

R-09-125

RESOLUTION NO. _____

A RESOLUTION APPROVING A RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN (RARAP) UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; AND FOR OTHER PURPOSES.

WHEREAS, the City of North Little Rock receives Community Development Block Grant funds from the Department of Housing and Urban Development; and

WHEREAS, the City of North Little Rock is required to prepare and adopt a Residential Anti-Displacement and Relocation Assistance Plan (“RARAP”) following regulations pursuant to 24 CFR Section 570 and 24 CFR 92; 49 CFR 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs of 1970, as amended; 24 CFR Part 42, requirements Under Section 104(d) of the Housing and Community Development Act of 1974; and the Department of Housing and Urban Development (HUD) Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That a Residential Anti-Displacement and Relocation Assistance Plan for the City of North Little Rock, Arkansas (attached hereto as Exhibit “A” and incorporated by reference) is hereby approved.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

Mayor Patrick H. Hays

SPONSOR:

ATTEST:

Mayor Patrick H. Hays

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

C. Jason Carter, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/b

EXHIBIT “A”

CITY OF NORTH LITTLE ROCK, ARKANSAS

RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN (RARAP)

Section 104 (d) of the Housing and Community Development Act of 1974, as amended, requires the City of North Little Rock to adopt, make public and certify that it is following a Residential Anti-displacement and Relocation Assistance Plan.

Definitions

Definitions of terms used in this Plan or associated with this topic are found in applicable Community Development Block Grant (CDBG) and HOME programs regulations found in 24 CFR Section 570 and 24 CFR 92; 49 CFR 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs of 1970, as amended; 24 CFR Part 42, Requirements Under Section 104(d) of Housing and Community Development Act of 1974; and the Department of Housing and Urban Development (HUD) Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition. If definitions are found to be contradictory, the most stringent definition will apply.

Prevention and Minimization of Displacement

Consistent with the goals and objectives of activities assisted under the Act, the City of North Little Rock will take the following steps to minimize the direct and indirect displacement of persons from their homes assisted under the Community Development Block Grant Program:

1. Stage rehabilitation in order to allow tenants to remain in the building or stage the rehabilitation so that empty buildings or units can be rehabbed first and then allow tenants to move into rehabbed units before rehab commences on occupied units;
2. Establish temporary relocation facilities in order to house families whose displacement will be of short duration so that they can move back to their neighborhood after rehab or construction;

3. Adopt policies which help to ensure certain rights for tenants with condominium or cooperative conversions;
4. Inform residents of neighborhoods with proposed revitalization, through local media (that is targeted at the specific neighborhoods) that public programs exist to assist households facing displacement;
5. Give those persons who are displaced the opportunity to relocate to the project area upon completion of the project; and,
6. Provide relocation advisory service.

Notices and Qualifying Conditions

- A. Before obtaining or expending HUD funds on projects or activities that will directly result in demolition or conversion of LMI dwelling units, the City will make public and submit to the HUD Field Office the information prescribed in 24 CFR 42.375(c). Analysis of the potential one-for-one replacement obligations will be conducted during a review of any proposed project to ensure adequate funding and other resources will be available.
- B. When permanent displacement, due to acquisition, demolition, or rehabilitation may occur for a proposed project, occupants will be given a written General Information Notice by Certified Mail, return receipt requested, that a project has been proposed that may require them to move from the unit. The letter shall indicate the name, address, and telephone number of a relocation counselor/advisor who may be contacted to provide assistance with the relocation and to answer questions they may have. The notice will include a brief explanation of relocation benefits that are available. Tenants will be provided a copy of HUD's pamphlet "Relocation Assistance to Tenants Displaced from Their Homes" (HUD-1042-CPD). Low-income persons displaced as a result of the demolition and/or conversion of their dwelling unit in a project funded in whole or in part by CDBG or HOME funds will also receive the publication, "Relocation Assistance to Tenants Displaced From Their Homes (Section 104(d))" (HUD-1365-CPD).
- C. An occupant must reside in the dwelling unit on the date of a notice of intent to acquire, the initiation of negotiations, or actual acquisition of the property, whichever occurs first, to be eligible for relocation assistance. Tenants who move prior to meeting all eligibility requirements for payment but after receiving timely and adequate written notices and tenants who are evicted with good cause are not considered displaced and are ineligible for relocation benefits.
- D. No occupant of a dwelling shall be required to move unless first given a reasonable opportunity to relocate to a safe and habitable replacement

dwelling, as determined by the City or its authorized representative, except in the event of threats to health and safety.

