

**\*Please Note: This Chapter does not reflect changes made in 2005 to the URA rules. An updated version will follow soon.\***

### **Displacement, Relocation and Acquisition: The Uniform Relocation Act and Section 104(d)**

**NOTE: The URA and Section 104(d) requirements are complex. Consultation with HOME staff prior to acquisition negotiations and application to VHCB is suggested. Additionally, VHCB policy prohibits permanent displacement, especially of lower income households. The Board may choose to make exceptions to this policy if a property is being converted to service enriched housing for a special population and an acceptable plan is developed to relocate existing residents. Any project which has the potential to trigger permanent displacement requires discussion with HOME staff prior to application.**

HOME projects are subject to relocation requirements under two separate acts: the Uniform Relocation Assistance and Real Property Act Policies Act of 1970 (URA) and Section 104(d) of the Housing and Community Development Act of 1974. Each of these acts places different obligations on recipients of HOME funds. Understanding how relocation requirements are triggered, how to meet the obligations, the costs and alternative ways to structure a project to minimize relocation costs is important. A detailed description of the URA begins on this page. Section 104(d) is covered beginning on page 11-15.

As a general philosophy, HUD assisted activities should take reasonable steps to minimize displacement. This means:

- ⇒ Evaluating any relocation or displacement issues as part of project feasibility determinations.
- ⇒ Assuring that residential occupants of buildings to be rehabilitated are offered an opportunity to return.
- ⇒ Planning rehabilitation projects in stages to minimize temporary relocation and resident disruption.
- ⇒ Meeting all HUD notification requirements in a timely fashion so that families do not move without having been informed about project plans and their rights.

**Failing to notify families early in the process may trigger permanent displacement benefits.**

## **Uniform Relocation Act**

All HOME activities are governed by the Uniform Relocation Assistance and Real Property Act Policies Act of 1970 (URA). All tenants in a proposed HOME project are covered by the URA, including those residing in units that will not be HOME units. Whether or not displacement will take place, all grantees must comply with the URA. The following information and sample letters have been prepared to streamline your compliance with the URA regulations.

There are URA requirements related to acquisition activities even in new construction projects and projects where buildings are currently vacant.

### **What is Displacement?**

⇒ Displacement occurs when a person (or their property) is displaced as a DIRECT RESULT of federally assisted acquisition, demolition, or rehabilitation.

⇒ A person is displaced if THEY MOVE because the person is:

- required to move; or
- not offered a decent, safe, sanitary and affordable unit in the project; or
- treated "unreasonably" as part of a permanent or temporary move;

⇒ A person may also be considered displaced if the necessary notices are not given or provided in a timely manner and the person moves for any reason.

### **Who is Not Displaced?**

⇒ Persons not displaced include those who:

- Were evicted for cause, BUT not if the eviction is taken to avoid paying relocation assistance. Please remember that tenants under eviction retain all benefits under the URA until there is a judgment or Writ of Possession for the unit. They must receive the same treatment as any other tenant until that time. Any notices sent to tenants under eviction can be tailored, with HOME staff approval, to better reflect their situation.
- Have no legal right to occupy the property (squatters);
- Occupied the property for the purpose of obtaining relocation benefits;
- **Before leasing and occupying the property**, receive written notice that relocation assistance will not be provided; It is imperative that a purchase and sale agreement

include contingencies on notification to tenants moving in after a HOME applicant has achieved site control.

- Retain the right and use of the property following acquisition (life estate); or
- After being **fully advised of their rights and potential benefits**, waive them. **Please contact HOME staff prior to any discussion in which tenants may waive their rights as specific documentation and benefit determination is required.**

### **Rent Burden/Economic Displacement**

- ⇒ If a family's rent increases as a result of a federally assisted activity and the rent is more than 30% of the household's income, the family is "rent burdened". While the URA covers the first lease term (one year) following the acquisition and/or rehabilitation of the property, a family could argue that they are economically displaced if an unusually significant rent increase took place after that period.
- ⇒ Rent burdened families are eligible to receive financial benefits which can be substantial and can include payments to cover the difference between the old rent and the new rent for 42 months.
- ⇒ Tenants who intend to remain in the project must receive the offer of a "suitable" unit which can be rented at an "affordable" price. Tenants who will remain in the project must not be temporarily relocated for a period of more than 12 months or they become considered permanently displaced and are eligible for appropriate benefits.
- ⇒ Tenants who move permanently after execution of the Grant Agreement because they did not receive such an offer are considered "economically displaced".

