



U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

Regional Directors
Field Office Directors
CPD Directors
Housing Directors
Public Housing Division Directors
CPD Division Directors
HOME Program Coordinators
CDBG Grantees
HOME Participating Jurisdictions
HOPWA, Supportive Housing, Shelter Plus Care, and Youthbuild Grantees
Multifamily HUB Directors
Multifamily Program Center Directors
Multifamily Project Managers
Homeownership Center Directors
Public Housing Agency Directors
HUB Directors of Public Housing
PIH Program Center Coordinators
Tribes
Tribally Designated Housing Entities
ONAP Administrators
FHEO HUB Directors
FHEO Program Center Directors
Staff, Enforcement Center

Notice CPD 06-03

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Cross References: Handbook 1374

Handbook 1378

Subject: HUD Review of Appeals under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (URA); or section 104(d) of the Housing and Community Development Act of 1974, as amended (HCD Act).

I. PURPOSE

Handbook 1374 (Tenant Assistance, Relocation and Real Property Acquisition – HUD CPD Staff Responsibilities) dated February 1992, established a policy for handling appeals under the subject statutes. This policy must be revised based on the current structure and staffing at HUD. This Notice will establish a new protocol for handling complaints with regard to actions covered by these statutes and applicable HUD regulations, and supersedes paragraph 1-7 of

CGHR:Distribution:W-3-1, R-1, R-2, R-3-3, R-6, R-7, R-8, R-9, MF Hubs, R-3-1-3, HOME PJ, 138 tabs 2 & 7

Handbook 1374. Other HUD statutes or program regulations may establish an appeals process for displaced persons not covered by this protocol.

II. BACKGROUND

On September 16, 2003, the Department published a Consolidated Delegation of Authority for Community Planning and Development (CPD) programs in the Federal Register (68 F.R. 54238). In this publication, the Secretary delegated authority over the administration of the URA to the Assistant Secretary of CPD for all HUD programs. This Notice, consistent with existing program regulations and guidance, clarifies that this authority includes appeals under the subject statutes and non-displacement determinations to be made by HUD or requiring HUD concurrence.

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2506-0121. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

III. Basic Appeal Policies

The URA regulations at 49 CFR 24.10 establish an individual's right to appeal either displacement status, the amount of relocation assistance to be provided, or acquisition payments made under 49 CFR 24.106 or 24.107. Under the URA, an appeal must be filed with the displacing Agency within a reasonable time period. An aggrieved person must have at least 60 days after the person receives written notification of the Agency's determination on the person's claim to file an appeal of that determination. The displacing Agency is the direct HUD recipient (e.g., grantee, Participating Jurisdiction, Public Housing Authority) or in the case of the State CDBG Program, the State recipient not a subgrantee (e.g., subrecipient, project sponsor). The displacing Agency is responsible for ensuring its subgrantee(s) comply with the URA. Under the URA regulations at 49 CFR part 24, an aggrieved person also has the right to seek judicial review; however, no provision is made for further appeal to the federal funding agency.

Under section 104(d) regulations at 24 CFR 42.390 and some other HUD program regulations (e.g., 24 CFR 574.630(d), 24 CFR 582.335(e), and 24 CFR 583.310(e)), a low- or moderate-income person who is dissatisfied with the displacing Agency's determination on whether the person qualifies as a "displaced person" or with the amount of relocation assistance for which the person is eligible, may submit a written request for HUD review of that determination (or for State review in the case of a unit of general local government funded by the State). A request for HUD review of a displacing Agency's determination on URA or section 104(d) eligibility or payments which is based on provisions in HUD program regulations which allow a low- or moderate income person to appeal to HUD, must be made in writing to the CPD Director in the local HUD Field Office no later than 60 days after the person receives written notification of the Agency's

determination (and such notice informs the person of the 60-day limit). The Field Office may, at its discretion, extend the submission period, where appropriate.

IV. HUD Official(s) Reviewing Appeal

The CPD Director shall request the assistance of qualified HUD staff to review such appeals and prepare HUD's response. At a minimum, the Regional Relocation Specialist assigned to cover the field office jurisdiction and a representative of the HUD program area affected (CPD, Housing or Public and Indian Housing) should be involved in the review of relocation appeals. Where appropriate, guidance from the Office of General Counsel should be requested.

V. HUD Review of Appeal

Staff conducting the review shall forward a copy of the request for review to the displacing Agency within fifteen (15) calendar days of Field Office receipt. The Agency should be instructed to respond to the issues raised in the request within thirty (30) calendar days of receipt and to send a copy of its response to HUD. The Field Office may, at its discretion, extend the Agency's response period where appropriate. The Field Office may also ask the Agency to submit its complete case file and may request additional information from the affected individual. In deciding appeals, it is intended that applicable policies be applied in a manner that best fulfills the objective of providing fair and equitable treatment so that affected persons do not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.

The appeal review staff shall draft a recommendation to the CPD Director and prepare draft responses for his/her signature: 1) To the individual making the appeal, and 2) to the displacing Agency (with a copy of the response to the individual). The responses shall include, but need not be limited to:

- (1) HUD's 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 by the Agency, 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 further HUD assistance in the event such relief is not provided (in such cases, the response to the Agency will need to provide direction regarding HUD's required corrective action); and
- (4) If the full relief requested is not granted, a statement of the person's right to seek judicial review.

In any case where the local Field Office recommendation is to sustain the displacing Agency's denial, review by the Headquarters Relocation and Real Estate Division is required.

IV. 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 for HUD review, he or she shall be granted a reasonable amount of additional time.

V. HUD Determinations on Persons Not Displaced

The URA defines both a “Displaced Person” and “Persons not Displaced” in 49 CFR 24.2(a)(9). HUD program regulations rely on this definition and, in many cases, include additional program-specific definitions for these terms, including a provision which either allows HUD to make a determination that a person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project; or that requires HUD concurrence in any such a determination by a recipient (e.g., see 24 CFR 92.353(c)(2)(D), 24 CFR 941.207(h)(2)(iv), or 24 CFR 1000.14(g)(2)(iii)).

Review of a displacing Agency’s determination that a person is not displaced under the URA based on HUD program regulations is to be undertaken by the CPD Director in the local field office in the same manner as URA or section 104(d) appeals. Any HUD determination that a person is not displaced must be reviewed by the Relocation and Real Estate Division in Headquarters prior to a final decision being rendered by the CPD Director.

For additional information regarding the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), you may contact staff in the Relocation and Real Estate Division in HUD Headquarters or Regional Relocation Specialists. Their names and telephone numbers can be found at www.HUD.gov/relocation under “Contacts.”