

CHAPTER 11

RELOCATION ASSISTANCE AND EVICTION

Authority

N.J.S.A. 2A:18-61.1, 20:4-10 and 52:31B-10.

Source and Effective Date

R.2009 d.358, effective November 4, 2009.
See: 41 N.J.R. 9(a), 41 N.J.R. 4433(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 11, Relocation Assistance and Eviction, expires on May 3, 2017. See: 48 N.J.R. 1849(a).

Chapter Historical Note

Chapter 11, Relocation Assistance Program, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 11, Relocation Assistance and Eviction, was readopted as R.1984 d.127, effective March 28, 1984. See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

The expiration date of Chapter 11, Relocation Assistance and Eviction, was extended by gubernatorial directive from March 1, 1989 to April 1, 1989. See: 21 N.J.R. 592(a).

Pursuant to Executive Order No. 66(1978), Chapter 11, Relocation Assistance and Eviction, was readopted as R.1989 d.188, effective March 10, 1989. See: 21 N.J.R. 231(b), 21 N.J.R. 891(a).

Pursuant to Executive Order No. 66(1978), Chapter 11, Relocation Assistance and Eviction, was readopted as R.1994 d.174, effective March 9, 1994. See: 26 N.J.R. 289(a), 26 N.J.R. 1493(a).

Pursuant to Reorganization Plan No. 002-1998, Chapter 11, Relocation Assistance and Eviction, was recodified as N.J.A.C. 5:40, effective July 1, 1998. See: 30 N.J.R. 1347(a), 30 N.J.R. 2644(a).

Pursuant to Executive Order No. 66(1978), Chapter 40, Relocation Assistance and Eviction, expired on March 9, 1999.

Chapter 40, Relocation Assistance and Eviction, was adopted as new rules by R.1999 d.135, effective May 3, 1999. See: 31 N.J.R. 508(a), 31 N.J.R. 1186(b).

Pursuant to Reorganization Plan 002-1998, Chapter 90 of Title 12, Boilers, Pressure Vessels and Refrigeration, was recodified as N.J.A.C. 5:11, effective July 1, 1998. See: 30 N.J.R. 1347(a), 30 N.J.R. 2644(a).

Administrative change: Office of Boiler and Pressure Vessel Compliance changed to Bureau of Boiler and Pressure Vessel Compliance. See: 31 N.J.R. 1061(b).

Subchapter 7, Pressure Relief Valves, was adopted as new rules, and former Subchapter 7, Licensing of Operating Engineers and Boiler Operators, former Subchapter 8, Violations and Penalties, and former Subchapter 9, Standards and Publications Referred to in this Chapter, were recodified as Subchapters 8 through 10 by R.1999 d.304, effective September 7, 1999. See: 31 N.J.R. 1556(a), 31 N.J.R. 2604(b).

Pursuant to Executive Order No. 66(1978), Chapter 11, Boilers, Pressure Vessels and Refrigeration, was readopted as R.1999 d.394, effective October 21, 1999. See: 31 N.J.R. 2024(a), 31 N.J.R. 3626(a).

Pursuant to Reorganization Plan No. 002-2002, Chapter 11, Boilers, Pressure Vessels and Refrigeration, was recodified as N.J.A.C. 12:90, effective February 5, 2003. See: 34 N.J.R. 4245(a), 35 N.J.R. 1275(b).

Chapter 40 of Title 5, Relocation Assistance and Eviction, was recodified as N.J.A.C. 5:11 and readopted as R.2004 d.222, effective May 20, 2004. See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

Chapter 11, Relocation Assistance and Eviction, was readopted as R.2009 d.358, effective November 4, 2009. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 11, Relocation Assistance and Eviction, was scheduled to expire on November 4, 2016. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

5:11-1.1 Introduction

The Relocation Assistance Law of 1967 (P.L. 1967, c.79, N.J.S.A. 52:31B-1 et seq.), the Relocation Assistance Act (P.L. 1971, c.362, N.J.S.A. 20:4-1 et seq.) and the Eviction Law (P.L. 1974, c.49, N.J.S.A. 2A:18-61.1 et seq.) were passed by the legislature in order to establish and assure the uniform, fair and equitable treatment of persons displaced due to state and local programs of acquisition, code enforcement and voluntary rehabilitation of buildings. These regulations are promulgated so that the Department of Community Affairs may carry out the provisions of the Act.

Case Notes

Citation. Hickey v. Park Ridge, 5 N.J.A.R. 291 (1983).

5:11-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context or any definition set forth in P.L. 1967, c.79 (N.J.S.A. 52:31B-1 et seq.) or P.L. 1971, c.362 (N.J.S.A. 20:4-1 et seq.) clearly indicates otherwise.

“Business” means any lawful activity, except a farm operation, conducted primarily:

1. For the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities or any other personal property;
2. For the sale of services to the public;
3. By a non-profit organization; or
4. Solely for the purpose of qualifying for moving and related expenses, for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, (personal property) or services by the erection and maintenance of an outdoor advertising display or displays. Such displays do not necessarily have to be located on the premises on which any of the cited activities are conducted.

“Commissioner” means the Commissioner of the Department of Community Affairs.

“Comparable replacement dwelling” means a dwelling which is:

1. Decent, safe and sanitary;

2. Functionally equivalent and substantially the same as the former dwelling with respect to number of rooms, areas of living space, age and state of repair, provided that it is standard and adequate in size to accommodate the family or individual;

3. In an area not subjected to unreasonable adverse environmental conditions from either natural or man-made sources;

4. In an area not generally less desirable than the area in which the acquired dwelling was located in regard to public and commercial facilities;

5. In an area reasonably accessible to the displaced person's present or potential place of employment;

6. Open to all persons regardless of race, color, religion, age, sex, marital or handicapped status or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968 and the New Jersey Law Against Discrimination as amended and not inconsistent with any Federal statutes, rules or regulation applicable.

7. Within the financial means of the displaced person. For the purpose of this definition, any monies paid hereunder shall be included in determining financial means.

“Decent, safe and sanitary housing” means housing that is in sound, clean and weathertight condition and is in conformity with local and state housing and health codes.

“Department” means the Department of Community Affairs.

“Displaced” means required to vacate any real property lawfully occupied pursuant to any order or notice of any displacing agency on account of a program of acquisition, code enforcement proceedings or voluntary rehabilitation of buildings.

“Displacing agency” means any State Agency, unit of local government or publicly funded entity as herein defined.

“Dwelling” means the house, apartment or other residential unit that is the permanent place of principal lawful residence of a person or family and to which such person or family whenever absent has the intention of returning.

“Economic rent” means the fair market rental of the property on the open market.

“Emergency relocation” means when a lawful occupant of a dwelling unit is required to immediately vacate due to the enforcement of any applicable code.

“Family” means two or more individuals, regardless of blood or legal ties, who live together as a family unit.

