantial change in a tenant's financial situation that will prohibit or severely affect their ability to provide a minimal standard of living or the basic necessities of life including food, housing, clothing and transportation without causing economic distress well beyond mere inconvenience as shown by objective evidence. A demonstrable hardship must be occurring after the 2011 flood event. The term is not necessarily a definable term of fixed and inflexible content or meaning.
- The demonstrable hardship must be of a severe, involuntary and unexpected nature. It must not be one that is generally shared by other property owners or tenants affected by the 2011 flood event or within the disaster area. Examples of a demonstrable hardships may include job loss, failure of a business, divorce, severe medical illness, injury, death of a family member or spouse, unexpected and extraordinary medical bills, disability, substantial income reduction, unusual and excessive amount of debt due to a natural disaster, etc. None of the listed examples above, individually or taken together, automatically establish a demonstrable hardship nor is the listing above exhaustive as there may be other factors relevant to the issue of demonstrable hardship in a particular case.



- The existence of a demonstrable hardship will be evaluated on a case-by-case basis after review of all of the circumstances. Whether there is a demonstrable hardship heavily depends upon the facts and circumstances.
- Persons claiming a Demonstrable Hardship shall be required to provide evidence of such claimed Demonstrable Hardship to the Swanson & Warcup, Ltd., who shall thereafter forward such information received to Cindy Hemphill, City of Minot Finance Director, for decision. A written decision shall be made including the reasons therefor and returned to Swanson & Warcup who shall provide a copy of such decision to the person claiming the Demonstrable Hardship.

Displacement. The involuntary movement of a person or household from a rental unit as a direct result of a CDBG assisted acquisition activity.

Displaced Residential Tenant. A tenant who as a result of a written notice must move his or her personal property from real property.

Functional Equivalent. The unit that performs the same function, provides the same utility, is capable of contributing to a comparable style of living. A comparable replacement dwelling need not possess every feature of a displaced dwelling, the principal features must be present. Generally, functional equivalency is an objective standard reflecting the range of purposes for which the various physical features of a dwelling may be used.

Replacement Unit. The housing unit for which the displaced person actually moves.

Tenant. A person or household who has use and occupancy of real property owned by another.

Notices and Qualifying Conditions. Prior to displacement of a tenant as a result of an acquisition by the City, the eligible residential tenant will be given written notice by certified mail, personally delivered or otherwise that they will be required to move from the unit. The notice shall indicate the name, address and telephone number of a person on behalf of the City of Minot who may be contacted to provide assistance with the relocation and answer questions the tenant may have. The notice will include a brief explanation of relocation benefits that are available.

A tenant must reside in the dwelling unit on the date of the initiation of negotiations, i.e. the date of the first written offer to purchase the property made by the City to the tenant's



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landlord or must have been in occupancy at the time of the flood event and moved because of the event.

Persons currently residing in a property to be acquired who are eligible for relocation payments and who are legally occupying the property acquired by the City will not be asked to move without first being given at least 90 days written notice. Occupants eligible for relocation assistance will not be required to move unless at least one comparable “decent, safe and sanitary” replacement residence, available on the market, is identified to them by the City.

Illegal Aliens Not Eligible. Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.

Residential Tenant Assistance Available. The City of Minot will contact all eligible residential tenants that are displaced as a result of the City’s Voluntary Acquisition Plan. As part of that contact the City will:

1. determine the need for relocation assistance;
2. provide information and prices on comparable available rental properties;
3. provide transportation to inspect such comparable housing if requested by tenant; and
4. assist displaced residential tenants in establishing replacement housing.

Relocation Assistance Available. In the event of displacement of a residential tenant as a result of the acquisition of a property through the City’s Voluntary Acquisition Program, the City will insure that tenants are treated fairly and consistently and will provide services and benefits as listed below:

1. **Advisory Services.** Determine the needs and preferences of each tenant based on a personal interview. During this interview the City will provide information on the operation of its relocation program. In an attempt to minimize hardship to displaced tenants, the City will make available services of an individual who will provide counseling, process relocation benefit claims, and assist in meeting the relocation needs of a tenant. The City will assist the tenant in identifying comparable housing by providing comparable replacement dwelling unit locations, information including the landlord’s name and phone number, and the rental price.



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Tenants will be advised of their rights under state and federal law.

2. **Moving expenses.** The City will pay for reasonable out-of-pocket moving expenses for displaced tenants who move within fifty (50) miles of Minot, including transportation, packing, moving and unpacking of household goods, disconnecting and reconnecting utilities, storage of household goods, insurance for the replacement value of goods that must be placed in storage, costs of storage for a period not to exceed twelve (12) months, and replacement value of property lost, stolen or damaged during the move. An eligible displaced person will be assisted in completing a relocation claim form in order to be eligible for benefits. Any actual moving costs in excess of the fifty (50) miles are the responsibility of the displaced tenant.

