

NORTHGLENN URBAN RENEWAL AUTHORITY

RESOLUTION NO.

N/15-14
Series of 2015

**A RESOLUTION OF THE NORTHGLENN URBAN RENEWAL AUTHORITY
ADOPTING A RELOCATION ASSISTANCE AND LAND ACQUISITION POLICY**

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF
COMMISSIONERS OF THE NORTHGLENN URBAN RENEWAL AUTHORITY, THAT:**

Section 1. The Northglenn Urban Renewal Authority Relocation and Land Acquisition Policy attached hereto as **Exhibit A** is hereby adopted.

Section 2. The Northglenn Urban Renewal Authority Relocation Handbook adopted by the Board of Commissioners of the Northglenn Urban Renewal Authority on February 21, 1996, and approved by the City Council of the City of Northglenn in Resolution No. 96-21, Series of 1996, is hereby repealed in its entirety.

DATED this 8th day of April, 2015.

Jim Lynch
Vice Chair

ATTEST:

APPROVED AS TO FORM

Debbie Tuttle
Executive Director

Jeff Parker
NURA Attorney

NORTHGLENN URBAN RENEWAL AUTHORITY

RELOCATION AND LAND ACQUISITION POLICY

1. PURPOSE.

The Northglenn Urban Renewal Authority (NURA) adopts this Policy that describes the requirements governing the provision of relocation payments and other relocation assistance to businesses as a result of acquisition of property pursuant to Urban Renewal Plans in the City of Northglenn, including acquisition of property by NURA under threat of eminent domain. This Policy shall apply to Projects as specified by NURA by resolution. It may be modified by NURA from time to time, for example, based on resources available to NURA or to respond to needs of relocated businesses.

This Policy is adopted in compliance with the Colorado Urban Renewal Law, C.R.S. § 31-25-101, *et seq.*, the Relocation and Assistance and Land Acquisition Law, C.R.S. § 24-56-101, *et seq.*, and the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, 42 U.S.C. 4601, *et seq.*

2. SCOPE.

A. Relocation Plan. This Policy is derived from and is an extension of the relocation provisions of NURA's Urban Renewal Plans. The specific provisions of this Policy shall govern and control over the general provisions of the plans in the event of conflicts between the documents.

B. Nature of Payments. The benefits contained in this Policy are administrative in nature and are paid in compliance with the urban renewal laws of the State of Colorado. No federal or state funds are being utilized by NURA to make relocation payments.

C. No Contract. Nothing in this Policy shall be construed as an entitlement or a contractual or promissory obligation to make relocation payments.

3. DEFINITIONS.

The following definitions shall be used by NURA in interpreting the payments and benefits available under this Policy.

Action by NURA. Any lawful, authorized activity undertaken by NURA, its agents or assigns, or one operating under the direction of NURA.

Business. A commercial enterprise, including a for-profit or non-profit organization, or any lawful activity that is conducted primarily:

- a. For the purchase, sale, lease or rental of personal or real property;
- b. For the manufacture, processing or marketing of products, commodities, or any other personal property;
- c. For research and development; or
- d. For the sale of services to the public.

This definition shall not include: (1) outdoor advertising displays that are intended to be acquired as part of the real property purchased by NURA; (2) owners and operators of public utilities such as cable, electrical, gas and telephone lines and related service facilities; or (3) owners of property whose sole business with regard to the property is the rental of such property to others.

Displaced Business. Any Business that is required to move from real property or moves its personal property from real property that is acquired as a result of the action of NURA for projects within an Urban Renewal Area, if such Business is occupying such real property on the eligibility date that NURA designates by resolution that Businesses in a particular project are eligible for relocation benefits and otherwise is eligible for relocation expense benefits and complies with this Policy. If NURA fails to designate an eligibility date, then the eligibility date shall be the date of the initial written offer by NURA to the real property owner to purchase the real property for an urban renewal Project or the execution by NURA and the owner of a binding agreement to convey the real property to NURA. “Displaced Business” does not include a business that has been unlawfully occupying the Premises, that occupied the Premises for the purpose of obtaining relocation benefits, or a business that occupies the Premises for a period subject to termination when the property is needed for the Project.