“Farm operation” means any activity which is conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale

or home use, and customarily, produces commodities in sufficient quantity to be capable of contributing materially to the operator's support. The term "contributing materially" used in this definition means that the farm operation contributes at least one-third of the operator's income.

"Incidental expenses" means the amount of actual costs incurred in the purchase of a replacement dwelling by a person who is displaced including but not limited to fees for legal services, title search, title insurance, recording of title instruments, mortgage applications, payment for loss of favorable financing, and credit reports. Prepaid expenses are not considered "incidental expenses".

"Lawful occupant" means a person whose occupancy of a dwelling unit or property is recognized by the owner and is not the result of a trespass or unauthorized sublease or assignment.

"Person" means any individual or family, owner of a business concern or farm operation, partnership, corporation or association.

"Personal property (tangible personal property)" means:

1. Tangible property which is situated on the real property vacated or to be vacated by a displaced person and which is considered personal property and is non-compensable (other than for moving expenses) under the state law of eminent domain; and

2. In the case of a tenant, fixtures and equipment and other property which may be characterized as real property under state or local law, but which the tenant may lawfully, and at his election determines to move and for which the tenant is not compensated in the real property acquisition. In the case of an owner of real property, the determination as to whether an item of property is personal or real shall depend upon how it is identified in the acquisition appraisals and the closing or settlement statement with respect to the real property acquisitions: provided, that no item of property which is compensable under state law to the owner of real property in the real property acquisition may be treated as tangible personal property in computing actual direct losses of tangible personal property.

"Publicly funded entity" means a private entity that receives public funds from any municipal, county, state or federal program for use in a project that causes displacement.

"State Agency" means any department, division, office, agency or bureau of this state or any authority or instrumentality created or chartered thereby.

"Temporary relocation" means when a lawful tenant is required to move from a dwelling that is undergoing rehabilitation and, upon completion of the rehabilitation, may return.

"Unit of local government" means any political subdivision of this State, or any two or more such political subdivisions

acting jointly pursuant to law, and any department, division, office, agency or bureau thereof or any authority of instrumentality created or chartered thereby.

"WRAP" means the Workable Relocation Assistance Plan required to be submitted to the Department for approval prior to the undertaking of any relocation activities.

Amended by R.1984 d.127, effective April 16, 1984.

See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

Definitions of "Commissioner" and "Displaced" modified; "WRAP" added.

Amended by R.1987 d.518, effective December 21, 1987.

See: 19 N.J.R. 1596(a), 19 N.J.R. 2388(c).

Added definition "lawful occupant".

Amended by R.1990 d.113, effective February 5, 1990.

See: 21 N.J.R. 3694(a), 22 N.J.R. 336(a).

Added statutory references and amended "unit of local government".

Amended by R.1994 d.174, effective April 4, 1994.

See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

Law Review and Journal Commentaries

Relocation Assistance. Judith Nallin, 136 N.J.L.J. No. 10, 59 (1994).

Case Notes

Former N.J.A.C. 5:40-1.7 definition of displaced person valid; assistance award determination. *McNally v. Middletown Twp.*, 182 N.J.Super. 622, 442 A.2d 1075 (App.Div.1982).

Replacement housing must be open in accordance with Civil Rights Act of 1968 (citing former N.J.A.C. 5:40-2.3); no evidence of civil rights violation. *Rowe v. Pittsgrove Twp.*, 172 N.J.Super. 209, 411 A.2d 720 (App.Div.1980).

Initial Decision (2009 N.J. AGEN LEXIS 685) adopted, which found that, pursuant to N.J.A.C. 5:11-4.2, a formal written notice to vacate was required before relocation assistance could be received. Petitioners did not receive such written notice, but vacated their homes and relocated under the assumption that the Township would acquire the property and relocation benefits would be available; therefore, petitioners were not "displaced" as defined under this section and were not entitled to relocation benefits. *Carter v. Twp. of Mount Holly*, OAL Dkt. No. CAF 4320-09, 2009 N.J. AGEN LEXIS 1004, Final Decision (October 16, 2009).

Initial Decision (2009 N.J. AGEN LEXIS 104) adopted, which found that N.J.A.C. 5:11-2.1(a) and N.J.A.C. 5:11-4.2 read together requires written notice before a person may become eligible for relocation benefits; because petitioners did not receive written notice from a governmental unit to vacate the property, instead vacating their homes and relocating under the direction of a private, non-profit organization that received public funds, but not for use in the project that caused the displacement of petitioners, they were not entitled to relief. *Harville v. Camden County Dep't of Health & Human Services*, OAL Dkt. No. CAF 8365-08, 2009 N.J. AGEN LEXIS 611, Final Decision (March 3, 2009).

Initial Decision (2008 N.J. AGEN LEXIS 978) adopted, which concluded that where, following initial discussions concerning acquisition of owner's beauty salon as part of local government's redevelopment plan, owner sold beauty shop to private entity, owner was not a "displaced person" under N.J.A.C. 5:11-1.2 since she was not displaced as a result of the local government acquiring her property or as the result of the local government ordering her to vacate it. *Koo v. Township of Bloomfield*, OAL Dkt. No. CAF 05832-08, 2009 N.J. AGEN LEXIS 48, Final Decision (January 16, 2009).

Initial Decision (2008 N.J. AGEN LEXIS 476) adopted as modified, which found that a renter was entitled to relocation rental assistance after she was displaced as the result of code enforcement activities; despite the unlawful use of a residence for a basement apartment, petitioner was

a "lawful occupant." *Petersen v. Twp. of Tom's River*, OAL Dkt. No. CAF 4726-08, 2008 N.J. AGEN LEXIS 1280, Final Decision (July 31, 2008).

Initial Decision (2006 N.J. AGEN LEXIS 823) adopted, which rejected petitioners' argument that the Relocation Assistance "comparable replacement" rule required that they be relocated to a neighborhood with cultural amenities such as ethnic population groups, availability of ethnic food, and video store rentals in their native language; nothing in the law requires such relocation, and indeed, given the definition of "comparable replacement dwelling" contained in N.J.A.C. 5:11-1.2, it would be inappropriate to base "comparable" housing on the ethnic composition of the neighborhood. *Chatterjee v. Atlantic City Bd. of Educ.*, OAL Dkt. No. CAF 2857-05 (CAF 4507-04 On Remand), 2006 N.J. AGEN LEXIS 946, Final Decision (November 15, 2006), *aff'd in part, and rev'd in part* on other grounds per curiam, No. A-2334-06T1, 2008 N.J. Super. Unpub. LEXIS 789 (App.Div. April 10, 2008).