A displaced tenant has a choice of two methods of calculating payment: payment for actual moving and related expenses or a fixed moving expense and dislocation allowance as follows:

- a. **Actual reasonable moving and related expenses.** A displaced tenant is entitled to payment for actual moving expenses that the City determines to be reasonable, customary and necessary. The payment for moving services will be made directly to the mover. Normally, two moving bids should be submitted. The bid will be awarded to a lower bidder unless there are unusual circumstances that should be considered.
- b. **Fixed moving expense and dislocation allowance.** A fixed move is for tenants who prefer to take full responsibility for their own move. The City will make a payment to cover any moving expenses based on the number of rooms in the unit or the number of rooms of furniture to be moved. There is no requirement to document how the funds are used. The fixed move will be paid according to the following schedule:



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Occupant owns furniture:

| <u>Number of Rooms</u> | <u>Amount</u> |
|------------------------|---------------|
| 1 | \$ 550.00 |
| 2 | \$ 750.00 |
| 3 | \$ 950.00 |
| 4 | \$1,150.00 |
| 5 | \$1,350.00 |
| 6 | \$1,550.00 |
| 7 | \$1,750.00 |
| 8 | \$1,950.00 |
| each additional room | \$200.00 |

Occupant does not own furniture:

| <u>Number of Rooms</u> | <u>Amount</u> |
|------------------------|---------------|
| 1 | \$475.00 |
| each additional room | \$75.00 |

3. **Replacement Housing Assistance.** HUD has waived the requirements at Sections 204(a) and 206 of the URA, 49 CFR 24.2(a)(6)viii, 24.402(b)(2) and 24.404. A reduction in rental assistance payments to 30 percent of household income without a demonstrable hardship is no longer required for tenants that are low-income. In using this waiver, the regulations require the City to define demonstrable hardship. Demonstrable hardship is listed in this document under the heading “Definitions”.

A. An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed \$5,250.00 for rental assistance. Such amount shall be 42 times the amount obtained by subtracting the base monthly rental for the currently occupied unit from the lesser of: (1) monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or (2) monthly rent and estimated average monthly cost of utilities for the decent, safe and sanitary replacement dwelling actually occupied by the displaced person.



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EXAMPLE 1:

| | | |
|------|--|--|
| Less | Monthly Rent & Utilities of Comparable property | \$600 |
| | Monthly Rent & Utilities of Subject property | \$500 |
| | Difference | \$100 x 42 months = \$4200 maximum payment |
| Less | Monthly Rent & Utilities of Replacement Property | \$575 |
| | Monthly Rent & Utilities of Subject Property | \$500 |
| | Difference | \$75 x 42 months = \$3150 |

In this example, since the Monthly Rent and Utilities of the actual replacement property is less than the comparable property used in the calculation, the payment to the Displaced Person is \$3150.

EXAMPLE 2:

| | | |
|------|--|--|
| Less | Monthly Rent & Utilities of Comparable property | \$600 |
| | Monthly Rent & Utilities of Subject property | \$500 |
| | Difference | \$100 x 42 months = \$4200 maximum payment |
| Less | Monthly Rent & Utilities of Replacement Property | \$625 |
| | Monthly Rent & Utilities of Subject Property | \$500 |
| | Difference | \$125 x 42 months = \$5250 |

In this example, since the Monthly Rent & Utilities of the comparable property is less than the actual Replacement Property, the rent supplement payment is limited to \$4200.

- B. Alternatively, an eligible displaced person who purchases a home can receive a payment equal to the amount the person would receive under paragraph A above if they rented a comparable replacement dwelling; or as computed determined under Section 4 (Replacement Housing of Last Resort) below. The amount of such payment must be applied as down-payment of the home that is purchased or to eligible closing costs for that home.
4. **Replacement Housing of Last Resort.** The City of Minot is currently experiencing a severe shortage of housing. It is anticipated that comparable replacement housing may not be readily available to all displaced tenants. Therefore, in anticipation of this shortage of housing, a discussion of Housing of Last Resort is made a part of this plan. The Last Resort provisions assure that comparable housing will be available to all displaced persons.
 - A. *Determination to provide replacement housing of last resort.* Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in 49 CFR §24.401 or §24.402, as appropriate, the City shall provide additional or alternative



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assistance under the provisions of this subpart. Any decision to provide last resort housing assistance must be adequately justified either:

- (1) On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:
 - (i) The availability of comparable replacement housing in the program or project area;
 - (ii) The resources available to provide comparable replacement housing; and
 - (iii) The individual circumstances of the displaced person, or
- (2) By a determination that:
 - (i) There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole;
 - (ii) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and
 - (iii) The method selected for providing last resort housing assistance is cost effective, considering all elements, which contribute to total program or project costs.

B. *Methods of providing comparable replacement housing.* Implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project.

- (1) The methods of providing replacement housing of last resort include, but are not limited to:
 - (i) A replacement housing payment in excess of the limits set forth in 49 CFR §24.401 or §24.402. A replacement housing payment under this section may be provided in installments or in a lump sum at the City's discretion.
 - (ii) The relocation and, if necessary, rehabilitation of a dwelling.
 - (iii) The purchase of land and/or a replacement dwelling by the City and subsequent



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sale or lease to, or exchange with a displaced person.

