RELOCATION
APPEALS PROCESS
RELOCATION
APPEALS PROCESS

- Origination and Philosophy
- Laws and Regulations
- Eligibility and Benefits
- Appeals and Procedures
- Hearings and Decisions
Every American should live in affordable housing which meets minimum occupancy standards.
The FEDERAL HOUSING ACT of 1949

The BLATNICK REPORT (4 yr Study in the early 60’s)

Congressional Committee chaired by Rep. John Blatnik of Minnesota, investigated the Federal Highway Program and held open hearings on allegations of fraud and corruption in the development of the Interstate Highway Program.
After the Blatnik Report’s study, 
Provided the first program for comprehensive, 
uniform and equitable treatment of persons 
displaced from real property acquired for 
federally-funded projects.
The FEDERAL HOUSING ACT of 1949
The BLATNICK REPORT (4 yr Study)
The FEDERAL HIGHWAY ACT of 1965

The first federally-mandated program for people displaced by highway projects; providing minimal financial assistance for moving personal property and advisory assistance in finding replacement housing.
The FEDERAL HOUSING ACT of 1949
The BLATNICK REPORT (4 yr Study)
The FEDERAL HIGHWAY ACT of 1965
The FEDERAL HIGHWAY ACT of 1968

This law provided the first additional financial benefits to assist persons in purchasing replacement housing (i.e. ‘Replacement Housing Payments’) but only for highway projects.
RELOCATION
ORIGINATION AND PHILOSOPHY

The FEDERAL HOUSING ACT of 1949
The BLATNICK REPORT (4 yr Study)
The FEDERAL HIGHWAY ACT of 1965
The FEDERAL HIGHWAY ACT of 1968
The UNIFORM RELOCATION and REAL PROPERTY ACQUISITION POLICIES ACT of 1970

a.k.a. ‘The Uniform Act’
or ‘URA’

… “establish a uniform policy for the fair and equitable treatment of persons displaced as a result of federally-assisted programs.”
The UNIFORM RELOCATION and REAL PROPERTY ACQUISITION POLICIES ACT of 1970, as amended

Objectives of the ‘The Uniform Act’

1. … be uniformly applied on all federally aided projects…
2. … payments beyond “just compensation” to Owners…
3. … adopts the concept that no displacee should be worse off economically than before displacement…
4. … requires that no individual or family shall be displaced unless decent, safe and sanitary dwellings, within their financial means, are made available for immediate occupancy…
The UNIFORM RELOCATION and REAL PROPERTY ACQUISITION POLICIES ACT of 1970, as amended

Objectives of the ‘The Uniform Act’

5. … encourages tenants to become homeowners…
6. … provides reimbursement for moving costs…
7. … provides minimum 90 day written notice to move…
8. … requires relocation services be provided to all displaced persons…
9. … provides displacee’s the right to appeal…
10. … establishes uniform land acquisition policies designed to recognize and protect the rights of impacted property owners and occupants.
The UNIFORM RELOCATION and REAL PROPERTY ACQUISITION POLICIES ACT of 1970, as amended

Public Law 91-646
91st Congress, January 2, 1971
42 U.S.C. 4601 et seq.

a.k.a. ‘The Uniform Act’
or ‘URA’

1987 Uniform Act Amendments
1991 “ICTEA” Amendments
1997 Illegal Alien Act Amendments
2014 “MAP-21” Amendments
Federal Highway Administration (FHWA)
Codifies Uniform Act Regulation
49 C.F.R. Part 24
“Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs”
49 C.F.R. Part 24
UNIFORM RELOCATION and REAL PROPERTY ACQUISITION for FEDERAL and FEDERALLY ASSISTED PROGRAMS

The Administrative Procedures Act (APA)

• governs the way in which Federal Agencies propose and establish regulations.
The Administrative Procedures Act (APA)