### **How Much is TOO Much?**

- ⇒ If there is no increase in the rent the unit is considered affordable and the tenant is not considered "rent burdened" -- even if the percentage of income that the family is paying is more than 30% of their household income.
- ⇒ For the HOME Program, if the rent is increased as a result of federal assistance, it may not exceed:
  - **For lower-income tenants (<80% median income)**, Total Tenant Payment (TTP) as calculated for the Section 8 Certificate Program. In Vermont TTP

is the greater of 30% of the tenant's adjusted monthly income, 10% of the tenant's gross monthly income, or the ANFC as-paid amount.

- **For tenants who are not lower income (>80% of median income)**, 30% of gross monthly household income.

⇒ A tenant whose increased rent exceeds this threshold is "rent burdened". If the tenant moves permanently from the project as a result, it is considered "economically displaced".

### **How Long Must Units Remain Affordable?**

⇒ Upon the completion of the project, In-place tenants must be offered a new lease for at least a 1 year term. Any rent increase allowed under the URA would be reflected at this time.

⇒ Future rent increases must be based on market conditions rather than rehab costs. An owner could not keep rents artificially low at rehab completion and then subsequently raise rents dramatically. A tenant at this point would have a basis for claiming economic displacement.

### **Timing for Relocation Assistance Eligibility**

⇒ Under URA rules it is impossible to establish a hard and fast date for eligibility. However, most HUD program regulations establish an assumed date that is considered to be the beginning point for eligibility or the "Initiation of Negotiations". This date is considered the beginning point for eligibility.

⇒ Even though the "Initiation of Negotiations" generally marks the date when the families become eligible for relocation assistance and is triggered by the execution of the HOME grant agreement, relocation concerns must be addressed much earlier.

- Once a project reaches this point residents may be eligible for relocation assistance because the owner or grantee failed to take appropriate steps before execution of the agreement.

### **How Displacement is Triggered in Rehabilitation Projects**

#### **Before Application**

⇒ Generally, before application, eligibility for relocation payments is triggered by the tenant's permanent move **ONLY IF** the grantee or HUD determines the displacement was a direct result of the project.

For example, it could be determined that the owner displaced tenants in order to propose a vacant building for HUD assistance.

**After Application:** Displacement is triggered when a tenant moves from the property because:

- ⇒ the tenant is required by the owner to move permanently; or
- ⇒ the owner fails to **provide timely required notices** to the tenant; or
- ⇒ the owner fails to pay the actual, reasonable out-of-pocket expenses for a temporary move or because the conditions of the temporary move are unreasonable.
- ⇒ The period of temporary relocation is expected to exceed 12 months.

**After Execution of Grant Agreement:**

Displacement is triggered if a tenant moves permanently from the project because the tenant is not provided the opportunity to lease a suitable, affordable unit in the project.

### Notice Requirements

**NOTE: Notices must be either hand delivered, signed by the tenant and a copy retained by the Grantee; or sent certified mail, return receipt requested. Copies of the signed notice or notice and return receipt must be forwarded to VHCB as part of grantee's application for funding.**

### Who Needs a Notice?

- ⇒ Virtually EVERYONE needs a notice of some kind. All tenants are entitled to timely notice explaining whether or not they will be displaced.
  - Occupants to be displaced must be notified of their eligibility for relocation assistance and the nature of the assistance.
  - Occupants not to be displaced must be informed of the terms and conditions under which they may occupy the property upon completion of the project.
- ⇒ Different notices serve different purposes and must be tailored to:
  - the specific project circumstances, and
  - the individual circumstances of the residents.

Failure to provide correct and timely notices can be an expensive mistake.

### **What Must Notices Say?**

⇒ **General Information Notice** (A Sample General Information Notice, Appendix #1, is included in these materials)

- Different versions are required for persons who will and who will not be displaced. The notice must be provided as soon as feasible, but at the latest the notice should be given as soon as the Purchase and Sale Agreement or Option is executed. The notice must explain that the project has been proposed and caution the person not to move prematurely.
- It informs the person of the terms for continued occupancy if displacement will not be displaced or of the assistance available if the person will be displaced.
- If it is likely that the person will be displaced the notice should include information about available relocation assistance.

⇒ **Notice to Tenants Moving in After the Application** (A Sample Move In After Application notice, Appendix #2, is included in these materials)

- This notice is issued to each prospective tenant BEFORE the tenant agrees to move into the project.
- It explains that the project has been proposed and informs the residents that they may be displaced or have a rent increase as a result AND that they will not be entitled to relocation assistance in either event.
- Failure to issue this notice can be very costly. The grantee may incur an unnecessary relocation liability for each resident who moves in after the application and is not given this notice.

### **Persons Who Will Not be Displaced**

⇒ **Notice of Nondisplacement** (A Sample Notice of Nondisplacement, Appendix #3, is included in these materials)

- For residential rehabilitation projects this notice is issued to residents who may remain in the project.
- The notice is issued at the time the Grant Agreement is executed for the rehabilitation and contains a specific offer of a suitable, affordable unit in the project.