Notice to Relocate. The written notice from NURA to an Owner or Business that it must move from its current location in an Urban Renewal Area. Relocation shall not be required upon less than ninety days’ notice and shall not be required until NURA either owns or has legal possession pursuant to contract or court order of the real property from which the Owner or Business must move. A Notice to Relocate and negotiations concerning relocation may occur at any time prior to NURA taking title to or possession of real property.

Owner. Any person who owns fee simple title or a life estate in real property to be acquired for an urban renewal Project or who holds any other interest that in the judgment of NURA warrants consideration as ownership.

Premises. The location that must be vacated by the Displaced Business pursuant to a relocation schedule established by NURA. Size of Premises shall be determined by measurement of areas occupied by essential functions of the Business, including ancillary office and storage areas, which storage areas must be occupied by inventory, supplies and equipment actually in use by the Business.

Project. Any urban renewal or redevelopment project in an Urban Renewal Area.

Property, Personal. Tangible property that is classified by NURA as personally under Colorado law, is located on real property to be acquired by NURA, and is not purchased by NURA in the acquisition of such real property.

Property, Real. Property that is classified by NURA as realty under Colorado law, for example, fixtures that cannot be moved at a reasonable cost. Relocation expenses shall not be reimbursed for fixtures and other items of real property that have been purchased by NURA in connection with its acquisition of the realty from which a Displaced Business is moving.

Urban Renewal Area. An area described in an Urban Renewal Plan and within the jurisdiction of NURA.

Urban Renewal Plan. An Urban Renewal Plan that was approved and adopted by the City Council of the City of Northglenn, and that has been or may be amended by such City Council from time to time.

4. RELOCATION ASSISTANCE ADVISORY SERVICES

A. General. NURA will provide relocation assistance that offers the services described below. The purpose of the assistance is to minimize inconvenience to persons who must be relocated and to provide an information program to advise these persons of relocation activities and benefits on a continuing basis.

B. Services to be Provided. NURA, through its staff, agents and consultants, shall endeavor to determine and make timely recommendations on the needs and preferences, if any, of Displaced Business for relocation assistance, including:

1. Assistance with identifying real estate brokers and others who may help locate replacement site alternatives and otherwise to provide current and continuing information on the availability, sales prices, and rental changes of suitable relocation premises and sites;
2. Assistance in identifying services for moving, packing, storage and insurance;
3. Assistance with NURA's relocation expense procedures and submittals for relocation expenses; and
4. Information concerning federal, state, and local programs that may offer financial and technical assistance to the Displaced Business, including other economic development and business retention programs that may provide incentives for relocating within the City or within an Urban Renewal Area.

5. GENERAL RELOCATION ASSISTANCE REQUIREMENTS

A. No Duplication of Payments. No Displaced Business shall receive any compensation for relocation that, in the opinion of NURA, would substantially duplicate the compensation that was received or that an owner or Displaced Business is eligible to receive under the state law of eminent domain or under any other local, state or federal law or regulation or that a Displaced Business is eligible to receive as a result of the termination of its lease. Under no circumstances will there be a duplication of payments based on property acquisition or lease termination and for relocation

B. Least Cost Approach. The amount of payment for an eligible relocation expense shall not exceed the least costly method, as determined by NURA, of accomplishing the objective of payment without causing undue hardship to the Displaced Business.

C. Determination of Eligibility. For each Project that requires relocation of Businesses, NURA will designate a person who shall have primary responsibility for establishing eligibility for the amount of relocation payments claimed in accordance with this Policy. Appeals from the decisions made by this person shall be determined in accordance with Section 9 hereof.

D. Documentation. If requested, any claim for a relocation payment shall be submitted to NURA on the appropriate form and supported by such documentation as may reasonably be required by NURA to establish accurately expenses incurred, such as bills, statements, certified prices, appraisals, or other evidence of such expenses.

E. Set Off for Claims. NURA may withhold any part or all of a relocation payment to a Displaced Business to satisfy any monetary obligation that the Displaced Business owes to NURA or the City of Northglenn, including, but not limited to, rental payments and taxes.

F. Burden of Proof. Claimants shall have the burden of proof to establish eligibility for an amount of any relocation payment claimed hereunder.