Initial Decision (2006 N.J. AGEN LEXIS 823) adopted, which concluded that, with respect to finding Relocation Assistance comparable housing, a desire to remain within bike-riding distance to work was not dispositive; this issue is addressed in the definition of "comparable replacement dwelling" in N.J.A.C. 5:11-1.2, and it was officially noted that public transportation was available for petitioner to get to work. *Commuting is a way of life in America. Chatterjee v. Atlantic City Bd. of Educ.*, OAL Dkt. No. CAF 2857-05 (CAF 4507-04 On Remand), 2006 N.J. AGEN LEXIS 946, Final Decision (November 15, 2006), *aff'd in part, and rev'd in part* on other grounds per curiam, No. A-2334-06T1, 2008 N.J. Super. Unpub. LEXIS 789 (App.Div. April 10, 2008).

Initial Decision (2006 N.J. AGEN LEXIS 885) adopted, which concluded that a tenant and her family were displaced and entitled to relocation assistance benefits, notwithstanding the town's claim that the tenant was not displaced because of code enforcement activities regarding occupancy limits, of which tenant was unaware, but rather due to the nonrenewal of the lease by the town; the town's own letter to the tenant belied that position. There was no evidence to show that there was any other reason for the nonrenewal. *Burrough v. Borough of Brooklawn*, OAL Dkt. No. CAF 4817-06, 2006 N.J. AGEN LEXIS 948, Final Decision (November 15, 2006), *aff'd per curiam*, No. A-2315-06T2, 2008 N.J. Super. Unpub. LEXIS 642 (May 14, 2008).

Where tenant seeking relocation assistance had resided in a basement apartment since 2003 and in 2006 the apartment was inspected and determined to be an illegal second apartment in a legally zoned one-family home, the tenant's rental occupancy was not unlawful according to the definition of "lawful occupant" in N.J.A.C. 5:11-1.2. *Friend v. Borough of Lodi*, OAL Dkt. No. CAF 09330-06, 2006 N.J. AGEN LEXIS 949, Final Decision (November 13, 2006).

Tenant in resort-only zone ordered to vacate is displaced so as to qualify for relocation assistance; dwelling defined. *Moran v. Randolph Twp.*, 6 N.J.A.R. 58 (1980).

Tenant occupancy in single family residence zone not lawful occupancy to permit relocation assistance. *Hickey v. Park Ridge*, 5 N.J.A.R. 291 (1983).

No relocation benefits due fire displaces under former regulation. *Wright v. City of Hoboken*, 1 N.J.A.R. 203 (1980).

SUBCHAPTER 2. ELIGIBILITY

5:11-2.1 Building, housing, and health code enforcement

(a) Whenever a State Agency or unit of local government undertakes a program of building code enforcement, housing code enforcement or health code enforcement that causes the displacement of any person, the said State Agency or unit of local government shall provide relocation payments and assistance to all lawful occupants who are displaced, as provided in N.J.A.C. 5:11-3 and 4. The date of eligibility shall be the date occupants received formal written notice to vacate from the State Agency or unit of local government. Said written notice shall include the information required pursuant to N.J.A.C. 5:11-4.2.

(b) An order to vacate issued by a State Agency or unit of local government, pursuant to the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and N.J.A.C. 5:23-2.32(b)1, because a building has become unsafe or uninhabitable as a direct result of a natural disaster, soil subsidence, fire, a latent defect or other sudden and unforeseeable occurrence is not displacement within the meaning of these rules and no relocation benefits shall be due any occupants or former occupants of such a building. However, a municipality may, pursuant to N.J.S.A. 20:4-3.1, voluntarily provide relocation benefits to such displacees but shall receive no reimbursement through any State grant-in-aid for the cost of doing so.

(c) An owner-occupant who is displaced by health, building or housing code enforcement shall not be entitled to relocation benefits if the code violation which resulted in displacement was caused by factors for which the owner is liable. Any such owner-occupant who is entitled to benefits shall be entitled to the benefits applicable to tenants only.

(d) No tenant displaced by code enforcement shall be eligible for benefits if the code violation which resulted in displacement was primarily caused by that tenant's own

conduct and not by factors for which the owner is liable under N.J.S.A. 20:4-4.1.

1. In the event that there has been no prosecution of the owner under N.J.S.A. 20:4-4.1, a displaced lawful occupant shall be presumed to be eligible for relocation benefits unless it is established by agreement or by administrative hearing that the code violation was primarily attributable to conduct of the displaced person.

Amended by R.1983 d.59, effective March 7, 1983.

See: 15 N.J.R. 6(b), 15 N.J.R. 330(b).

Added "municipality may provide benefits but shall not be reimbursed by the State".

Amended by R.1984 d.127, effective April 16, 1984.

See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

(b) "Act of God" deleted; disaster and imminent hazard substituted.

Amended by R.1987 d.518, effective December 21, 1987.

See: 19 N.J.R. 1596(a), 19 N.J.R. 2388(c).

Added (d).

Amended by R.1989 d.188, effective April 3, 1989.

See: 21 N.J.R. 231(b), 21 N.J.R. 891(a).

In (d), cite to "N.J.A.C." changed to "N.J.S.A.".

Amended by R.1994 d.174, effective April 4, 1994.

See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

Amended by R.1995 d.386, effective July 17, 1995.

See: 27 N.J.R. 1844(a), 27 N.J.R. 2714(a).

Amended by R.2004 d.222, effective June 21, 2004.

See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

In (a), amended N.J.A.C. references throughout.

Law Review and Journal Commentaries

Relocation Assistance. Judith Nallin, 136 N.J.L.J. No. 10, 59 (1994).

Case Notes

Tenant waived any entitlement to relocation assistance by entering into settlement in dispossession action. *Herrera v. Township of South Orange Village*, 270 N.J.Super. 417, 637 A.2d 526 (A.D.1993), certification denied 136 N.J. 28, 641 A.2d 1039.

Landlord may enforce occupancy limits in renewal leases even if tenants would then be in violation of those limits; landlord through lease renewal, which will force the tenant to relocate, may be liable for relocation assistance comparable to what the tenant would have received under N.J.S.A. 2A:18-61.1(g)(3). *M.C. Associates v. Shab*, 226 N.J.Super. 173, 543 A.2d 1006 (App.Div.1988).

Relocation assistance benefits available to tenants whose occupancy was lawful under N.J.S.A. 20:4-4.1 unless it is established by agreement or by administrative hearing that the code violation was primarily attributable to conduct of the tenant. *Haddock v. Passaic, Community Development Dep't, City of Passaic*, 217 N.J.Super. 592, 526 A.2d 725 (App.Div.1987) certification denied 108 N.J. 645, 532 A.2d 228 (1987).

Petitioners, tenants displaced by building code enforcement activities, entitled to relocation assistance. *Haddock v. Passaic*, 10 N.J.A.R. 52 (1985) adopted—Dep't of Community Affairs, affirmed in part, reversed on other grounds and remanded 217 N.J.Super. 592, 526 A.2d 725 (App.Div.1987) certification denied 108 N.J. 645, 532 A.2d 228.