Relocation Assistance

The City shall provide assistance to displaced persons on a non-discriminatory basis. Involuntary displacement shall not result because of race, color, religion, national origin, age, sex, gender, or handicap status. Displaced persons may choose to receive assistance either through the Uniform Relocation Act (URA) and implementing regulations at 49 CFR Part 24 or assistance under Section 104(d) of the Housing and Community Development Act of 1974, provided they meet applicable eligibility requirements. For purposes of this Plan, relocation assistance under Section 104(d) is prescribed in 24 CFR 42.350.

A. Advisory Services

1. In an attempt to minimize hardships to displaced residential occupants, the City will make available the services of a relocation counselor/advisor that will provide counseling at the level of services described in 49 CFR Part 24, process relocation claim benefits, and assist in meeting the relocation needs of the displaced person. The relocation counselor/advisor will assist the occupant in securing comparable decent, safe and sanitary housing by providing comparable replacement dwelling locations and the maximum acceptable rent or purchase price that establishes the upper rent limit of affordability to obtain a replacement dwelling. A minimum of three (3) resources will be provided including rental management agencies, real estate brokers, and names of landlords, telephone numbers, and property addresses.
2. For residential occupants relocating within the City of North Little Rock, the City or its representative will inspect each prospective and actual replacement dwelling unit in accordance with 3-7(a), HUD Handbook 1378, and determine that the dwelling is decent, safe and sanitary housing as defined at 49 CFR 24(a)(6) and (8). If the displaced person relocates to another community, the City or its representative may arrange for officials of that community to perform the inspection. A copy of the inspection form shall be included with the pertinent claim form. No replacement housing payment or referral to comparable housing may be made until such a determination is made.
3. Occupants shall be advised of their rights under the Fair Housing Law and will be given HUD's pamphlet "Fair Housing: Equal Opportunity for All" (HUD-1686-1-FHEO).

B. Moving Expenses

1. The City may use CDBG, HOME, and/or other sources of funds to pay for actual, reasonable, and necessary out-of-pocket moving expenses for displaced persons who move within 20 miles of North Little Rock, 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, and replacement value of property lost, stolen or damaged during the move. While a displaced person is not required to relocate within the City of North Little Rock, expenses for mileage beyond 20 miles from the displacement location are to be covered by the displaced person. A displaced person will be assisted to complete a relocation claim form in order to be eligible to receive benefits.
2. For temporary moves, where the tenant intends to return to the rehabilitated unit, the tenant shall be reimbursed for all reasonable out-of-pocket expenses incurred with the temporary relocation including the cost of moving to and from the temporarily occupied housing, increased monthly housing expenses, and any other increased expenses deemed necessary and reasonable by the City.
3. A displaced residential person has a choice of three methods of calculating payment: payment for actual moving and related expenses or a fixed moving expense and dislocation allowance or a combination of both methods as follows:

- a. Actual Reasonable Moving and Related Expenses

A displaced person is entitled to payment for actual moving expenses that the City determines to be reasonable, customary and necessary. The payment for moving services shall be made directly to the mover. The City will secure at least two (2) bids from commercial movers. The bid will be awarded to the low bidder unless there are unusual circumstances that should be considered. Reimbursement for non-refundable incidental moving expenses, such as utility service connections fees and costs of short-term housing or meals during the time of the move, must be supported by actual receipts and may require pre-approval by the City.