G. Time for Moving. All claimants must complete any relocation from their current sites by the date specified in the relocation agreement with NURA or, if no agreement is achieved, within ninety days of receiving a written Notice to Relocate from NURA or within such additional time as NURA may determine and specify in writing. Failure to meet relocation deadlines may result in the Displaced Businesses' ineligibility to receive benefits pursuant to this Policy.

H. Ineligible Businesses.

1. Owner's Obligation to Notify New Tenants. No Owner within an Urban Renewal Area shall lease Premises to a tenant, or otherwise allow a person or Business to occupy Premises after the Owner's receipt of NURA's Notice of Intent to Acquire the property without giving prior written notice to such tenant that the property is being acquired by NURA and that such tenant may not be eligible for relocation benefits from NURA. A copy of the Owner's notice to the tenant shall be delivered to NURA.

2. Categories of Ineligibility. The following Businesses shall not be eligible for relocation assistance:

- a. One that does not occupy real property in the Project on the eligibility date established by NURA.
- b. Any Business that moves before receiving a Notice to Relocate from NURA, if such property is for any reason not redeveloped pursuant to an Urban Renewal Plan. If a Business moves before receiving a Notice to Relocate, NURA's designee may, but is not required to, enter into a relocation agreement with such Business if the Business's move was in anticipation of a Notice to Relocate.
- c. A subtenant of a tenant, unless such subtenant demonstrates, with documentation satisfactory to NURA, that is a separate legal entity from the tenant and otherwise satisfies the eligibility requirements of this Policy.
- d. Any Business that NURA determines had prior plans to relocate for reasons independent of the Project for which NURA is acquiring the property.
- e. Expenses of relocating outdoor advertising displays and public utilities are not eligible for relocation payments hereunder.
- f. Multiple lease agreements for different leasehold areas shall not be considered multiple tenancies if NURA determines, in its judgment, that the areas are operated as a single business.
- g. Any Displaced Business that is operating in violation of applicable law shall not be eligible for relocation expenses pursuant to this Policy. This shall include, but not be limited to businesses operating without required licenses or in violation of applicable land use laws and regulations.
- h. National or regional Businesses having more than two locations within the Denver metro area, except that local individual owners of national franchises may be eligible for benefits. This intent of NURA in adopting this Policy is to provide benefits only to locally owned Businesses and not to corporate chains, that normally have access to other forms of business incentive packages.
- i. Any Business to whom NURA or the Project developer made a good faith offer to retain as a tenant or owner in a Project and which business declined such offer.

3. Time Limit for Submission of Claims. No request for relocation benefits will be paid unless all claims and documentation are submitted to NURA within six (6) months of the date on which the Displaced Business completes its move.

4. Credit for Lease Cancellation Payment. If a Business is eligible under its existing lease for a lease termination settlement, the Business shall not also receive relocation benefits, but may choose between either lease settlement or the relocation benefits.

6. ELIGIBLE EXPENSES

A. GENERAL PROVISIONS

1. Inspections and Inventory. To be eligible for payment under this section, the Displaced Business shall:

a. Permit NURA to make reasonable and timely inspections of the personal property at the existing Premises and replacement sites, including making photographs and other documentation of the existing and replacement sites.

b. Provide an inventory of all personal property expected to be moved within sixty (60) days after receiving a Notice to Relocate from NURA and, if the Business is a tenant, a list of all real property improvements made by the Business that are affixed to the real property and belong to the owner.

2. Documentation. Reimbursement of actual reasonable expenses requires submission of all receipts and review by NURA to determine the reasonableness of the expenses. Reasonableness of expenses shall be based on industry customary and standard moving costs on a per square foot basis as established by NURA, by a professional moving company or other vendors of services as applicable to the situation. Payments shall be paid directly to the contractors and vendors hired to perform the work unless the Displaced Business provides documentation that it has paid the contractors and vendors and therefore claims reimbursement directly to the Displaced Business. A Displaced Business that is leasing Premises must provide a copy of any written lease to NURA.

3. Self-Moves. Self-moves shall be compensated by the lump sum formulas provided below.

4. Other Project Incentives. NURA may establish other benefits and incentives on a Project basis, including incentive for a Business to relocate within the City, within an Urban Renewal Area or other economic development programs. NURA is authorized under state law to compensate a Business for real property interests acquired in connection with relocation, including the appraised value of an under-market lease.