- requires agencies keep the public informed of their procedures and rules;
- provides for public participation in the rulemaking process;
- uniform standards for formal rulemaking and adjudication;
- defines the scope of judicial review.
The APA is the exclusive remedy for URA claims. See Ackerley Communications of Fla., Inc. v. Henderson, 881 F.2d 990, 993 (11th Cir. 1989) (Administrative Procedure Act is exclusive remedy for alleged violations of the URA);

Many lawyers have erroneously filed URA claims under 42 USC 1983 ... only to realize - late in litigation – that this was a fatal mistake

- 42 USC §1983: Civil actions on individual rights
- 5 USC §§501: Regulatory actions of Agencies

The APA has a 6 year statute of limitations, beginning:

- Administrative remedies have been exhausted
- A final Appeal Decision has been rendered
49 C.F.R. Part 24
UNIFORM RELOCATION and REAL PROPERTY ACQUISITION for FEDERAL and FEDERALLY ASSISTED PROGRAMS
STATE CONSENT LEGISLATION

MINNESOTA
In 1973, the Minnesota legislature enacts the “Minnesota Uniform Relocation Act” (MURA) Minn. Statutes 117.50 - 117.56 

Mandates acquiring authorities to:

“take all necessary action to insure, to the maximum extent possible, federal financial participation in any and all phases of acquisition, including the provision of relocation assistance, services, payments and benefits to displaced persons. ...”
In 1973, the Minnesota legislature enacts the “Minnesota Uniform Relocation Act” (MURA) Minn. Statutes 117.50 - 117.56

Where there is a lack of federal funding, MURA directs acquiring authorities to:

“provide all relocation assistance, services, payments and benefits required by the Uniform Act … and those regulations adopted pursuant thereto…” (i.e.: 49 CFR Pt. 24)
§ 117.51 Cooperation with federal authorities. (re: federally funded programs or projects)
• mandates compliance to ensure federal funding
• mandates $50,000 reestablishment benefit limit

§ 117.52 Uniform Relocation Assistance. (re: non-federally funded programs or projects)
• adopts relocation benefits and assistance from the “Uniform Act” & regulations (49CFR Pt 24)
• mandates $50,000 reestablishment benefit limit
• Relocation Assistance Eligibility or Amount Determined by Administrative Law Judge
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RELOCATION
BENEFITS AND APPEALS

- Origination and Philosophy
- Laws and Regulations
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- Hearings and Decisions
RELOCATION
ELIGIBILITY AND BENEFITS

49 C.F.R. Pt. 24  Uniform Act Regulations

Code of
Federal Regulations

Uniform Relocation
Assistance and Real
Property Acquisition For
Federal And
Federally Assisted
Programs
RELOCATION
ELIGIBILITY AND BENEFITS

49 C.F.R. Pt. 24 Uniform Act Regulations

Subpart A  GENERAL
Subpart B  REAL PROPERTY ACQUISITION
Subpart C  GENERAL RELOCATION REQUIREMENTS
Subpart D  PAYMENTS FOR MOVING AND RELATED EXPENSES
Subpart E  REPLACEMENT HOUSING PAYMENTS
Subpart F  MOBILE HOMES
Subpart G  CERTIFICATION

APPENDIX A to Part 24
RELOCATION
ELIGIBILITY AND BENEFITS

49 C.F.R. Pt. 24 Uniform Act Regulations

Subpart A GENERAL
Subpart B REAL PROPERTY ACQUISITION
Subpart C GENERAL RELOCATION REQUIREMENTS
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APPENDIX A to Part 24
**MINNESOTA LAW & LEGISLATION**

### Federally Funded Programs or Projects

§ 117.51 Cooperation with federal authorities.

*(re: federally funded programs or projects)*
- mandates compliance to ensure federal funding
- mandates $50,000 reestablishment benefit limit

### State or Locally Funded Programs or Projects

§ 117.52 Uniform Relocation Assistance.

*(re: non-federally funded programs or projects)*
- adopts relocation benefits and assistance from the “Uniform Act” & regulations (49CFR Pt 24)
- mandates $50,000 reestablishment benefit limit
- Relocation Assistance Eligibility or Amount Determined by Administrative Law Judge
RELOCATION

BENEFITS AND APPEALS

- Origination and Philosophy
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An appeal is an administrative process which serves to protect the displaced person from incorrect or arbitrary actions of the agency.