- b. Fixed Moving Expense and Dislocation Allowance

A fixed move is for residential occupants who prefer to take full responsibility for the move. The City will make a one-time lump payment to cover all moving expenses based on the number of rooms in a unit or the number of rooms of furniture to be moved. The allowance shall be determined according to the applicable Fixed Residential Moving Cost Schedule published by the Federal Highway Administration in the Federal Register. There is no requirement to document how the funds are used. Incidental costs related to the move are not reimbursable under this option.

C. Security Deposit

A displaced lower-income person may be eligible to receive payment to cover a security deposit that is required by the landlord. The maximum security deposit shall be equal to one month's rent or an amount determined as reasonable by the City. The amount shall be offset by any refund of security deposit received by the lower-income person in connection with their move from the displacement site. In order to receive payment for security deposits, and occupant must be eligible to receive and elect to receive all moving and relocation assistance under section 104(d) regulations.

D. Credit Checks

A displaced lower-income occupant may be eligible to receive assistance to cover the costs of a credit check if required to rent a replacement dwelling. In order to receive payment for security deposits, an occupant must be eligible to receive and elect to receive all moving and relocation assistance under section 104(d) regulations.

Community Development Products Subject to the Uniform Relocation Act (URA)

- A. When the City uses HUD funds in projects requiring displacement, the Uniform Relocation Assistance and Real Property Acquisition Act (URA) policies shall be followed. Benefits and assistance to be provided shall be according to the most currently promulgated federal regulations at 49 CFR Part 24.
- B. The City will provide protection for occupants who will not be permanently displaced. This involves keeping occupants informed and assuring they do not move unnecessarily by providing timely and accurate written notices. All rental rehabilitation projects involving HUD funds will be evaluated to determine if there is economic displacement as part of the project viability analysis. To avoid economic displacement, low-and moderate-income tenants who may remain in a project will receive the offer of a suitable unit at an affordable price.
- C. Displaced tenants in occupancy for 90 days or less may be eligible for replacement housing payments for a period of 42 months. The payment amount will be determined in accordance with 49 CFR 24.402(b)(1) and (2). A tenant may opt to receive cash replacement housing payments or Section 8 assistance, if available.
- D. If a tenant chooses to buy rather than rent a replacement home, the tenant may be eligible for homebuyer assistance based on the present value of the monthly payments for the appropriate number of months. The amount of the payment must be applied to purchase a dwelling and related incidental expenses.

- E. 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 and 402, as appropriate, the City shall provide additional or alternative assistance under the provisions of 49 CFR 24.404. Any decision to provide last resort housing, however, must be adequately justified under the criteria in 24 CFR 24.404(a)(1) or (2).

Community Development Projects Subject to Section 104(D) of the Housing and Community Development Act.

Part 570, Subpart K of Title I of the Housing and Community Development Act of 1974, requires that reasonable relocation assistance be provided to LMI persons displaced as a result of the use of HUD funding to demolish or convert LMI dwelling units, which are occupied or vacant but available for occupancy. Benefits and assistance to be provided shall be according to the most currently promulgated federal regulations at 24 CFR Part 42.

- A. Buildings to be Demolished or Converted Subject to One-for-One Replacement
 1. Whenever LMI residential buildings are to be demolished or converted to another use using HUD funds, all occupied and vacant but available for occupancy LMI dwelling units will be replaced with comparable LMI dwelling units, one-for-one. When feasible, replacement units will be located in the same neighborhood as the units replaced. Replacement units will remain LMI dwelling units for a period of 10 years after occupancy. HOME-assisted units must comply with the provisions of 24 CFR Part 92. The one-for-one replacement does not apply to units, which are determined uninhabitable prior to demolition or conversion.
 2. A person is eligible for assistance when living in a unit to be converted or demolished as part of a HUD-assisted activity or project.
 3. The City may elect to request HUD's determination that the one-for-one replacement requirement does not apply in accordance with 24 CFR 42.375(c).
- B. Replacement Housing Payment: A LMI displaced person is eligible for relocation benefits if they are to be displaced as a result of a HUD-assisted demolition or conversion activity. Replacement housing assistance shall be equal to 60 times the amount necessary to reduce the monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling to the Total Tenant Payment. The Total Tenant Payment is the highest of:

