

City of Minot



FLOOD PROTECTION PROJECT PROPERTY ACQUISITION GUIDELINES

Amended by City Council December 20, 2021

EQUAL HOUSING
OPPORTUNITY

City of Minot

1.0 Program Overview

In July 2011, the City of Minot suffered substantial real estate damage due to flood waters from the Mouse River. As one component of the City's recovery from the damage, the City of Minot is currently in the process of designing a flood protection project to protect the City from future flood water and mitigate the effects of any future flooding.

As a part of the flood protection and mitigation process, the City has already acquired a number of properties through voluntary negotiations with the property owner. The City of Minot continues to recover from the effects of the Mouse River flooding and it has determined that the City must acquire various properties to construct, operate and maintain a flood protection project to protect the City of Minot, its inhabitants, infrastructure, and public and private property from future flooding of the Mouse River.

The City of Minot is in the process of designing a flood protection and flood mitigation project. Said project will require the acquisition of certain privately-owned properties in order to construct, maintain and operate the flood protection project which will include levees, floodwalls, ditches, aqueducts, flumes, or pipes and infrastructure related thereto including, but not limited to, buildings, reservoirs, dams, outlets, roads, streets, bridges, and alleys.

These guidelines are intended to provide general information to property owners and tenants who may be affected by acquisition of property necessary for the flood protection project and related infrastructure. These guidelines shall not provide any cause of action in favor of a property owner or tenant nor shall any additional benefits inure to a property owner or tenant based upon these guidelines. If there should be a conflict between these guidelines and applicable law or regulation, such law or regulation shall control except where such law or regulation allows the City to modify or limit such law or regulation.

The City may hire such consultants, contractors, appraisers and attorneys as the City deems necessary or convenient to acquire property needed for the flood protection/flood mitigation project and related infrastructure.

2.0 Acquisition of Necessary Property

The City plans to acquire property necessary for construction, operation and maintenance of the flood protection project. Property necessary for the project will be identified by the City and/or its contractors. Thereafter, property owners will be contacted to advise them of the City's desire

City of Minot

to acquire the property, gather preliminary information regarding occupancy and use of the property and obtain property owner contact information.

2.1 Appraisals

Each property will be appraised in accordance with applicable appraisal standards and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended and 49 C.F.R. Section 24.103. Appraisals will be reviewed as required by 49 C.F.R. Section 24.104.

2.2 Offers

The City shall make a determination of estimated just compensation and authorize offers to purchase property based upon the approved appraisal. Offers shall be submitted to the property owner in writing in an amount equal to the amount which the City believes to be just compensation for the property to be acquired. The City shall endeavor to present such written offers to the property owner in person.

2.3 Property Owner Appeal

If the property owner is not satisfied with the City's offer, the property owner may appeal the offer price as set forth in Attachment "A": City Appeal Process - Flood Protection Project Acquisitions. The property owner is not required to use the City appeal process. The appeal process, or the property owner's desire not to use the appeal process, does not, in any way, restrict or limit the City's power or authority to initiate an eminent domain action.

2.3.1 Negotiations

Information submitted by the property owner in support of an appeal or negotiation shall be considered by the City or its agents. Prior to initiation of eminent domain proceedings, the City will make a reasonable and diligent effort to acquire property by negotiation.

2.3.2 Administrative Settlement

If determined to be reasonable, prudent and in the public interest, the City of Minot Finance Director or her designee may approve an administrative settlement in an amount in excess of the amount offered for just compensation when reasonable efforts to negotiate an agreement have failed.

City of Minot

2.4 Eminent Domain

If negotiations to acquire the property are unsuccessful, or if the appeal process is either unsuccessful or not used by the property owner, the City may thereafter initiate an action to acquire the property through eminent domain initiated in accordance with applicable federal, state and local law or ordinance.

3.0 Relocation Benefits

Property owners, business owners and tenants who are displaced as a result of the City's acquisition of property may be eligible for relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and/or North Dakota Century Code Chapter 54-01.1. Determination of benefits available will be made in accordance with applicable law, regulation or ordinance.

3.1 Uniform Relocation Act Appeals

Any aggrieved person may file a written appeal with the City in any case in which the person believes that the City has failed to properly consider the person's application for assistance under the Uniform Relocation Act Regulations (49 C.F.R. Part 24). Any such appeal must be submitted to the City within 60 days after the person receives written notice of the City's decision on the person's claim. The appeal will be administered in accordance with the Attachment B, Uniform Relocation Appeals - Flood Protection Acquisitions.

4.0 Fair Housing Laws


Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968 set forth the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. These Acts and Executive Order 11063 make discriminatory practices in the purchase and rental of residential units illegal if based on race, color, religion, sex, or national origin.

Whenever possible, a minority person shall be a given reasonable opportunity to relocate to a decent, safe and sanitary replacement dwelling which is not located in an area of minority concentration that is within their financial means. This policy does not require the City to


City of Minot

provide a displaced person with a larger payment than is necessary to enable the person to relocate to a comparable replacement dwelling.

