

Optional Relocation Policy #2

Section 1: Purpose

City of Minot policy is to minimize impact of displacement due to relocation associated with the historic Souris river flood.

Section 2: Introduction

Because of the 2011 flood and today's real estate market, the City of Minot is faced with the challenge of displacing homeowner-occupants who hold negative equity in what is commonly referred to as "upside-down" mortgages, where the fair market value of the property (just compensation) is less than the outstanding debt (the mortgage). In these circumstances, a negotiated administrative settlement to acquire the property for a federally-assisted project may eliminate the Replacement Housing Payment (RHP) otherwise available to assist in relocating to a replacement dwelling. Since the need to satisfy the mortgage balance arises as a direct result of the City's property acquisition for Title 23 U.S.C. eligible projects, depriving the displaced homeowner-occupant of a RHP would make his or her situation worse than before displacement. In other words, if not for displacement caused by the project, the homeowner-occupant could remain in the property and make needed mortgage payments until real property value recovers to eliminate negative equity.

Section 3: Authority and Purpose

Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act), persons displaced by a federal financially-assisted project are entitled to specified benefits designed to minimize the hardship caused when they are forced to relocate to accommodate a public improvement project. One such benefit is the Replacement Housing Payment provided to homeowner-occupants to help bridge the gap between the just compensation they are constitutionally entitled to receive for the acquisition of their property and the additional costs they may incur to obtain a comparable replacement property. In describing one of the fundamental objectives of the Uniform Act, the legislative history makes clear that a displaced homeowner should not be left economically worse off than he or she was before displacement, and should be able to relocate to a comparable dwelling that is decent, safe, and sanitary -- that sentiment is codified in Title 42 of the United States Code (U.S.C.) § 4621. Specific authority is Federal Register vol 78, No. 43, page 14343, item 19(g) waiver, and 24 CFR 570.606(d).

Section 4: Scope and Applicability

This policy provides for certain types of relocation assistance to upside-down homeowners whose homes are being bought out under the Homeowner Acquisition and Buyout Program provided by the City of Minot. This assistance can be provided from Community Development Block Grant funds and is a voluntary extension of relocation assistance beyond the requirements of the Uniform Relocation Act to serve the needs of the citizens of Minot. The provisions of this policy for property owners with "upside down" mortgages shall be affected upon approval of the City Council and shall apply to all properties not already purchased with CDBG-DR and CDBG-NDR grant monies (Completed acquisitions where the city owns the property as of policy approval date shall not be reconsidered).

It is not the intent of this optional relocation policy to unduly reward property owners for loans secured against the property with the intent to increase the purchase price of the displacement

property. Generally speaking, the loans secured against the property need to be encumbered at least 90 days prior to initiation of negotiations. Loans secured after the 2011 flood against the property to be purchased by the City of Minot need to be for the purchase, refinancing, and/or improvements to the property, or other flood recovery purpose. [Loans secured against the property prior to 2011 flood are not restricted on the uses of the loan proceeds.](#)

Section 5: Services Provided

In situations where displaced homeowner-occupants have negative equity in the property being acquired, the City will use the appraisal based on the just compensation amount in the original offer to acquire, even though the final just compensation amount may have been increased through an administrative settlement that takes into account the amount by which the mortgage/lien balance exceeds the fair market value of the property. Homeowners who are not in foreclosure on their mortgages and are upside down will be eligible for a RHP calculated in this manner under this policy.

Examples

1) An owner owes \$200,000 on the mortgage for a home purchased 3 years ago¹. The real estate market has rapidly declined over the last several months. The City of Minot needs the property for the flood control project, appraises the property and presents the owner a written offer in the amount of \$150,000. The City of Minot finds a comparable replacement dwelling on the market for \$170,000 because of the market decline. The price differential payment eligibility is \$20,000. The owner and the City of Minot agree to a settlement of \$200,000 for the purchase of the property. Normally the \$20,000 price differential eligibility is zeroed, per the regulations, because the appropriately justified \$50,000 administrative settlement exceeds the price differential eligibility. However, this waiver allows the City of Minot to pay \$200,000 to the owner to acquire the property and allows the owner to retain the \$20,000 RHP as a down payment on the comparable, provided the remaining requirements of 49 CFR Part 24 are met.

\$170,000 (Comparable Replacement Dwelling)	\$200,000 (Agreement Amount)
- \$150,000 (Just Compensation Offer)	- \$150,000 (Just Compensation Offer)
\$ 20,000 (RHP Eligibility)	\$ 50,000 (Increase-Administrative Settlement)
Normal RHP Payment Determination	Waiver RHP Payment Determination
\$50,000 (Increase-Administrative Settlement) is greater than the \$20,000 (RHP Eligibility) resulting in a \$0 RHP Payment.	\$50,000 (Increase-Administrative Settlement) is greater than the \$20,000 (RHP Eligibility) so the waiver allows a \$20,000 RHP Payment.

2) An owner owes \$300,000 on the mortgage for a home purchased 2 years ago¹. The real estate market has rapidly declined over the last several months. The City of Minot needs the property for the flood control project, appraises the property and presents the owner a written offer in the amount of \$225,000. The City of Minot finds a comparable replacement dwelling on the market for \$260,000 because of the market decline. The price differential payment eligibility is \$35,000. Because a comparable replacement dwelling is not available within the specified limits of 49 CFR 24.401, the comparable is made available under Housing of Last Resort. The owner and City of Minot agree to a

settlement of \$300,000 for the purchase of the property. Normally the \$35,000 price differential eligibility is zeroed, per the regulations, because the appropriately justified \$75,000 administrative settlement exceeds the price differential eligibility. However, this waiver allows the City of Minot to pay \$300,000 to the owner to acquire the property and allows the owner to retain the \$35,000 RHP as a down payment on the comparable, provided the remaining requirements of 49 CFR Part 24 are met.

\$260,000 (Comparable Replacement Dwelling)	\$300,000 (Agreement Amount)
<i>-\$225,000 (Just Compensation Offer)</i>	<i>-\$225,000 (Just Compensation Offer)</i>
\$ 35,000 (RHP Eligibility)	\$ 75,000 (Increase-Administrative Settlement)
Normal RHP Payment Determination	Waiver RHP Payment Determination
\$75,000 (Increase-Administrative Settlement) is greater than the \$35,000 (RHP Eligibility) resulting in a \$0 RHP Payment.	\$75,000 (Increase-Administrative Settlement) is greater than the \$35,000 (RHP Eligibility) so the waiver allows a \$35,000 RHP Payment.

¹ NOTE: The original purchase price is not a factor in these calculations.