- (iv) The removal of barriers for persons with disabilities.
- (2) Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling (*see* appendix A, 49 CFR §24.404(c)), including upgraded, but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with 49 CFR §24.2(a)(6)(ii) of this part.
- (3) The City shall provide assistance under this subpart to a displaced person who is not eligible to receive a replacement housing payment under §§24.401 and 24.402 because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the displaced person's financial means. (*See* 49 CFR § 24.2(a)(6)(viii)(C).) Such assistance shall cover a period of 42 months.

C. For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if the City pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling as described in 49 CFR §24.402(b)(2)(i). Such rental assistance must be paid under 49 CFR §24.404, Replacement housing of last resort.

Deadline for filing claims. All claims or requests relocation expenses must be presented to the City within eighteen (18) months of the date of the move. Any claims or requests for reimbursement submitted after that date will not be paid.

Appeals. The City of Minot, will promptly review appeals in accordance with the requirements of applicable law and 49 CFR § 24.10 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act or URA) regulations.

Any person who has been displaced for a federally-assisted project may file a written appeal with the City of Minot if the person believes that the City of Minot failed to properly consider their



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application for assistance under the Uniform Act.

Relocation assistance issues that may be appealed include, but are not limited to, a person's eligibility for a relocation payment or the amount of a relocation payment provided. Relocation payments include payment for moving, replacement housing or commercial re-establishment expenses.

A person has the right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense. The City of Minot shall permit the person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential. The imposition of reasonable conditions on the person's right to inspect will be set consistent with applicable laws.

The time limit for filing an appeal is sixty (60) days after the person receives written notification of the City of Minot's determination of the person's eligibility for assistance or the amount of assistance claimed.

A displaced person may contact the City of Minot if they wish to discuss filing an appeal. Written appeals shall be considered regardless of form. A written appeal must be submitted to:

Contact person: NDR Program Manager
Address: PO Box 5006
Minot, ND 58702-5006
Telephone No.: 701-857-4108

The City of Minot will respond to the appellant within fifteen (15) calendar days of receipt of the appeal to acknowledge receipt of the appeal, to provide an opportunity to the person to submit additional information and to inform the person when they can expect a decision.

In deciding an appeal, the City of Minot will consider pertinent justification and material submitted by the person to ensure a fair and full review of the appeal. The City of Minot shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and provide a copy to the person within 45 days after receipt of all information submitted by the person in support of the appeal.

The City of Minot's response shall include, but need not be limited to:

1. The determination on review of the appeal;



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2. The factual and legal basis upon which the decision is based, including any pertinent explanation;
3. If any payment or other relief to the person is required to be made, the amount and manner of payment should be outlined in the response to the individual along with a statement of the person's right to seek the assistance in the event such relief is not provided within 45 days; and
4. If the full relief requested is not granted a statement of the person's right to seek a judicial review.
5. The appeal panel will consist of the City of Minot's Human Resource Director, CDM Smith Program Manager, and an Alderman appointed by the Mayor.

Request for Additional Time

If a person makes a reasonable request for additional time to gather information and prepare for a written appeal or request a review by the City of Minot, he or she shall be granted a reasonable amount of time.

Determination on Persons Not Displaced

Review of a displacing Agency's determination that a person is not displaced is to be undertaken in the same manner as explained above.

Tracking

The City will develop a tracking system to ensure all deadlines are met when an appeal is filed.

Contact Person. If you have questions about your relocation or need additional information or assistance, please contact:

Bobbie Ripplinger
Swanson & Warcup, Ltd.
1310 Burdick Expressway East #7
Minot, ND 58701
#701-858-8040 bripplinger@swlawltd.com



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Recordkeeping. The City of Minot will maintain records in sufficient detail to demonstrate compliance with applicable tenant assistance/relocation requirements. These records will be maintained by the City for at least three (3) years after the date of final payment of benefits to a displaced person. Information maintained will include:

- Identification of the tenant's name, address
- Evidence of timely written notice of displacement;
- general description of relocation payments and services provided;
- evidence of timely written notice of eligibility for relocation assistance
- identification of relocation needs, preferences, dates and personal contacts and services provided
- identification of referrals to replacement properties, date of referral, rent/utility costs, date of availability
- copy of ninety (90) day notice and vacate notice
- address of replacement property and date of relocation
- copy of replacement dwelling inspection report showing the condition of unit and date of inspection
- copy of each approved claim form and related documentation
- copy of any appeal or complaint filed and City's response

Attachments.

1. General Information Notice (GIN).
2. Eligibility Notice.
3. 90 Day Notice to Vacate for Displaced Persons.
4. Tenant Survey Form
5. HUD claim forms for relocation payments.

City of Minot Approval:

Date _____

Harold Stewart, City Manager

