D. Maryland Relocation Assistance Program

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State Highway Administration, Office of Real Estate

SUMMARY OF THE RELOCATION ASSISTANCE PROGRAM OF THE STATE HIGHWAY ADMINISTRATION OF MARYLAND

All State Highway Administration projects utilizing Federal funds must comply with the provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (42 USC 4601), as amended by Title IV of the Surface Transportation & Uniform Relocation Assistance Act of 1987 (P.L.100-17) and Public Law 105-117. State funded projects must comply with Sections 12-112 and Subtitle 2, Sections 12-201 to 12-212 of the Real Property Article of the Annotated Code of Maryland.

The State Highway Administration's Office of Real Estate administers the Relocation Assistance Program for the Maryland Department of Transportation.

The aforementioned Federal and State laws require that the State Highway Administration provide relocation assistance payments and advisory services to eligible persons who are displaced by a public project. There are two categories of residential occupants: 180-day owner-occupants, and 90-day tenants and short-term owner-occupants. Non-residential occupants may be businesses, farms or non-profit organizations.

A displaced person that has owned and occupied a subject dwelling for at least 180 days prior to the initiation of negotiations for the property may receive a replacement housing payment of up to $22,500. The replacement housing payment is composed of three parts: a purchase price differential; an increased mortgage interest differential; and reimbursement for incidental settlement expenses.

The purchase price differential is the difference between the value paid by the State Highway Administration for the existing dwelling and the cost to the displaced owner of a comparable replacement dwelling, as determined by the State's replacement housing study.

The increased mortgage interest differential is a payment made to the owner at the time of settlement on the replacement dwelling to negate the effects of less favorable financing in the new situation. The payment is calculated by use of the "buy-down" mortgage method.

Reimbursable incidental expenses are necessary and reasonable incidental costs that are incurred by the displaced person in purchasing a replacement dwelling, excluding prepaid expenses such as real estate taxes and insurance. The maximum reimbursable amount for these incidental expenses is based upon the cost of the comparable selected in the replacement housing study.

A displaced person who has leased and occupied a subject dwelling for at least 90 days prior to the initiation of negotiations for the property may receive a replacement rental housing payment of up to $5,250. The replacement rental housing payment is the difference between the monthly cost of housing for the subject dwelling, plus utilities, and the monthly cost of housing for a comparable replacement rental unit, plus utilities, over a period of 42 months. Owner-

occupants of from 90-179 days prior to the initiation of negotiations for the subject dwelling are eligible for the same replacement rental housing payments as tenants.

As an alternative to renting, a displaced tenant occupant may elect to apply the rental replacement housing eligibility amount toward the down payment needed to purchase a replacement dwelling.

The comparable properties used in calculating any replacement housing payment eligibility must comply with all local standards for decent, safe and sanitary (DS&S) housing, and be within the financial means of the displaced person.

If affordable, comparable, DS&S replacement housing cannot be provided within the statutory maximums of $22,500 for 180-day owner occupants or $5,250 for 90-day tenants or short term owners, the maximums may be exceeded on a case by case basis. This may only be done after the completion and approval of a detailed study that documents the housing problem, explores the available replacement options and selects the most feasible and cost-effective alternative for implementation.

In addition, eligible displaced residential occupants may be reimbursed for the expense of moving personal property up to a maximum distance of fifty (50) miles, using either an actual cost or fixed schedule method.

Actual cost moves are based upon the lower of at least two commercial moving estimates, and must be documented with receipted bills or invoices. Other incidental moving expenses, such as utility reconnection charges, may also be paid in the same manner.

As an alternative method, the fixed schedule move offers a lump sum, all-inclusive payment based upon the number of rooms to be moved. Other incidental costs are <u>not</u> separately reimbursable with this method.

Non-residential displaced persons such as businesses, farms or non-profit organizations may also receive reimbursement for the expense of relocating and re-establishing operations at a replacement site on either an actual cost or fixed payment basis.

Under the actual cost method, a non-residential displaced person may receive reimbursement for necessary and reasonable expenses for moving its personal property, the loss of tangible personal property that is not moved, the cost of searching for a replacement site, and a re-establishment allowance of up to $10,000.

The actual reasonable moving expenses may be paid for a move by a commercial mover or for a self-move. Payments for the actual reasonable expenses are limited to a 50-mile radius unless the State determines a longer distance is necessary. The expenses claimed for actual cost moves must be supported by firm bids and receipted bills. An inventory of the items to be moved must be prepared in all cases. In self-moves, the State will negotiate an amount for payment, usually lower than the lowest acceptable bid. The allowable expenses of a self-move may include amounts paid for equipment hired, the cost of using the business vehicles or

equipment, wages paid to persons who participate in the move, the cost of actual supervision of the move, replacement insurance for the personal property moved, costs of licenses or permits required and other related expenses.