1. Thirty (30) percent of the family's monthly adjusted income;
 2. Ten (10) percent of the family's monthly gross income; or
 3. The designated allowance for rent/utility costs, if the person is receiving welfare assistance from a public agency and a part of such assistance, adjusted in accordance with the person's actual housing costs, is specifically designated by the public agency to meet the person's rent and utility costs.
- C. The City shall make a payment for reasonable and necessary security deposit required to rent the replacement dwelling unit and for credit checks.
- D. The Housing Authority of North Little Rock may provide housing assistance to eligible very low-income households displaced by government action. Placement will depend upon the availability of a federal subsidy or vacant dwelling unit. The Housing Authority of North Little Rock may offer a public housing dwelling unit or Section 8 assistance, if available. Displaced tenants cannot insist on cash if Section 8 assistance is available. However, a displaced person may elect to receive cash assistance under the URA.
- E. If a tenant chooses to buy rather than rent a replacement dwelling, the tenant may be eligible for assistance based on the capitalized value of the monthly payments for the appropriate number of months. The amount of the payment must be applied to purchase an interest in a housing cooperative or mutual housing association only.

Appeal by Displaced Persons

- A. A person may file an appeal when he/she believes the City failed to:
1. Properly determine the person qualifies, or will qualify (upon moving), as a displaced person who is eligible for relocation assistance;
 2. Properly determine the amount of any relocation payment required by HUD Handbook 1378 or a payment required under 49 CFR Part 24 or 24 CFR Part 42. A person's acceptance of a payment that is less than the full amount claimed does not limit the persons' right to appeal;
 3. Provide appropriate referrals to comparable replacement dwellings or inspect the replacement dwelling in a timely manner; or
 4. Waive the time limit for (1) filing a claim or an appeal or (2) purchasing, renting, or occupying a replacement dwelling.
- B. The timeframe for submitting an appeal shall not be less than 60 days after a person receives a written notification of the City's determination on the

claim. On a case-by-case basis, and for good cause, the time limit may be extended by the City.

- C. A displaced person has a right to be represented by legal counsel or other representative in connection with his or her appeal but solely at the person's expense.
- D. The City shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials, which the City determines may not be disclosed for reasons of confidentiality. The City may, however, impose reasonable conditions on the right to inspect, consistent with applicable laws.
- E. The Mayor or his/her authorized designee will conduct the review of an appeal. The reviewing official shall not have been directly involved in the appealed action.
- F. Within thirty (30) days after receipt of all information submitted by a person in support of an appeal, the City shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the City shall advise the person of his or her right to seek judicial review and, where applicable (see below), the right to request the HUD Field Office to review the City's determination on the appeal.
- G. Under certain HUD program regulations a person (often limited to a low-income person as defined in HUD Handbook 1378, paragraph 1-4V) who is dissatisfied with the grantee's determination on an appeal, may submit a written request for review of that decision to the HUD Field Office that administers URA requirements for HUD-assisted programs in the jurisdiction. See Chapter 1-10 of HUD Handbook 1378 for additional details.
- H. Nothing in this policy shall in any way preclude or limit a person from seeking judicial review of the appeal on its merits after the person exhausts the administrative remedies described herein.

REFERENCES

- a. Housing and Community Development Act of 1974, as amended.
- b. Cranston-Gonzalez National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992.
- c. 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, as amended.
- d. 24 CFR Part 42, Displacement, Relocation Assistance, and Real Property Acquisition for HUD and HUD-Assisted Programs, as amended.
- e. 24 CFR Part 570.606, Community Development Block Grants (CDBG), as amended.
- f. 24 CFR Part 92.353, HOME Investment Partnerships (HOME) Program, as amended.
- g. HUD Handbook 1378, Tenant Assistance Relocation and Real Property Acquisition Handbook, as amended.

EFFECTIVE

DATE/RECISION: This policy becomes effective on and after the _____ day of _____, 2009.

RESPONSIBLE DEPARTMENT

Community Development Agency

Patrick H. Hays
Mayor

Date