

Cross References

Payments to businesses, see N.J.A.C. 5:40-3.8.

Case Notes

No recovery of attorney's fees incurred trying to obtain relocation assistance. *Middleton v. City of Newark*, 94 N.J.A.R.2d (CAF) 89.

SUBCHAPTER 4. RELOCATION ASSISTANCE

5:11-4.1 Relocation assistance generally

Whenever a displacing agency causes the displacement of an individual or business and that individual is eligible for relocation assistance the nature and extent of that assistance shall be as described in this subchapter.

Case Notes

Neither statute nor regulations require relocation within same municipality (citing former regulations). *Rowe v. Pittsgrove Twp.*, 172 N.J.Super. 209, 411 A.2d 720 (App.Div.1980).

Relocation assistance in business condemnation under former regulations; procedure; award; administrative exhaustion requirement. *Pater-son Redevelopment Agency v. Schulman*, 78 N.J. 378, 396 A.2d 573 (1979) certiorari denied 100 S.Ct. 210, 444 U.S. 900, 62 L.Ed.2d 136.

Tenants unlawfully occupying premises were not entitled to relocation assistance benefits. *Little v. City of Paterson*, 96 N.J.A.R.2d (CAF) 46.

5:11-4.2 Notification

Whenever a displacing agency determines that their activities shall cause a displacement of individuals or businesses that are eligible for relocation payments and assistance, the displacing agency shall notify those individuals and businesses, in writing, at the earliest possible date of the benefits and obligations of the Act and this chapter. Said notice shall be issued immediately upon the determination of the displacing agency that displacement shall occur. The notice shall contain the nature and types of payments and assistance available, the eligibility criteria, and a notice that the displacee should not vacate the property prior to being authorized to do so in order to remain eligible for payment and assistance and that they should continue to pay rent to the landlord, as provided by the law.

Case Notes

Failure of Casino Reinvestment Development Authority to send tenants requisite notice that they should not vacate property before being authorized, so as to remain eligible for relocation assistance, and that tenants should continue to pay rent to landlord as provided by law, was insufficient to create liability on part of the authority. *214 Corp. v. Casino Reinvestment Development Authority*, 280 N.J.Super. 624, 656 A.2d 70 (L.1994).

5:11-4.3 Assistance in obtaining housing

(a) Whenever an individual requires assistance in locating replacement housing the displacing agency shall:

1. Provide a list of decent, safe and sanitary replacement housing units that are available for sale or lease.

2. Assist in establishing the displaced individual's priority in subsidized housing and in applying therefor.

3. Provide information necessary for the displacee to obtain mortgage financing; and

4. Provide the name and address of other agencies that provide housing assistance to individuals.

5:11-4.4 Providing housing

(a) Whenever an individual is eligible for relocation payments and assistance, a displacing agency may, at its discretion, directly provide decent, safe and sanitary units, whether subsidized or not, that are not less desirable than the unit from which the displacee is displaced. In the event the displacee unreasonably rejects the housing so offered, the duty of the displacing agency to provide assistance is ended.

(b) Any displacing agency that terminates assistance pursuant to (a) above shall notify the displacee in writing of its intention to terminate assistance and the reasons therefor and shall advise the displacee of his or her right of appeal in accordance with N.J.A.C. 5:11-9.2.

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

In (b), added requiring notification of termination of assistance.

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

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

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

5:11-4.5 Housing construction

Whenever there is insufficient housing available to accommodate all individuals requiring relocation, the displacing agency may construct, own, operate and maintain housing necessary to accommodate the displacees.

5:11-4.6 Equal opportunity

In carrying out relocation activities, the displacing agency shall take affirmative actions to provide displaced families and individuals maximum opportunities of selecting replacement housing within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities.

5:11-4.7 Housing discrimination complaints

(a) Whenever an individual is refused replacement housing due to discrimination on the basis of race, color, religion, age, sex, marital or handicapped status, or national origin, the displacing agency shall:

1. Assist such individual in completing the necessary forms in order to file a complaint with the proper Federal and State agencies, unless such individual refuses such aid.