- Generally speaking, any relocation payment or determination of ineligibility may be appealed by an aggrieved person.

- The agency may place a time limit on filing an appeal.
  - Prevents case remaining open an unreasonable amount of time
  - Time limit shall not be less than 60 days after the person receives written notification from the agency (re: Agency Decision)
Common conditions appealed:

• Eligibility as a displaced person
• Eligibility for a particular type of payment or condition
• The Agency’s selection of Comparable Replacement Housing
• Displacee’s actual selection of replacement housing
• Timely filing of a relocation claim for payment
• An eligible item or an amount of a moving or reestablishment expense
RELOCATION
APPEALS AND PROCEDURES

a) General.
b) Actions which may be appealed.
c) Time limit for initiating appeal.
d) Right to representation.
e) Review of files by person making appeal.
f) Scope of review of appeal.
g) Determination and notification after appeal.
h) Agency official to review appeal.

MN Court of Appeals previously ruled Minnesota’s appeal process be dictated by common law and constitutional procedural-due-process principles.

In re Relocation Benefits of James Bros. Furniture, 642 N.W.2d 91, 96-97, 103-04 (Minn. App. 2002), review denied (Minn. June 18, 2002).
The Code of Federal Regulations complies with minimum standards of due process. It provides for three basic steps...

First: that there be initial Agency Decision on claimants request.
Displacee claims an issue w/ Agency Rep.

Rep. denies; informs Claimant in writing

Claimant appeals denial

Agency reviews denial w/ claimant for reconsideration

Dispute Ended

Claim Resolved?

Issue Agency Decision

49 CFR 24.207(e)
The Code of Federal Regulations complies with minimum standards of due process. It provides for three basic steps...

First: that there be initial Agency Decision on claimants request.

Second: that the aggrieved party may file a written appeal of the initial Agency Decision. (49 C.F.R. 24.10(b))

Upon receipt of a written appeal, the Agency then selects an official to review the appeal. (Appeal Officer)
RELOCATION
APPEALS AND PROCEDURES

49 C.F.R. §24.10 Appeals

- Claimant settles w/ Agency or withdraws claim
- Office issues Agency Decision (must comply with 49 C.F.R. §24.207(e))
- Claimant files a written Appeal w/ Agency
- Agency assigns Appeal Officer (49 C.F.R. §24.10(h))
- Appeal Officer presides over Hearing
- Appeal Officer provides written decision
- Dispute Ended
The Code of Federal Regulations complies with minimum standards of due process. It provides for three basic steps...

**First:** that there be initial Agency Decision on claimants request.

**Second:** that the aggrieved party may file a written appeal of the initial Agency Decision. *(49 C.F.R. 24.10(b))*

Upon receipt of a written appeal, the Agency then selects an official to review the appeal. *(Appeal Officer)*

**Third:** If the official conducting the appeal does not grant the full relief requested, the official must explain the decision and advise the person of his or her right to seek judicial review. *(49 C.F.R. 24.10(g))*
RELOCATION
BENEFITS AND APPEALS

- Origination and Philosophy
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- Eligibility and Benefits
- Appeals and Procedures
- Hearings and Decisions
Minnesota Perspective

- Hearing Officers were most often from the displacing Agency
- This contributed to a perception by many of a biased
- Numerous Hearing Offer assignments were challenged by counsel active in representing displaced persons
- Those challenges were denied by Minnesota Courts
- Eminent Domain laws were revised in 2006 due to Kelo

M.S. §117.52 Uniform Relocation Assistance.

(*re: non-federally funded programs or projects*)

- Relocation Assistance Eligibility or Amount Determined by Administrative Law Judge
Displacee claims an issue w/ Agency Rep.

Rep. denies; informs Claimant in writing

Claimant appeals denial

Agency reviews denial w/ claimant for reconsideration

Claim Resolved?