Initial Decision (2006 N.J. AGEN LEXIS 885) adopted, which concluded that a tenant and her family were displaced due to code enforcement activities and were entitled to relocation assistance benefits, where it was not the conduct of the tenant in giving birth to her children that was primarily responsible for the code violation, but the failure of the town to make her aware of the code standards regarding occupancy limits; the town had been aware of the number of occupants in the past and still renewed her lease. *Burrough v. Borough of Brooklawn*, OAL Dkt. No. CAF 4817-06, 2006 N.J. AGEN LEXIS 948, Final Decision

(November 15, 2006), aff'd per curiam, No. A-2315-06T2, 2008 N.J. Super. Unpub. LEXIS 642 (May 14, 2008).

Where tenant seeking relocation assistance had resided in a basement apartment since 2003 and in 2006 the apartment was inspected and determined to be an illegal second apartment in a legally zoned one-family home, the tenant's rental occupancy was not unlawful according to the definition of "lawful occupant" in N.J.A.C. 5:11-1.2. *Friend v. Borough of Lodi*, OAL Dkt. No. CAF 09330-06, 2006 N.J. AGEN LEXIS 949, Final Decision (November 13, 2006).

Tenant of basement apartment that was inspected and determined to be an illegal second apartment in a legally zoned one-family home was not eligible for assistance under the Relocation Assistance Law of 1967, N.J.S.A. 52:31B-1 et seq., or the Relocation Assistance Act, N.J.S.A. 20:4-1 et seq., because the displacement was the result of an order issued to the landlord to correct a zoning violation; the fire official's statement that occupancy of the unit was also a fire code violation did not create an entitlement to assistance that did not otherwise exist. Tenant shall not be precluded by this decision from obtaining relocation assistance under either N.J.S.A. 2A:18-61.1g or 2A:18A-61.1h. *Friend v. Borough of Lodi*, OAL Dkt. No. CAF 09330-06, 2006 N.J. AGEN LEXIS 949, Final Decision (November 13, 2006).

Tenant not entitled to relocation assistance without showing uninhabitable premises. *Kern v. Borough of Belmar*, 97 N.J.A.R.2d (CAF) 20.

Loss of housing which occurred when premises was evacuated for safety of tenants upon broken water main was a natural disaster that precluded payment of relocation benefits. *Union Gardens' v. Township of Montclair*, 95 N.J.A.R.2d (CAF) 85.

Tenants constructively discharged due to health hazards; relocation assistance. *Travers v. The Township of Old Bridge*, 94 N.J.A.R.2d (CAF) 96.

Eviction for nonpayment of rent; relocation assistance. *Varca v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 95.

Relocation assistance; illegal sublease. *Sanchez v. City of Paterson*, 94 N.J.A.R.2d (CAF) 51.

Termination of relocation assistance occurred on determination that repairs ordered by the Bureau of Local Construction Code Enforcement were completed. *Tilton v. Department of Community Affairs*, 93 N.J.A.R.2d (CAF) 51.

Application for relocation assistance was denied for failure to comply with the rental agreement and by willful destruction of the rented property. *McCaskill v. Pennsauken Township*, 93 N.J.A.R.2d (CAF) 12.

Occupant of apartment who received improperly addressed violation notice and who immediately vacated was not entitled to relocation assistance. *Moore v. City of Camden*, 92 N.J.A.R.2d (CAF) 113.

Tenant displaced from premises as result of actions by the township to enforce its zoning ordinance was not entitled to relocation assistance. *Herrera v. Township of South Orange Village*, 92 N.J.A.R.2d (CAF) 85.

Tenant occupying premises in violation of resort-only zoning eligible for relocation assistance as a lawful occupant. *Moran v. Randolph Twp.*, 6 N.J.A.R. 58 (1980).

Determination of landlord-tenant relationship; relocation assistance denied to tenant as not lawful occupant in single family residence zone. *Hickey v. Park Ridge*, 5 N.J.A.R. 291 (1983).

5:11-2.2 Programs of acquisition

(a) Whenever any State Agency (except the New Jersey Department of Transportation), unit of local government or publicly funded entity acquires real property that causes the

displacement of people, businesses, or farm operations, the said State Agency, unit of local government or publicly funded entity shall provide relocation payments and assistance as provided in N.J.A.C. 5:11-3 and 4; provided, however, that if any acquisition of real property is made using funds provided by any Federal agency, all relocation payments shall be made in accordance with any applicable Federal regulations that provide for a higher level of benefits.

(b) The State Agency, unit of local government or publicly funded entity shall not be relieved of its obligation of providing payments and benefits as provided hereinafter by requiring the owner of a building to cause it to be vacated prior to the acquisition.

(c) The eligibility date for this section shall be the date of the first written offer to purchase the property.

Amended by R.1989 d.188, effective April 3, 1989.
See: 21 N.J.R. 231(b), 21 N.J.R. 891(a).

In (a), language added regarding acquisition of property and concomitant relocation payments with use of Federal funds and Federal benefit levels.

Amended by R.2004 d.222, effective June 21, 2004.
See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

In (a), amended the N.J.A.C. reference.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 978) adopted, which concluded that where local government determined that its redevelopment would cause the displacement of owner's beauty salon and notified her on January 21, 2005 that she might be eligible for relocation assistance and offered to purchase her property in a separate letter of the same date, the owner's beauty salon was eligible for relocation assistance as of January 21, 2005. However, since owner sold her property to a private entity on September 22, 2006 and did not sell it to a state agency, unit of local government, or publicly funded private entity, her beauty salon became ineligible for relocation assistance on that date. *Koo v. Township of Bloomfield*, OAL Dkt. No. CAF 05832-08, 2009 N.J. AGEN LEXIS 48, Final Decision (January 16, 2009).

Initial Decision (2008 N.J. AGEN LEXIS 978) adopted, which concluded that an offer to purchase property only establishes eligibility for relocation assistance but does not guarantee it. Continued eligibility for relocation assistance requires the actual acquisition of the real property by a state agency, unit of local government, or publicly funded private entity and to hold otherwise would guarantee relocation payments whenever any state agency, unit of local government, or publicly funded entity notified individuals and businesses that it was considering displacing them without doing so. *Koo v. Township of Bloomfield*, OAL Dkt. No. CAF 05832-08, 2009 N.J. AGEN LEXIS 48, Final Decision (January 16, 2009).

Initial Decision (2008 N.J. AGEN LEXIS 978) adopted, which concluded that local government was not equitably estopped from denying relocation assistance on theory that local government represented that it would provide relocation assistance to property owner and essentially induced her to sell her property to a private entity. The local government made no misrepresentations about relocation assistance but merely notified owner that her property was eligible for relocation assistance and it did not state that the property would qualify for relocation payments. As such, it was unreasonable for owner to believe that she would receive relocation assistance without qualifying for it. *Koo v. Township of Bloomfield*, OAL Dkt. No. CAF 05832-08, 2009 N.J. AGEN LEXIS 48, Final Decision (January 16, 2009).