2. File the necessary forms with the proper Federal and State agencies on behalf of such individual unless such aid is refused by the individual.

3. Advise such individual that a complaint may be filed by said individual with proper Federal or State agencies, when such individual refuses said aid.

4. Keep proper records of all complaints filed on behalf of such individuals.

5:11-4.8 Self relocation and inspections

(a) The displacing agency shall inspect the dwellings of self-relocated families and individuals prior to the move if at all possible. When the agency does not have prior knowledge of the move, the family or individual must be traced.

(b) If a dwelling is found to be substandard, the agency must offer assistance in securing standard accommodations.

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. RELOCATION PLAN

5:11-6.1 Workable Relocation Assistance Plan (WRAP)

(a) In order to insure that the relocation benefits required are administered in a uniform manner, the displacing agency shall, except in cases involving displacement solely as a result of code enforcement in unsafe buildings or other imminent hazard situations, submit a Workable Relocation Assistance Plan (WRAP) to the Department for approval. No relocation activities may take place until the WRAP, where required, is approved.

(b) The WRAP shall be submitted by the displacing agency a reasonable time prior to the eligibility date for benefits as contained in subchapter 2 hereof. In the case of programs of rehabilitation, it is the responsibility of the public agency to submit the WRAP.

(c) The WRAP shall include such measures, facilities or services as are necessary in order to:

1. Determine the needs of displacees;
2. Assist displacees in obtaining replacement housing and business locations;
3. Secure the coordination of relocation activities with other displacing agencies;
4. Assist in minimizing hardships to displacees;
5. Determine the extent of the need of each displacee for relocation assistance;
6. Assure the availability of decent, safe and sanitary replacement housing;
7. Determine the source, amount and availability of funds necessary to complete relocation; and

8. Provide any other information deemed necessary by the Department to insure the provisions of the Act are carried out.

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

(a): Changed "Program" to "Plan".

(a)3: Deleted "Provide an analysis of Federal, State and local program affecting the availability of housing" and inserted new (a)3.

Amended by R.1985 d.623, effective December 16, 1985.

See: 17 N.J.R. 2321(a), 17 N.J.R. 2971(a).

Added text in (a) "except in cases ... imminent hazard situations," and "where required."

Administrative correction.

See: 37 N.J.R. 3637(b).

5:11-6.2 Joint exercise

(a) A displacing agency may contract with another agency in order to provide the benefits required in subchapters 3 and 4 of this chapter and two or more displacing agencies may agree to provide the benefits jointly; provided that the Department gives prior approval. In the event of a displacing agency contracting with another or in the event of joint exercise, the ultimate responsibility for relocation assistance and benefits remains with the displacing agency.

(b) In any case in which displacement is being undertaken by a "unit of local government" that is a chartered private entity, responsibility for the filing of the WRAP shall rest with the political subdivision by which the private entity was chartered to exercise governmental powers and, unless otherwise agreed between the political subdivision and the private entity, primary responsibility for providing relocation assistance shall rest with the political subdivision.

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

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

Adds (b) clearly setting out responsibility rests with political subdivision by which private entity was chartered.

5:11-6.3 Relocation records and reports

(a) The displacing agency is responsible for keeping up-to-date records on the relocation of all site displacees. These records shall be retained for the Department's inspection and audit for a period of three years following completion of the project or program or the completion of the making of relocation payments, whichever is later.

1. Relocation record: The displacing agency shall develop and maintain a relocation record, beginning with the information secured during the first interview to assess the needs of the displaced person. A separate record shall be prepared for each family, even though the family may not be maintaining a separate household, each individual maintaining a self-contained unit, or a non-housekeeping unit; and each business concern, non-profit organization and farm operation. The record shall contain all data relating to relocation of the displaced person, including the nature and dates of services that are provided, the type and amount of relocation payments made, and the location to which those displaced are relocated, including a description of the accommodation.

(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 "court" for "District 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.

(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.

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).

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 change: "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.

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.