5. Total Lump Sum Settlement. A Displaced Business may choose a \$10,000 lump sum payment in lieu of compliance with the documentation and procedures provided herein as a total settlement of benefits it claims under this Policy. The Displaced Business may either cease doing business or make its own arrangements for business continuation without further involvement by NURA. In the alternative, if the Displaced Business ceases doing business or delays a decision on a relocation site, it may choose reimbursement of its actual reasonable moving expenses, but shall not be eligible for any interim or reestablishment benefits.

6. Limit on Business Relocation Expenses. Eligible expenses for relocations of Displaced Businesses under this policy shall not exceed a total of \$50,000.

B. MOVING OUT OF EXISTING PREMISES.

1. Moving Expenses. A Displaced Business may choose either reimbursement of actual moving expenses or a lump sum payment as provided below.

a. Actual reasonable expenses in moving the Displaced Business and for searching for a replacement location (if a Displaced Business chooses to relocate to a site that requires a move in excess of 25 miles, NURA will pay moving costs pursuant to this Policy based on the assumption that the Business is moving 25 miles away), or

b. Lump sum payments that shall not require documentation of actual expenditures as follows:

(1) \$2,000 moving stipend to be paid directly to the Displaced Business to cover packing, crating, moving, unpacking, and uncrating personal property, and

(2) \$2,000 to cover any expenses incurred in the following categories:

(a) Professional services, including, but not limited to, architects, brokers, planners, attorneys, engineers, and consultants hired for such activities as finding a new location, negotiating a new lease or purchase of the new location, and planning the move of the personal property. Professional fees incurred in connection with representing the Displaced Business in preparing a relocation claim or in the contacts or proceedings before NURA, including grievance procedures or other administrative or legal proceedings or suit, shall not be eligible for reimbursement.

(b) Liability or casualty insurance in connection with the move and any temporary storage.

(c) Transportation expenses in connection with relocation.

C. INTERIM EXPENSES. A Displaced Business may request payment of expenses incurred between the time it moves from its existing Premises to its replacement premises as follows:

1. Temporary Storage. Actual cost of storage of personal property as NURA determines to be necessary based on customary and standard rates as established by NURA. The period of storage shall not exceed six (6) months. The storage space shall not exceed 50 percent (50%) of the Premises from which the Displaced Business is relocating. NURA shall not authorize payment of temporary storage costs unless replacement premises have been leased or contracted for purchase by the Business and the Business must store its property pending completion of tenant finish or other specific and reasonable deadlines.

2. Business Interruption. NURA shall make a “Business Interruption Payment” to the Displaced Business not to exceed the lesser of ten thousand dollars (\$10,000.00) or one-fourth of the average annual taxable income shown on the three most recent federal income tax returns of the Business concerned. If a Displaced Business fails to produce its three most recent federal income tax returns, it shall not receive a Business Interruption Payment.

D. RE-ESTABLISHMENT AT NEW PREMISES. A Displaced Business may claim benefits relating to its replacement premises as follows:

1. Reinstallations. Actual costs of disconnecting, dismantling, removing, reassembling, and installing relocated and any substitute machinery, equipment and other personal property (“Equipment”), based on customary and standard costs as established by NURA. This includes connection of Equipment to utilities at the new site and includes modifications necessary to adapt Equipment to the new site. Benefits paid for these actual reasonable expenses necessary to reestablish the Business at its new site shall not exceed \$10,000. Modifications of the new site to adapt the new premises to the Business’s Equipment shall be covered by the Tenant Finish Allowance provided below. A Displaced Business shall be eligible for payment of these expenses only if it provides a list of property that is to be disconnected and reinstalled at the replacement location to NURA by the date set for submission of the list by NURA. If the Displaced Business has actual direct losses of tangible personal property as a result of moving or discontinuing a Business, its compensation shall not exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by NURA.