Condemnees whose land was taken for a new school were not entitled to relocation assistance. N.J.S.A. 20:4-1 et seq., 20:4-5. *Carlucci v. Jersey City Bd. of Educ.*, 92 N.J.A.R.2d (CAF) 1.

5:11-2.3 Evictions under N.J.S.A. 2A:18-61.1(g)

(a) Whenever an eviction is sought under the provisions of N.J.S.A. 2A:18-61.1(g) by an owner, whether said owner is a person, State Agency or unit of local government, the tenant shall be provided with the relocation payments and benefits as provided in subchapters 3 and 4 of this chapter. The date of eligibility shall be the date the tenant received a formal notice to vacate from the landlord as provided in N.J.S.A. 2A:18-61.2 and the displacing agency shall be deemed to be the State Agency or unit of local government that issues the notice of violation.

(b) The landlord shall provide the Department with the information required in subchapter 7 of this chapter.

(c) In cases where a landlord is to be cited for a violation pursuant to an illegal occupancy which could potentially result in a (g)3 eviction, the following shall be included as an insert sent with the violation notice:

IF, IN SEEKING TO CORRECT THE ILLEGAL OCCUPANCY FOR WHICH YOU HAVE BEEN CITED, IT IS NECESSARY FOR YOU TO EVICT ONE OR MORE TENANTS TO COMPLY, YOU MUST NOTIFY THOSE TENANTS OF THEIR POTENTIAL ELIGIBILITY FOR RELOCATION ASSISTANCE. FURTHER INFORMATION REGARDING YOUR RESPONSIBILITIES AS OWNER PURSUANT TO REGULATIONS CONCERNING EVICTION AND RELOCATION MAY BE OBTAINED BY CONTACTING THE FOLLOWING:

DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF CODES AND STANDARDS
OFFICE OF LANDLORD-TENANT INFORMATION
PO BOX 805
TRENTON, NEW JERSEY 08625-0805
TELEPHONE: 609-633-6606

Amended by R.1984 d.127, effective April 16, 1984.
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

(c): address changed.

Amended by R.1994 d.174, effective April 4, 1994.

See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

Amended by R.2004 d.222, effective June 21, 2004.

See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

In (c), amended the address.

5:11-2.4 Displacement caused by public utilities

Whenever a public utility acquires real property that causes the displacement of persons, businesses or farm operations the public utility shall provide relocation payments and assistance as provided in subchapter 3 of this chapter. The date of eligibility shall be the date of initiation of negotiations.

5:11-2.5 Programs of rehabilitation

(a) Whenever a displacing agency undertakes a program of voluntary rehabilitation that causes displacement of persons, businesses or farm operations, the displacing agency shall

Amended by R.1994 d.174, effective April 4, 1994.
See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

SUBCHAPTER 7. DISPLACEMENT THROUGH LANDLORD'S ACTION

5:11-7.1 General notice

(a) Whenever a landlord intends to terminate a tenancy because of enforcement of building, housing or health codes, public acquisition of the premises or participation in a government-sponsored program of voluntary rehabilitation, including, without limitation, new construction, the landlord shall give written notice of his intent to the tenant.

1. This notice shall specify in detail the reasons why the landlord wants the tenant to vacate the premises.

2. Unless N.J.A.C. 5:11-7.2 shall apply, the notice shall include the following statement in capital letters:

I AM ASKING YOU TO MOVE BECAUSE OF GOVERNMENT ACTION. YOU MAY BE ELIGIBLE FOR FINANCIAL AND OTHER BENEFITS UNDER THE RELOCATION ASSISTANCE AND RESIDENTIAL EVICTION ACTS (N.J.S.A. 52:31B-1 et seq., N.J.S.A. 20:4-1 et seq. and N.J.S.A. 2A:18-61.1 et seq.). YOU MAY CALL THE RELOCATION OFFICE AT (giving the accurate address and the telephone number of the person responsible for the relocation in this area).

Amended by R.1981 d.69, effective March 3, 1981.
See: 13 N.J.R. 67(b), 13 N.J.R. 189(b).

Old text deleted, new text substituted therefor.
Amended by R.1984 d.127, effective April 16, 1984.
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

(a): "zoning" deleted; "health" substituted in its place.
Amended by R.2004 d.222, effective June 21, 2004.
See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

In (a)2, amended the N.J.A.C. reference.

Case Notes

Landlord failed to comply with regulations governing notice to quit; failure to satisfy Anti-Eviction Act. *Aspep Corp. v. Giuca*, 269 N.J.Super. 98, 634 A.2d 582 (L.1993).

Notice to quit served pursuant to code violation will satisfy "specify in detail" requirements only if it complies with regulations governing notice. *Aspep Corp. v. Giuca*, 269 N.J.Super. 98, 634 A.2d 582 (L.1993).

Notices to quit must strictly comply with provisions of Anti-Eviction Act. *Aspep Corp. v. Giuca*, 269 N.J.Super. 98, 634 A.2d 582 (L.1993).

Regulation governing notice has force and effect of law. *Aspep Corp. v. Giuca*, 269 N.J.Super. 98, 634 A.2d 582 (L.1993).

Occupant of illegal dwelling unit in basement was not eligible for relocation assistance when landlord was otherwise unaware of unlawful occupancy. *Woodson v. City of Patterson*, 95 N.J.A.R.2d (CAF) 79.

5:11-7.2 Additional notice for proceedings under N.J.S.A. 2A:18-61.1(g)

(a) In cases arising under N.J.S.A. 2A:18-61.1g(1) or g(3), the following statement shall be included in the notice in capital letters:

I MUST GIVE YOU THIS NOTICE BECAUSE I PLAN TO SEEK EVICTION UNDER THE RESIDENTIAL EVICTION LAW (N.J.S.A. 2A:18-61.1) AND THE REGULATIONS OF THE DEPARTMENT OF COMMUNITY AFFAIRS. THE CAUSE FOR WHICH I WANT YOU TO LEAVE IS THE FOLLOWING:

(1) THAT I WANT TO PERMANENTLY BOARD UP OR DEMOLISH THE UNIT YOU ARE LIVING IN BECAUSE IT HAS BEEN CITED FOR SUBSTANTIAL VIOLATIONS AND IT IS ECONOMICALLY UNFEASIBLE FOR ME TO ELIMINATE THE VIOLATIONS, OR

(3) THAT I HAVE BEEN CITED BY LOCAL OR STATE HOUSE INSPECTORS FOR ILLEGAL OCCUPANCY AND THE ONLY WAY TO CORRECT THIS VIOLATION IS TO REMOVE THE TENANT. I AM ENTITLED TO TRY TO EVICT YOU IN THE COURTS 90 DAYS AFTER THE DATE OF THIS NOTICE. IF YOU RECEIVE A SUMMONS TO APPEAR IN COURT AND FAIL TO APPEAR YOU ARE LIKELY TO LOSE YOUR CASE BECAUSE YOU AREN'T THERE. HOWEVER, IN NO CASE CAN THE JUDGE EVICT YOU AND ISSUE A WARRANT FOR POSSESSION UNLESS THE RELOCATION LAWS HAVE BEEN COMPLIED WITH.