APPROVED:



Cindy K. Hemphill, CPA, MSM
Finance Director, City of Minot



Date

City of Minot

Attachment A: City's Appeal Process-Flood Protection Acquisitions

The City will make every attempt to accurately appraise the current fair market value of properties necessary for the construction, operation and maintenance of the flood protection project. If, after the presentation of the offer, the property owner believes the offer price is incorrect, the property owner can present additional information directly relating to the fair market value of the property.

Property owner may present information which the property owner deems relevant in support of the property owner's appeal or counter offer. The information submitted by the property owner must include, at a minimum, the basis for the appeal or counteroffer and shall include factual information, appraisals and any other data to support the reason for the appeal or counter offer to increase the offer price.

The information presented shall initially be reviewed by the City's acquisition staff. The City will make a reasonable and diligent attempt to acquire the property by negotiation. If the property owner's information is found to be reasonable and well supported, the acquisition staff, upon approval of the City Finance Director, or her designee, may authorize a revised offer. Alternatively, the acquisition staff may refer the property owner's information to an appeals panel which will be composed of two members of the Minot City Council and two residents of the City of Minot knowledgeable of real estate values. All members of the panel shall be appointed by the Mayor. Any information submitted by the property owner will be presented to the panel. Notice of a decision by the appeal board will be mailed to the property owner and provided to the designated acquisition agent within thirty (30) days of the board hearing. Any counter-offer or decision of the appeal panel or acquisition staff shall remain available to the property owner for not less than 30 days after which it shall be deemed to be withdrawn.

The Seller may contact the City of Minot if they wish to discuss filing an appeal.

Contact Person: NDR Program Manager
Address: P.O. Box 5006
Minot, ND 58702-5006
Telephone: (701) 857-4108

Written appeals shall be considered regardless of form. A written appeal must be submitted to:

Contact Person: Same as above

City of Minot

Attachment B: Uniform Relocation Appeals-Flood Protection Acquisitions

The City of Minot will promptly review appeals in accordance with the requirements of applicable law and 49 CFR § 24.10 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act or URA) regulations.

Any person who has been displaced for a federally-assisted project may file a written appeal with the City of Minot if the person believes that the City of Minot failed to properly consider their application for assistance under the Uniform Act.

Relocation assistance issues that may be appealed include, but are not limited to, a person's eligibility for a relocation payment or the amount of a relocation payment provided. Relocation payments include payment for moving, replacement housing or commercial re-establishment expenses.

A person has the 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. The City of Minot shall permit the person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential. The imposition of reasonable conditions on the person's right to inspect will be set consistent with applicable laws.

The time limit for filing an appeal is sixty (60) days after the person receives written notification of the City of Minot's determination of the person's eligibility for assistance or the amount of assistance claimed.

A displaced person may contact the City of Minot if they wish to discuss filing an appeal. Written appeals shall be considered regardless of form. A written appeal must be submitted to:

Contact person: NDR Program Manager
Address: PO Box 5006
Minot, ND 58702-5006
Telephone No.: (701) 857-4108

The City of Minot will respond to the appellant within fifteen (15) calendar days of receipt of the appeal to acknowledge receipt of the appeal, to provide an opportunity to the person to submit additional information and to inform the person when they can expect a decision.

City of Minot

In deciding an appeal, the City of Minot will consider pertinent justification and material submitted by the person to ensure a fair and full review of the appeal. The City of Minot shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and provide a copy to the person within 45 days after receipt of all information submitted by the person in support of the appeal.

The City of Minot's response shall include, but need not be limited to:

1. The determination on review of the appeal;
2. The factual and legal basis upon which the decision is based, including any pertinent explanation;
3. If any payment or other relief to the person is required to be made, the amount and manner of payment should be outlined in the response to the individual along with a statement of the person's right to seek the assistance in the event such relief is not provided within 45 days;
4. If the full relief requested is not granted a statement of the person's right to seek a judicial review; and
5. The appeal panel will consist of the City of Minot's Human Resource Director, CDM Smith Program Manager, and an Alderman appointed by the Mayor.

Request for Additional Time

If a person makes a reasonable request for additional time to gather information and prepare for a written appeal or request a review by the City of Minot, he or she shall be granted a reasonable amount of time.

Determination on Persons Not Displaced

Review of a displacing Agency's determination that a person is not displaced is to be undertaken in the same manner as explained above.

Tracking

The City will develop a tracking system to ensure all deadlines are met when an appeal is filed.

City of Minot

Contact Person. If you have questions about your relocation or need additional information or assistance, please contact:

Bobbie Ripplinger
Swanson & Warcup, Ltd.
720 Western Avenue
Minot, ND 58701
(701) 858-8040
briplinger@swlawltd.com

July 6, 2015

ADOPT THE POLICIES AND PROCEDURES FOR PROPERTY ACQUISITION (EMINENT DOMAIN)
APPROVED

Alderman Frantsvog moved the City Council approve the amended policies and procedures related to property acquisitions, voluntary and involuntary, buyouts, and eminent domain.

Motion seconded by Alderman Olson and carried by the following roll call vote: ayes: Berg, Connole, Frantsvog, Frey, Hatlelid, Hedberg, Jantzer, Lehner, Olson, Pankow, Schuler, Seymour, Shomento. nays: none.

Cc: File
Finance Dept.