### ⇒ **Temporary Relocation Notice**

- Residents who are not required to move permanently may be required to move temporarily.
- Those to be temporarily relocated must receive "reasonable" advance written notice of the location, terms and conditions of the temporary move and of their right to reimbursement of all reasonable out-of-pocket expenses.

**Acquisition** (A sample Voluntary Property Acquisition notice, Appendix #4, is included in these materials.)

⇒ In general there are three types of arms length voluntary acquisitions:

- Purchases where the Grantee can exercise the power of eminent domain (legal authority to condemn property) but agrees in writing not to do so.
- Purchases where the Grantee does not have the power of eminent domain.
- Purchases of property from government agencies (Federal, state, or local) if the Grantee does not have the power of eminent domain.

⇒ Any project, which involves property acquisition is required to meet certain notification requirements. The Grantee is required to notify the seller, in writing, prior to the property closing that the sale is a negotiated, voluntary sale. The letter must be sent certified, return receipt or hand-delivered with a copy signed upon delivery. The letter must be executed prior to the HOME closing and include the following information:

- the fact that the Grantee does not have eminent domain and the sale is purely voluntary by the owner (or the Grantee has the power of eminent domain but will not use it)
- the owner must be advised that he or she may withdraw from the purchase agreement after receipt of the Grantee's notice
- The agreed upon sale price as well as the value as determined by an appraisal must be included in the notice.

### **Other Rights of Tenants who will Remain in the Project**

#### **Temporary Relocation**

- ⇒ Residents may be required to move temporarily during the rehabilitation. Remember, temporary relocation may not exceed 12 months.
- ⇒ The temporary dwelling must be suitable and decent, safe and sanitary--but not necessarily comparable. All other conditions regarding the temporary move must be reasonable.
- ⇒ In addition to notice requirements (as discussed earlier) the tenant must at a minimum receive the following:
- Reasonable advance written notice of the date and approximate duration of the planned temporary move.
  - Information about the terms and conditions under which the tenant will be returning to the unit when the project is completed.
  - Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary move. The resident must continue to pay their current rent including utilities and will be reimbursed for any increase in monthly rent/utility costs. Grantee should be sure to prepare adequate documentation when determining an amount.

#### **Permanent Moves To a Different Unit Within the Project**

- ⇒ Tenants may remain in the project but not necessarily in the same unit.
- ⇒ Permanent moves within the project must be to suitable, decent, safe and sanitary, –while not necessarily comparable, units.
- ⇒ In addition to the Notice of Nondisplacement discussed earlier, the resident must at a minimum receive:
- Reasonable advance written notice of the planned move to an alternate unit.
  - Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.
- ⇒ The rent plus utilities of the permanent new unit within the project must not exceed the greater of the tenant's old rent plus utilities or TTP (for tenants with incomes ≤80%) or 30% of Gross Monthly Income (for tenants with income >80%).

#### **Households Who Will be Permanently or Economically Displaced**

Please note that the VHCB legislation instructs the Board, when deciding how to allocate funds, to consider, among other criteria “the need to pursue the goals of this chapter without displacing lower income Vermonters.” (For the purposes of this mandate low income means any household below median income.) Further, HOME regulations direct program administrators to ensure that they have “taken all reasonable steps to minimize the displacement of persons (defined as families, individuals, or businesses) as a result of a project assisted with HOME funds”. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the building/complex upon completion of the project.” Historically, the conversion of units to housing that targets a population with special needs is the one exception the Board has made allowing permanent displacement.

**For any projects where permanent displacement is proposed, prior to taking any action, grantee must discuss this issue with HOME staff.**

### **Notice Requirements**

Households who will be permanently or economically displaced must receive the following notices:

⇒ **General Information Notice for Residential Tenant to be Displaced** (*A sample notice, General Information Notice for Residential Tenant to be Displaced, Appendix #5 is included in the materials.*)

- This notice is issued at the time negotiations are initiated; usually when a Purchase & Sale agreement is executed. Signed copies or return receipt forms must be included with application for funding.

⇒ **Notice of Eligibility for Relocation Assistance** (*A sample Notice of Eligibility for Relocation Assistance, Appendix #6 is included in the materials.*)

- This notice is issued at the time of the execution of the grant agreement and contains a commitment for relocation assistance:
  - \* Addresses of available, comparable replacement units, and
  - \* A specified amount for a replacement housing payment and moving expense

Note: Because the comparable rents set an upper limit for assistance, failure to provide information about available, comparable units may result in a requirement to pay excessive relocation costs. Also, the comparable unit must be ***decent, safe and sanitary***. If a

household chooses their own replacement dwelling it also must be decent, safe and sanitary to be eligible for replacement housing payments.