YOU MAY BE ELIGIBLE FOR FINANCIAL AND OTHER BENEFITS UNDER THE RELOCATION ASSISTANCE AND RESIDENTIAL EVICTION ACTS. (N.J.S.A. 52-31B-1 et seq., N.J.S.A. 20:4-1 et seq., and N.J.S.A. 2A:18-61 et seq.) YOU MAY CALL THE RELOCATION OFFICE AT _____ (giving the accurate address and the telephone number of the person responsible for relocation in this area).

(b) In cases arising under N.J.S.A. 2A:18-61.1(g)2, the following statement shall be included in the notice in capital letters:

I MUST GIVE YOU THIS NOTICE BECAUSE I PLAN TO SEEK EVICTION UNDER THE RESIDENTIAL EVICTION LAW (N.J.S.A. 2A:18-61.1) AND THE REGULATIONS OF THE DEPARTMENT OF COMMUNITY AFFAIRS. THE CAUSE FOR WHICH I WANT YOU TO LEAVE IS THAT I WANT TO COMPLY WITH LOCAL OR STATE HOUSING INSPECTORS WHO HAVE CITED ME FOR SUBSTANTIAL VIOLATIONS AND IT IS UNFEASIBLE TO COMPLY WITHOUT REMOVING THE TENANTS.

THE PROCEDURE WHICH IS FOLLOWED ONCE YOU HAVE RECEIVED THIS NOTICE FROM ME IS FOR THE DEPARTMENT OF COMMUNITY AF-

FAIRS TO UNDERTAKE AN INVESTIGATION OF THIS CAUSE FOR EVICTION TO FIND OUT IF IT IS JUSTIFIED BY THE VIOLATIONS OR CIRCUMSTANCES THE DEPARTMENT OF COMMUNITY AFFAIRS WILL INFORM THE TENANTS AND THE _____ (fill in the name of the local inspection agency), OF MY EFFORTS TO TRY TO EVICT YOU, THE DEPARTMENT WILL ASK FOR THEIR WRITTEN COMMENTS AND PREPARE A RECOMMENDATION WHICH WILL BE FORWARDED TO THE DISTRICT COURT WHICH WILL CONDUCT ANY EVICTION PROCEEDINGS, AS WELL AS TO THE _____ (fill in the name of the local inspection agency), THE OWNER AND THE TENANTS. IF THE DEPARTMENT OF COMMUNITY AFFAIRS DECIDES THAT EVICTION FOR THE CAUSE STATED ABOVE IS JUSTIFIED, THE _____ (fill in the name of the local inspection agency), WILL BEGIN PROVIDING FINANCIAL AND OTHER RELOCATION ASSISTANCE AS PROVIDED UNDER THE RELOCATION AND EVICTION LAWS. (N.J.S.A. 52:31B-1 et seq., N.J.S.A. 20:4-1 et seq., and N.J.S.A. 2A:18-61 et seq.) IF THE DEPARTMENT OF COMMUNITY AFFAIRS DECIDES THAT EVICTION IS NOT JUSTIFIED, I AM STILL ENTITLED TO TRY TO EVICT YOU IN THE COURTS 90 DAYS AFTER THE DATE OF THIS NOTICE. IF YOU RECEIVE A SUMMONS TO APPEAR IN COURT AND FAIL TO APPEAR YOU ARE LIKELY TO LOSE YOUR CASES BECAUSE YOU AREN'T THERE. HOWEVER, IN NO CASE CAN THE JUDGE EVICT YOU AND ISSUE A WARRANT FOR POSSESSION UNLESS THE RELOCATION LAWS HAVE BEEN COMPLIED WITH.

(c) Landlords may obtain copies of this required statement from the Office of Landlord/Tenant Information, Department of Community Affairs, PO Box 805, Trenton, N.J. 08625-0805. Spanish speaking tenants shall be provided with this statement in Spanish, and such statement is also available at the same address.

Amended by R.1981 d.69, effective March 3, 1981.

See: 13 N.J.R. 67(b), 13 N.J.R. 189(b).

Section substantially amended.

Amended by R.1984 d.127, effective April 16, 1984.

See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

(c) changed address.

Amended by R.1994 d.174, effective April 4, 1994.

See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

Case Notes

Landlord failed to comply with regulations governing notice to quit; failure to satisfy Anti-Eviction Act. *Aspep Corp. v. Giuca*, 269 N.J.Super. 98, 634 A.2d 582 (L.1993).

Notices to quit must strictly comply with provisions of Anti-Eviction Act. *Aspep Corp. v. Giuca*, 269 N.J.Super. 98, 634 A.2d 582 (L.1993).

Regulation governing notice requirement has force and effect of law. *Aspep Corp. v. Giuca*, 269 N.J.Super. 98, 634 A.2d 582 (L.1993).

Notice to quit served pursuant to code violation will satisfy "specify in detail" requirements only if it complies with administrative regulations governing notice. *Aspep Corp. v. Giuca*, 269 N.J.Super. 98, 634 A.2d 582 (L.1993).

Hispanic tenant, illiterate in English, was entitled to keep pet and to remain as tenant, despite landlord's rule requiring permission to have pet; rules and regulations given to tenant to sign were not in Spanish. *5000 Park Associates v. Collado*, 253 N.J.Super. 653, 602 A.2d 803 (L.1991).

Landlord's notice to Hispanic tenant to cease and notice to quit were not "suitable notice" and were inadequate; tenant was illiterate in English and notices were not in Spanish. *5000 Park Associates v. Collado*, 253 N.J.Super. 653, 602 A.2d 803 (L.1991).

5:11-7.3 Landlord's obligations regarding notice to Department of Community Affairs

(a) The landlord shall, simultaneously with service of notice of the tenants in cases arising under N.J.S.A. 2A:18-61.1(g)2, provide to the Department of Community Affairs the following information and documentation.

1. A copy of the notice to the tenants.
2. The names and addresses of all the tenants to be evicted under N.J.S.A. 2A:18-61.1g(2).

(b) In the case of an eviction pursuant to N.J.S.A. 2A:18-61.1(g)2, a written statement shall also be supplied describing the specific violations the elimination of which necessitates removal of the tenant.

(c) In cases arising under N.J.S.A. 2A:18-61.1(g)2 in which the Department of Community Affairs was not the inspection agency, the landlord shall provide the Department of Community Affairs with a copy of the official inspection report which shows all cited violations and a copy of any applicable local ordinance.