2. Tenant Finish Allowance. Actual cost of tenant finish, not to exceed \$5.00 per square foot times the less of (1) the leased area of the Business’s existing Premises or (2) the leased area of the replacement premises. In no instance shall the Tenant Finish Allowance exceed \$30,000. For purposes of calculating the Tenant Finish Allowance, areas used for the sole purpose of storage shall not be used in calculating the square footage allowances. The Tenant Finish Allowance shall only be provided upon receipt of evidence acceptable to NURA of an executed binding lease or purchase contract for new premises, and the Allowance shall not be available more than six (6) months after the date of signing the relocation agreement with NURA.

3. Licenses, Printing and Advertising. A lump sum payment of \$2,000 for expenses related to:

- a. Any license, permit or certification required by the Displaced Business at the replacement location.
- b. Advertising, relettering signs and printing materials such as stationary and business cards made obsolete as a result of the move.

4. Substitute Personal Property. If a Displaced Business wishes to not move personal property that is used as part of the Business, but to promptly replace such property with a comparable substitute item at the replacement site, the Displaced Business is entitled to payment of the lesser of:

- a. The cost of the substitute item, including installation cost at the replacement site, minus any proceeds from the sale, salvage or trade-in of the replaced item, if any; or

b. The estimated cost of moving and installing the replaced item, based on the lowest acceptable bid or estimate by NURA for eligible moving and related expenses, but with no allowances for storage.

5. Limitation. No benefits will be paid for the extra cost of upgrading personal property to comply with health or building codes or other applicable regulations or that has zero or minimal value, as determined by NURA.

6. Real Property Fixtures. A Displaced Business shall not be compensated for loss of real property fixtures installed on the Premises to be vacated unless the Business provides evidence satisfactory to NURA that the Business installed the fixtures and that the Business, not the Owner of the Premises, owns the fixtures. If such evidence is provided, the value of the fixtures will be established by the NURA's appraiser, subject to reduction for depreciation calculated by the appraiser. The value reimbursed to the Business shall be only for the Business's remaining lease term in the Premises.

7. Lost Profits. Displaced Businesses may request a sum for lost profits after moving to the replacement premises. An expense for lost profits shall be based on the average monthly profit of the Business as reflected on audited financial statements submitted to NURA for the twelve (12) months previous to the relocation. Reimbursement for lost profits shall be limited to seventy percent (70%) of the average monthly provide as reflected on the audited financial statements and shall be limited to a maximum of three (3) months.

8. Good Will. NURA at its sole discretion may make a payment for impaired good will based upon a request by a Business documented with verified evidence of the nature and reasons for impairment of good will. Under no circumstances will payments for impaired good will exceed \$5,000.

7. RELOCATION SETTLEMENTS

A. Total Settlement. It is the intent of NURA to arrive at negotiated total lump-sum settlements with all Displaced Businesses. Those settlements will compensate all of the eligible expenses contained herein. Claimants will receive one-half of the payment amount following approval of the Business's relocation agreement by NURA, but not prior to receipt of a Notice to Relocate sent by NURA. The remaining one-half will be paid no later than one week following proof the claimant has vacated the property. If a settlement is not reached by negotiation, payments shall be made as outlined in Section 9, Appeals, below.

B. Security Deposits. If a Business has paid a security deposit to a landlord or property manager for a lease on property to which NURA is taking title or possession, NURA shall request the holder of the security deposit to refund the deposit to the Business or to turn over the deposit to NURA for refund to the Business. If the holder of the security deposit refuses to refund the deposit, the Business shall document its claim to the deposit to the satisfaction of NURA and assign such claim to NURA so that NURA may assert the claim against the holder of the security deposit. Upon such assignment, NURA shall pay the deposit to the Business.

8. INELIGIBLE MOVE AND RELATED EXPENSES

A Displaced Business is not entitled to payment for:

- A. Cost of moving any improvement other than personal property. If a Business chooses to salvage fixtures, it shall do so at its own expense;
- B. Interest on a loan to cover moving or storage expense.
- C. Loss of good will, except as provided herein.
- D. Loss of profits, except as provided herein.
- E. Loss of trained employees.
- F. Configuration or physical changes at the replacement location of business, except to the extent that such costs are covered by the tenant finish allowance.
- G. Any additional expense of a Business that was incurred because of operating in a new location (for example, tenant finish for larger premises, higher insurance premiums or costs of maintenance).
- H. Personal injury.
- I. Any legal fee or other cost for preparing a claim for a relocation payment or for representing claimant before NURA or any other body or court.
- J. Taxes.
- K. Any expense or payment for which the Business receives reimbursement or compensation from other source or pursuant to any other law, rule or regulation.
- L. Any expenses not specifically listed as eligible for payment in this Policy.
- M. Any expenses or benefits in excess of a total of \$50,000.