In addition to the actual moving expenses mentioned above, the displaced business is entitled to receive a payment for the actual direct losses of tangible personal property that the business is entitled to relocate but elects not to move. These payments may only be made after an effort by the owner to sell the personal property involved. The costs of the sale are also reimbursable moving expenses.

If the business elects not to move or to discontinue the use of an item, the payment shall consist of the lesser of: the fair market value of the item for continued use at the displacement site, less the proceeds from its sale: or the estimated cost of moving the item.

If an item of personal property which is used as part of a business or farm operation is not moved and is promptly replaced with a substitute item that performs a comparable function at the replacement site, payment shall be of the lesser of: the cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or the estimated cost of moving and reinstalling the replaced item.

In addition to the moving payments described above, a business may be eligible for a payment up to $10,000 for the actual reasonable and necessary expenses of reestablishing at the replacement site. Generally, reestablishment expenses include certain repairs and improvements to the replacement site, increased operating costs, exterior signing, advertising the replacement location and other fees paid to reestablish. Receipted bills and other evidence of these expenses are required for payment. The total maximum reestablishment payment eligibility is $10,000.

In lieu of all moving payments described above, a business may elect to receive a fixed payment equal to the average annual net earnings of the business. This payment shall not be less than $1,000 nor more than $20,000. In order to be entitled to this payment, the State must determine that the business cannot be relocated without a substantial loss of its existing patronage; the business is not part of a commercial enterprise having more than three other establishments in the same or similar business that are not being acquired: and the business contributes materially to the income of a displaced owner during the two taxable years prior to the year of the displacement. A business operated at the displacement site solely for the purpose of renting to others is not eligible. Considerations in the State's determination of loss of existing patronage are the type of business conducted by the displaced business and the nature of the clientele. The relative importance of the present and proposed locations to the displaced business and the availability of suitable replacement sites are also factors.

In order to determine the amount of the "in lieu of" moving expenses payment, the average annual net earnings of the business is to be one-half of the net earnings, before taxes during the two taxable years immediately preceding the taxable year in which the business is relocated. If the two taxable years are not representative, the State may use another two-year period that would be more representative. Average annual net earnings include any compensation paid by the business to the owner, owner's spouse, or dependents during the

period. Should a business be in operation less than two years, the owner of the business may still be eligible to receive the "in lieu of" payment. In all cases, the owner of the business must provide information to support its net earnings, such as income tax returns, or certified financial statements, for the tax years in question.

Displaced farms and non-profit organizations are also eligible for actual reasonable moving costs up to 50 miles, actual direct losses of tangible personal property, search costs up to $1,000 and re-establishment expenses up to $10,000 or a fixed payment "in lieu of" actual moving expenses of $1,000 to $20,000. The State may determine that a displaced farm may be paid a minimum of $1,000 to a maximum of $20,000 based upon the net income of the farm, provided that the farm has been relocated or the partial acquisition caused a substantial change in the nature of the farm. In some cases, payments "in lieu of" actual moving costs may be made to farm operations that are affected by a partial acquisition. A non-profit organization is eligible to receive a fixed payment or an "in lieu of" actual moving cost payment, in the amount of $1,000 to $20,000 based on gross annual revenues less administrative expenses.

A more detailed explanation of the benefits and payments available to displaced persons, businesses, farms and non-profit organizations is available in the brochure entitled "Relocation Assistance: Your Rights and Benefits", that will be distributed at the public hearing for this project and be given to all displaced persons.

Federal and state laws require that the State Highway Administration shall not proceed with any phase of a project which will cause the relocation of any persons, or proceed with any construction project, until it has furnished satisfactory assurances that the above payments will be provided, and that all displaced persons will be satisfactorily relocated to comparable decent, safe and sanitary housing within their financial means, or that such housing is in place and has been made available to the displaced person.

PUBLIC LAW 105-117

On November 21, 1997, President William J. Clinton signed Public Law 105-117, amending the Uniform Relocation Assistance and Real Property Acquisition Policies Act, also known as the Uniform Act. The law became effective on the same day that it was signed.

Public Law 105-117 provides that a person who is an alien and is not lawfully present in the United States shall not be eligible for relocation payments or other assistance under the Uniform Act. It also directed all State displacing agencies that utilize Federal funds in their projects to implement procedures for compliance with the 1997 amendments, in order to safeguard that funding.

To this end, displaced persons will be asked to certify

to their Citizenship or alien status prior to receiving payments or other benefits under the relocation assistance program.