Law Review and Journal Commentaries

Landlord/Tenant—Anti-Eviction Act—Relocation Act. P.R. Chenoweth, 135 N.J.L.J. No. 14, 55 (1993).

5:11-7.4 Responsibilities of Department of Community Affairs

(a) The following actions shall be taken by the Department of Community Affairs in each instance in which a landlord invokes N.J.S.A. 2A:18-61.1g(2):

1. Upon receipt of the landlord's materials, the Department shall acknowledge receipt of such materials and, if necessary, request submission of any additional required information. Such additional information shall be submitted within 15 days of such request.

(b) Upon receipt of the materials, each affected tenant shall be sent a copy of the landlord's statement on the need for eviction and a letter explaining the applicable law and procedures and requesting optional written comments from the tenant about the landlord's proposed action.

(c) The premises shall be inspected, the tenant's comments and the landlord's statement shall be assessed and, where applicable, the Department of Community Affairs shall consult with the local inspection agency. On the basis of this information, a conclusion as to the feasibility of achieving compliance through elimination of the violations without removal of the tenant shall be reached by the Department of Community Affairs within 60 days of its receipt of the original notice from the landlord. Notice of this conclusion shall be given to the Court having jurisdiction, the appropriate relocation agency, the landlord, the affected tenants and the local inspection agency within 90 days of receipt of the landlord's notice.

(d) If it is concluded by the Department of Community Affairs that it is feasible to effect compliance without removal of the tenants, the notice shall so advise the court and further shall advise the tenant that, should he fail to appear in court to contest the eviction, he may very likely be subject to a default judgment and eviction.

(e) The notice of the Department's conclusion shall include the name, address and telephone number of the appropriate relocation agency.

(f) The name and address of the tenants, any tenant comments, and any explanatory letter shall be enclosed with the notice of the Department's conclusion to the Court.

Amended by R.1981 d.69, effective March 3, 1981.
See: 13 N.J.R. 67(b), 13 N.J.R. 189(b).

Reference to N.J.S.A. 2A:18-61.1g(1) and g(3) deleted.
Amended by R.1984 d.127, effective April 16, 1984.
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

(c) having "jurisdiction" added after "court"; "relocation" added before "agency", and substituted for "displacing".

(e) "relocation" substituted for "displacing" added before "agency".

5:11-7.5 Availability of funds

(a) In the event that the displacing agency receives a notice of the conclusion of the Department that compliance cannot be effected without removal of the tenant, the appropriate displacing agency shall determine whether sufficient funds and an appropriate WRAP are available to provide timely relocation payments and assistance.

(b) In the event the displacing agency has insufficient funds to provide the relocation required, it shall within three days notify the Department of Community Affairs of this fact so that appropriate notice can be included in the notice of determination made to the court and all affected parties.

(c) If adequate relocation resources are not found, then the displacing agency shall submit an amended Workable Relocation Assistance Plan (WRAP), with adequate provision for such funding, within 30 days.

(d) The displacing agency shall proceed to obtain the necessary funds as quickly as possible.

(e) The Department of Community Affairs shall advise the court of its obligation to stay any warrant for possession until the relocation payments and assistance can be provided.

Amended by R.1981 d.69, effective March 3, 1981.
See: 13 N.J.R. 67(b), 13 N.J.R. 189(b).

Section title was "Requirements for Workable Relocation Assistance Plan". (a) deleted and (a)1 through (a)5 renumbered as (a) through (e).
Amended by R.2004 d.222, effective June 21, 2004.
See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

In (e), substituted "District Court" for "court".

SUBCHAPTER 8. GRANTS-IN-AID

5:11-8.1 General

Any displacing agency may apply for and receive State grants-in-aid, when available, to cover the costs or a portion thereof, for relocation assistance payments. Application shall be made in accordance with the procedures adopted by the Department. The amount of the grant-in-aid shall be determined as described in N.J.A.C. 5:11-8.2.

Amended by R.2004 d.222, effective June 21, 2004.
See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

Amended the N.J.A.C. reference.

5:11-8.2 Funding criteria

(a) A municipality meeting the following criteria may receive the total cost of relocation assistance and payments.

1. A population of less than 10,000;
2. A budget of less than \$2.5 million;
3. 20 percent or more of the present housing stock in a deteriorated or dilapidated condition;
4. A lack of other state or federal funding for the purpose of relocation assistance.

(b) All municipalities not meeting the above criteria may be funded on a matching basis; provided, however, that any such municipality may receive additional funding upon a finding by the Department that such additional funding is necessary in order to provide relocation assistance to persons displaced from housing solely as a result of code enforcement involving any unanticipated imminent hazard.

(c) A publicly funded entity may receive a grant-in-aid on a project by project basis through agreement with the Department. In no event shall the amount of the grant-in-aid exceed 50 percent of the relocation costs.

(d) Grants in aid shall only be provided in cases where relocation assistance cannot be obtained or recovered from any other source including, without limitation, other governmental programs and owners of properties from which displacement occurred. Any municipality applying for a grant in aid for reimbursement of costs incurred for relocation due to code enforcement shall agree, as a condition of any such

grant in aid, to exhaust all available remedies in order to recover any relocation costs for which the owner of any property from which displacement occurred may be liable and to repay to the Department its share of any funds so recovered.

Amended by R.1984 d.127, effective April 16, 1984.
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

(a)2: changed "\$1 million" to "\$1.5 million".

Amended by R.1989 d.188, effective April 3, 1989.

See: 21 N.J.R. 231(b), 21 N.J.R. 891(a).

(a)2: changed "\$1.5 million" to "\$2.5 million".

Amended by R.1994 d.174, effective April 4, 1994.

See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

Amended by R.2006 d.162, effective May 1, 2006.

See: 38 N.J.R. 28(a), 38 N.J.R. 1823(c).

Added the proviso at the end of (b); and added (d).

5:11-8.3 Costs for planning and obtaining financing

Any Federal or State agency that is administering a Federal or State project or a Federal or State Assisted project may apply for a grant-in-aid to provide loans to nonprofit, limited dividend or cooperative organizations or to public bodies for the necessary and reasonable expenses, prior to construction, for planning and obtaining Federally insured mortgage financing for the rehabilitation or construction for displaced persons as set forth in N.J.S.A. 20:4-17. Any such grants-in-aid shall be repaid to the Department under the terms and conditions as set forth in N.J.S.A. 20:4-17.

5:11-8.4 Administrative costs

Whenever the Department approves a request of a displacing agency so that said displacing agency may contract with another agency to provide regionalized relocation benefits said regionalized agency may be eligible to receive a grant-in-aid to cover the reasonable and necessary costs of administration.

5:11-8.5 Recovery of relocation assistance costs

(a) Any displacing agency that receives a State grant-in-aid shall, as a condition of the receipt of that grant-in-aid, prosecute in a civil or criminal penalty action any real property owner who is or might be, in the judgment of either the displacing agency or the Department, responsible for any housing or construction code violations that resulted in displacement and consequent eligibility for relocation assistance.