9. APPEALS

A. Dispute Resolution. It is the intent of NURA to provide an efficient, fair process for settlement of eligible relocation expenses. NURA prefers a negotiated settlement that is mutually fair and beneficial to both NURA and Displaced Business. In order to achieve this result, NURA prefers that impasses in negotiation be resolved through mediation and will arrange for mediation process at any time at the request of a Displaced Business. Mediation shall be prerequisite to filing an appeal under this Section.

B. Selection of Mediator. If NURA determines that a settlement of eligible relocation expenses with a Displaced Business cannot be reached due to an impasse in negotiations, NURA shall schedule a session with a mediator within thirty (30) days of a written notice to the Displaced Business that an impasse exists, or with such time period as NURA and Displaced Business may mutually agree. The mediator shall be selected by mutual consent of NURA and the Displaced Business. If the Displaced Business refuses to participate in the selection of a mediator or unreasonably withholds consent in the selection of a mediator, NURA shall make a final determination of benefits, that shall be payable upon the Displaced Business's completion of the move from the Project area. The Displaced Business shall have no right of appeal or judicial review of such determination.

C. Unsuccessful Mediation. If the mediation fails to result in a relocation agreement acceptable to NURA and the Displaced Business, NURA shall make a final determination of benefits, and shall pay one-half of such determination immediately and the final one-half of the undisputed amount within one week of the Displaced Business vacating the Premises. Any final payment shall be made at the conclusion of the appeal if one is filed.

D. Scope and Timing of Appeal. If mediation is unsuccessful, NURA shall request the mediator to provide a dated notice that the dispute could not be resolved to both NURA and the Displaced Business. The Displaced Business shall have fourteen (14) days from the date of that notice to file an appeal with NURA. The appeal shall be limited to a determination regarding eligibility for or the amount of payments set forth in this Policy and pursuant to any further resolution or actions of NURA establishing rates for eligible expenses.

E. Initiation of Appeal. An appeal is instituted by a written request for review by the claimant, that may include any documentation deemed relevant by the claimant. If a hearing is requested in the request for review, it shall be scheduled within thirty (30) days before a hearing officer designated by NURA. If no hearing is desired, the officer shall decide the appeal based on the documentation provided with the request for review. In either case, the officer's decision shall be subject to review and revision by NURA. All supporting documentation shall be filed with NURA at least seven (7) days prior to the hearing. Information submitted thereafter need not be considered by NURA.

F. Right to Representation. A claimant may be represented by legal counsel in connection with the appeal, solely at its own expense.

G. Review of Files by Claimant. NURA will permit a claimant to inspect and copy all files and records pertinent to such appeal, subject to any limitations imposed by the Colorado Open Records Act, C.R.S. § 24-72-200.1, *et seq.*, including the limitations contained therein, and at the expense of the claimant.

H. Scope of Review. In deciding the appeal, the hearing officer shall consider:

1. All applicable rules and regulations;
2. All pertinent justification and written materials submitted by the claimant;
3. All material upon which NURA staff based the determination being appealed and any other available information that is needed to assure a fair and full review of the appeal.

I. Determination and Notification After Written Appeal. The hearing officer shall make a written determination within thirty (30) days of the hearing, or if no hearing is requested, within thirty (30) days of the receipt of the request for review, and shall furnish the claimant with a copy. The written determination will include, but need not be limited to:

1. The factual and legal basis upon which the decision was based, including any pertinent explanation;
2. If any payment or other relief to the claimant is granted, a statement of how this will be provided.

J. Determinations Final. Determinations on appeals made by the hearing officer and NURA shall be a final decision. The person bringing the appeal shall have the right to seek judicial review of the final decision by the hearing officer or NURA pursuant to C.R.S. § 24-4-106.