



# Beyond the Call of Duty

The overlooked, but extraordinary efforts of a relocation agent

BY MICHAEL F. YOSHIBA, ESQ.

Lawyers in public agency legal departments get involved with right of way matters only when disputes arise that can't be amicably resolved through good faith negotiations. Attorneys are called upon late in the acquisition process to either quickly create common ground or proceed to litigate through the court system. The majority of the successful right of way transactions, however, never receive any notoriety. Highlighted here is a story of one such unheralded effort by a right of way agent going above and beyond the call of duty to assist a property owner in navigating through the right of way relocation assistance program process.

## Working With a Contentious Property Owner

Several years ago, the California Department of Transportation was acquiring right of way for construction of the I-210 freeway extension through the cities of Claremont and La Verne. One of the properties being sought was a full-take acquisition of a single-family residential property from an elderly gentleman, who

we'll call "Mr. Doolee." The acquisition agent negotiated an agreeable purchase price and the matter was turned over to the relocation agent, who we'll call "Woody." Mr. Doolee was an eligible owner-occupant and was presented with a relocation assistance benefits package that included eligibility for claims such as purchase price differential, various moving costs and interest rate differential. Through the relocation claims process, Mr. Doolee submitted claims for two items that were determined, for various reasons, to be ineligible for a reimbursement payment under relocation regulations. Woody explained to Mr. Doolee that while his claims were denied, he also had the right to appeal that determination of ineligibility.

## Relocation Appeal

One of the atypical responsibilities that relocation agents have is the duty to assist and advise the displacees in preparing their relocation appeal,

including assistance with all of the requisite documentation. Woody worked closely with Mr. Doolee to complete the appeal forms, crafting the categorical bases for the appeal and coordinating the scheduling of the appeal hearing. The primary issue was centered on some alleged inaccurate statements that were made by the acquisition agent to Mr. Doolee, who in reliance upon those inaccurate statements incurred expenses that were later found ineligible. The appeal hearing was before the State Relocation Appeals Board and the venue for this hearing was scheduled for Sacramento, California—about 600 miles from the Southern California project because all of the Board members were based in Sacramento.

Woody coordinated the schedules of the displacee and the Board. Additionally, Woody assembled all of the documentation for the displacee and met with Mr. Doolee to prepare for the hearing, explaining the appeal process and practicing the presentation.

### Travails in Travels

Invariably, the often extraordinary efforts of relocation agents in assisting displacees get overlooked and lost. In this case, Woody picked up Mr. Doolee at his home, personally drove him to the airport for the flight to Sacramento, took him to lunch and then to the hearing and back. Woody later explained that Mr. Doolee was not the most pleasant or enjoyable travelling companion. He was unnecessarily loud, complained about the flight and service, didn't like the food at lunch and was unable or unwilling to remain focused on the key points to his

appeal presentation. "It was the longest eight hour day that I've ever had," Woody explained. "And the trip was only five hours long."

Notwithstanding the long day, Woody successfully met his right of way agent responsibilities that allowed Mr. Doolee the opportunity to present his appeal to the State Relocation Appeals Board.

The success of his appeal was based upon confirmation that he relied on inaccurate information from the acquisition agent, which resulted in Mr. Doolee incurring ineligible expenses. Ultimately, his claim was decided by a few specific and pointed questions:

**Panel:** "Mr. Doolee, would you have done anything different if the acquisition agent didn't say those items were eligible for reimbursement?"

**Mr. Doolee:** "No."

**Panel:** "Mr. Doolee, let me ask you this question again so that we're clear. Would you have done anything different if the acquisition agent didn't say those items were eligible for reimbursement?"

**Mr. Doolee:** "No."

**Panel:** "Mr. Doolee, did you rely upon the [acquisition agent]'s statements when you decided to incur those [ineligible] expenses?"

**Mr. Doolee:** "No, I read the Relocation Assistance Program brochure that Woody gave me and based on that, I should get reimbursed for those items."

**Panel:** "Okay, so you didn't rely upon the [acquisition agent]'s

statements in incurring those expenses that you here are seeking reimbursement for?"

**Mr. Doolee:** "No."

**Panel:** "Ok, I think you've answered all of our questions."

The Board panel members found Mr. Doolee to be a credible witness. And you can probably guess the result of the appeal hearing. Despite the outcome, there is no doubt that Woody competently and ably assisted Mr. Doolee in preparing and presenting his relocation appeal. Relocation agents have the legal ethical responsibility to follow the rules of the public agency and also to assist the displacees. Attorneys working for public agencies in eminent domain matters have a similar duty to zealously advocate for their public agency client, but also to be fair and ethical to the property owners involved. In this matter, the best attorney involvement was "no involvement." 🍷



Michael Yoshiba is a shareholder in the Eminent Domain and Litigation Departments of the Los Angeles law firm, Richards, Watson & Gershon.