(b) Once there has been a final court adjudication in any civil or criminal penalty action brought under (a) above and paragraph (a) of section 1 of P.L. 1983, c.536 (N.J.S.A. 20:4-4.1), and once the relocation assistance costs have been determined, the displacing agency shall promptly present a statement of relocation costs, indicating the date by which payment must be made, to the real property owner.

(c) In the event that payment is not made by the real property owner within 10 days of the date on which payment is due, interest on the unpaid balance shall accrue at the annual rate of 18 percent, pursuant to paragraph (b) of section

1 of P.L. 1983, c.536 (N.J.S.A. 20:4-4.1) and the displacing agency shall prepare and file a lien statement pursuant to paragraph (c) of said section 1 of P.L. 1983, c.536. The displacing agency shall assign to the Department an interest in the lien that is equal to the unrepaid amount of the grant-in-aid, plus accrued interest thereon. The displacing agency shall assist the Department, as may be required, in any foreclosure, by the Department, of the lien.

(d) The displacing agency shall pay to the Department, out of any funds recovered by it from the real property owner, a proportion of such recovered funds that is the same as the proportion of the total relocation assistance resulting from code enforcement at that owner's property that was paid by the Department.

(e) In the event that the displacing agency does not elect to bring a civil action to recover relocation assistance costs, pursuant to section 1 of P.L. 1984, c.30 (N.J.S.A. 20:4-4.2), the displacing agency shall, at the request of the Department, assign its right to recovery of such funds to the Department. In the event of any recovery in any such case, the Department shall repay to the displacing agency a proportion of the recovered funds, exclusive of attorneys' fees and costs, that is the same as the proportion of the relocation assistance that was paid by the displacing agency from its own funds.

New Rule, R.1989 d.402, effective August 7, 1989.

See: 21 N.J.R. 1039(a), 21 N.J.R. 2288(b).

SUBCHAPTER 9. ADMINISTRATION

5:11-9.1 Administrative agency

These rules shall be administered by the Division of Codes and Standards, PO Box 802, Trenton, New Jersey 08625-0802.

Amended by R.1989 d.188, effective April 3, 1989.

See: 21 N.J.R. 231(b), 21 N.J.R. 891(a).

Language changed: "regulations" to "rules". Name of Bureau and Division changed and street address changed to PO Box 806.

Amended by R.1994 d.174, effective April 4, 1994.

See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

Amended by R.1995 d.386, effective July 17, 1995.

See: 27 N.J.R. 1844(a), 27 N.J.R. 2714(a).

Amended by R.2004 d.222, effective June 21, 2004.

See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

Rewrote the section.

5:11-9.2 Right of hearing and time of filing

(a) Any person aggrieved by a final determination by a displacing agency other than a State agency may appeal such determination to the Division of Codes and Standards, which shall thoroughly review the matter and issue its findings as to the merits of the claim for relocation payments or benefits. Such appeals shall be made in writing within 15 days of receipt of written notice of the determination.

(b) The Division of Codes and Standards shall provide an administrative hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., to any person aggrieved either by a final determination of a displacing agency which is a State agency or by findings made by the Division pursuant to (a) above.

1. Such hearing shall be conducted under the auspices of the Office of Administrative Law and the final decision shall be made by the Commissioner.

2. Any request for a hearing shall be made in writing within 15 days of receipt of written notice of the State agency determination or findings of the Division, as the case may be, and shall be addressed to Hearing Coordinator, Division of Codes and Standards, PO Box 802, Trenton, New Jersey 08625-0802.

(c) The parties to any hearing before the Office of Administrative Law shall be the displacing agency and the person aggrieved by the final determination of such agency.

1. Representatives of the Division of Codes and Standards may appear at any such hearing to testify as to the findings of the Division.

2. In all cases which it has reviewed, the Division shall provide the Office of Administrative Law and the parties with a determination memorandum setting forth the claims of the parties, the facts as determined by the Division, the regulations, statutory provisions and case law which the Division deems to be applicable, and the Division's conclusions and the reason therefor.

3. Any party to a hearing before the Office of Administrative Law may request accelerated disposition of a case. Any such request shall be made in accordance with the procedure set forth in the rules of the Office of Administrative Law at N.J.A.C. 1:1-9.4.

Amended by R.1981 d.183, effective June 4, 1981.

See: 13 N.J.R. 186(d), 13 N.J.R. 332(a).

Section substantially amended.

Amended by R.1982 d.487, effective January 17, 1983.

See: 14 N.J.R. 1188(a), 15 N.J.R. 83(b).

Added (c).

Amended by R.1989 d.188, effective April 3, 1989.

See: 21 N.J.R. 231(b), 21 N.J.R. 891(a).

Names of Bureau and Division changed to include "community development" and "development".

Amended by R.1994 d.174, effective April 4, 1994.

See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

Amended by R.1995 d.386, effective July 17, 1995.

See: 27 N.J.R. 1844(a), 27 N.J.R. 2714(a).

Amended by R.2004 d.222, effective June 21, 2004.

See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

Rewrote (b)2; substituted references to the Division of Codes and Standards for references to the Housing Production and Community Development Element throughout.

Case Notes

Unsuccessful applicant for relocation benefits was not entitled to a hearing on its claim. In re Berwick Ice, Inc., 231 N.J.Super. 391, 555 A.2d 735 (A.D.1989).

Commissioner of community affairs has the jurisdiction to hear cases brought under the Relocation Assistance Act of 1971 where a municipality is the displacing agency. Atty.Gen.F.O.1979, No. 3.

Initial Decision (2006 N.J. AGEN LEXIS 789) adopted, which concluded that a business's appeal of the denial of relocation assistance was untimely under N.J.A.C. 5:11-9.2, and the business's conduct did not constitute substantial compliance; the business's threat to demand a hearing was an admission that it believed N.J. Turnpike's response to be a final determination. Huron Realty v. N.J. Turnpike Auth., OAL Dkt. No. CAF 12418-05, 2006 N.J. AGEN LEXIS 944, Final Decision (October 27, 2006).

Local government agency action appealed pursuant to former regulation. Moran v. Randolph Twp., 6 N.J.A.R. 58 (1980).

5:11-9.3 Time for displacing agency final determination

A displacing agency shall have 15 days from the date of request to give written notice of the grant or denial of relocation payments or benefits. In the event written notice is not given within this time, the request will be deemed denied for purposes of N.J.A.C. 5:11-9.2. Notice of denial of relocation payments or benefits shall include the reasons for such denial and notice of the right to request a hearing pursuant to N.J.A.C. 5:11-9.2 and the procedure therefor, including the 15-day time limit for making such request.

Amended by R.2004 d.222, effective June 21, 2004.

See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

Amended N.J.A.C. references throughout.