Issue Agency Decision

49 CFR 24.207(e)

Dispute Ended
49 C.F.R. §24.10 Appeals

Office issues Agency Decision
(must comply with 49 C.F.R. §24.207(e))

Project authorized under M.S. 117.51
(Federal Funds)

Agency assigns Appeal Officer
(49C.F.R. §24.10(h))

Administrative Law Judge (ALJ) presides over Contested Case Hearing

ALJ issues Findings/Recommendation / Final Decision
MINNESOTA
HEARINGS AND DECISIONS

ALJ issues Findings/Recommendation / Final Decision

Project authorized under M.S. 117.51
(Federal Funds)

Oral Arguments to Appeal Officer

Appeal Officer issues
FINAL Agency Decision

All parties advised of right to seek Judicial Review

Project authorized under M.S. 117.52
(State Funds)

Report of ALJ constitutes
FINAL Decision on the matter.

49 C.F.R. §24.10 Appeals
TRANSPORTATION REGULATION PROCEEDINGS
(TRP Staff - Office of Chief Counsel)
Processing Land Management Relocation Assistance Disputed Matters

The District initially reviews all claims for relocation assistance under the Uniform Relocation Act of 1970 and the implementing regulations in 49 C.F.R. Part 24. If the District denies any portion of the claim, the District mails the claimant a written notification and explanation of its decision, along with an explanation of its decision, along with an explanation of the claimant's right to obtain reconsideration of the decision. The claimant may obtain reconsideration by the Director of Mn/DOT's Office of Land Management ("OLM") by mailing a written request for reconsideration to OLM within 60 days after receipt of the District's decision.

If the claimant submits a timely request for reconsideration, the Director of OLM will review the preliminary decision and discuss the issue(s) with the claimant. After this reconsideration, if the matter is not settled, the Director issues a written decision to the claimant. This decision is the Agency Decision and must comply with 49 C.F.R. §24.207(e). The Decision explains the basis for the denial of the claim and notifies claimant that he/she can appeal by written notice to the Director of OLM within 60 days after receipt of the Decision.

If claimant appeals, OLM forwards a Notice of Appeal to TRP staff.

If claimant does not appeal, reaches a settlement with the Director of OLM or withdraws their claim, the matter is closed.

If the claimant appeals, OLM forwards a Notice of Appeal to TRP staff.

Project authorized under M.S.117.51 (federal funds)

Project authorized under M.S.117.52 (state funds)

TRP staff confirms Commissioner's Designation of Director of Engineering Services (DES) as Appeal Officer, who shall not have been directly involved in the matter appealed (49C.F.R. §24.100).

TRP staff arranges for a Review Officer (Administrative Law Judge (ALJ)) with the Office of Administrative Hearings (OAH) and schedules a contested case hearing. ALJ holds contested case hearing. ALJ issues Report of Findings, Conclusions and Recommendation/Final Decision.

TRP staff serves Findings Report on OLM within 20 days of the date of service of the letter they can file Exceptions to the Report and/or Requests for Oral Argument.

If no Oral Argument Request is filed, the record is closed.

If Oral Argument Request is filed, TRP schedules oral argument before Appeal Officer (DES).

Appeal Officer (DES) hears oral argument(s), which are audio taped. After all submissions are received, the record is closed.

After record is closed, Appeal Officer (DES) examines the record and issues a Final Agency Decision of the matter on appeal, including an explanation of the basis on which the decision was made, and advises claimant of the right to seek judicial review if the full relief requested is not granted. TRP serves Appeal Officer's (DES) decision on claimant and OLM.

After record is closed, TRP serves ALJ Final Decision on OLM. TRP advises parties of their right to seek judicial review (i.e., if claimants full relief request is not granted; or, if the Agency Decision is denied).

Parties have 30 days to appeal the Final Decision to the Minnesota Court of Appeals. If appealed, TRP staff indexes and forwards the official record to the Court of Appeals.
RELOCATION
BENEFITS AND APPEALS

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