

Behind the Dreaded Relocation Appeal

How a displacing agency can use a relocation appeal to its benefit



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“We’re going to have a relocation appeal.”

Traditionally, these words have struck fear and dread into the hearts of relocation professionals working on federally funded projects. Visions of expensive, lengthy appeals that will delay projects and expose inaccuracies in the displacing agency’s handling of a relocation case quickly come to mind. There are sometimes immediate thoughts of an acrimonious, adversarial proceeding with extensive cross-examinations of agency employees and consultants. There is also the uncertainty of the outcome, which could have an adverse impact on budget and schedule.

However, the appeal process does not have to be this way. First, it should be realized that the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA) does not contemplate nor cover every single real life situation found in the field. No law can do those things, and there is certainly room for interpretation of the URA and its implementing regulations, 49 CFR 24. The relocation professional should always remember this fact and understand that there can be legitimate differences of opinion on the implementation of provisions of the URA and the agency’s Relocation

Assistance Program (RAP). The relocation professional should also keep in mind that displacees may appeal even if all RAP procedures have been accurately followed. Fortunately, experience has shown that there are far more appeals based upon reasonable differences in opinion than on frivolous issues. Therefore, an appeal is not necessarily an indictment or attack on the displacing agency’s policies.

Through close monitoring of the appeals process and careful planning of the displacing agency’s appeals policy and procedures, the appeal can be well

REGULATORY COMPLIANCE

The URA's implementing regulations, 49 CFR 24, state: § 24.10 Appeals.

(a) General. The Agency shall promptly review appeals in accordance with the requirements of applicable law and this part.

(b) Actions which may be appealed. Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's application for assistance under this part. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under § 24.106 or § 24.107, or a relocation payment required under this part. The Agency shall consider a written appeal regardless of form.

(c) Time limit for initiating appeal. The Agency may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the Agency's determination on the person's claim.

(d) Right to representation. A 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 own expense.

(e) Review of files by person making appeal. The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Agency. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) Scope of review of appeal. In deciding an appeal, the Agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(g) Determination and notification after appeal. Promptly after receipt of all information submitted by a person in support of an appeal, the Agency 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 Agency shall advise the person of his or her right to seek judicial review of the Agency decision.

(h) Agency official to review appeal. The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

managed and productive for both the agency and the displacee. Careful planning of the agency's appeal process means ensuring compliance with the URA as a basis for any appeals program.

Additionally, any applicable state and/or local laws must be observed. For example, many agencies have procedures that involve a formal appeal on the record and in front of a disinterested third party hearing officer who renders a written opinion.

No matter what the specifics of the appeals process are, the relocation professional should be thoroughly familiar with them and the associated deadlines for filing. Also, the appeals procedure should be clearly stated and outlined in writing and given to the displacee at the first meeting with the relocation agent.

Applying the Lessons Learned

For the relocation professional, what is most important is what's learned from the appeal decisions. Are any of the decisions generally applicable to common problems routinely found in the field? Or are the decisions too specific in nature? If generally applicable, how can the decisions be implemented in the RAP? How can the decisions be used to improve the RAP? If a mistake was made by the agency, how can it be avoided in the future? How could the appeal have been avoided? Is the agency allowing enough time in its overall project schedule for the appeal process?

By evaluating these questions and instituting lessons learned, the relocation appeal does not have to be a completely negative event. The displacing agency can use it as a way to strengthen its RAP and improve its ability to lessen displacee hardship in the future. ⚡



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