⇒ **90 (and 30 Day) Notices**

- Each resident to be displaced must receive at least 90 days written advance notice before being required to move
- The notice to move cannot be given before the resident is issued a notice of eligibility for relocation assistance OR before being notified of the availability of a comparable replacement dwelling
- The notice must specify the date by which the property must be vacated or if the date is unknown, indicate the earliest date that the resident may be required to move
- If no date is specified in the 90 day notice, the resident must be informed that they will receive at least 30 days advance written notice of the specific date of the move

⇒ A displaced household may choose to waive their rights under the URA, after being fully advised in writing of the benefits to which they may be entitled. If this is the case, the household must sign a "Waiver of Relocation Assistance under URA" (*A sample Waiver of Relocation Assistance letter, Appendix #7, is included in these materials*).

**Important Terms to Know Regarding Permanent Displacement**

⇒ **Comparable Unit**: One or more specific unit(s) offered by the grantee to a displaced person which in size, function, and location are as similar as possible to the unit the household is leaving. Qualities that make units comparable are discussed at greater length in the following pages.

⇒ **Replacement Unit**: The unit to which the household actually moves.

⇒ **Referral Unit**: Other appropriate (but not necessarily comparable) housing which is suggested to the household as part of advisory services.

**Why is it Necessary to Identify Comparable Units?**

URA requirements dictate that tenants who are displaced must be referred to at least one "comparable" replacement unit in order to do the following:

- Assure that displaced persons actually have a place to go, and

- Set a limit on the maximum liability for the grantee for replacement housing payments because the replacement housing payment is based on the cost of the household's replacement unit or the cost of the comparable unit if it is lower.

### **What is a Comparable Unit?**

⇒ In general, "comparable" units must be:

- Similar in size;
  - \* comparable units will have the same amount of space as the original unit.
  - \* Sites should be typical in size for residential development with normal site improvements.  
NOTE: if the original unit was dilapidated, a smaller, decent safe and sanitary unit adequate in size to accommodate the household may be considered comparable.
- Similar in function;
  - \* Unit performs the same function, service or purpose as the displacement unit. Example: If the tenant occupied an SRO before, a replacement unit could be an SRO that provides the functionally equivalent facilities for eating, sleeping and bathing.
  - \* Unit contains the same principal features. Example: Original unit had a separate dining room and living room, but the replacement unit has a combined living and dining area, the unit is "functionally equivalent" to the old. Example: Original unit contained a pantry but the new unit contains sufficient cabinets for storage of food and kitchen items, the two units are "functionally equivalent."
- Reasonably accessible to the person's employment;
- Located in equal to or better area than the original unit vis-à-vis public utilities and commercial and public facilities;

- \* The location should be no less desirable than the displacement location and provide access to the work, services and facilities. Example: A displaced family has two school age children. A comparable unit would be within the same school district.
- Currently available to the displaced person. Units are "available" if:
  - \* The person has been informed of the location;
  - \* Has sufficient time to negotiate an agreement to lease or purchase; and
  - \* Receives relocation payments (as necessary) in sufficient time to complete the move or purchase.
- Decent, safe and sanitary (See next section that describes this.)
- Within the financial means of the displaced person. (URA requires financial assistance be provided to assist the household to afford the replacement unit.)

⇒ **The type of rental property affects whether it is considered comparable.**

- Public housing or project-based subsidized housing is a suitable comparable unit for displaced public housing or project-based subsidized tenants, but not for other tenants.
- A privately owned unit made affordable by a tenant-based subsidy is an acceptable comparable for displaced persons who previously lived in a unit with a project-based subsidy.
- Affordable privately owned housing is an acceptable comparable for any tenant.

See HUD worksheet, *Representative Selection of Most Comparable Dwelling*, attached as **Appendix #8**, to select the most representative comparable unit.

**Decent, Safe and Sanitary Units**

⇒ Decent, safe and sanitary units must:

- be structurally sound, weather-tight and in good repair

- include wiring that is safe and adequate for lighting and other devices
- contain a heating system capable of maintaining a healthful temperature
- be adequate in size for the household including:
  - \* separate, well ventilated bath with sink, tub or shower, and toilet in good working order
  - \* kitchen area with sink, potable water, sewage drainage, and space and connections for stove and refrigerator
  - \* unobstructed access to safe, open space at ground level.
- For a person with mobility impairments, be free of any barriers which would preclude reasonable ingress, egress or use of the dwelling.
- Comply with lead-based paint requirements of 24 CFR 35 (ie., no cracking, peeling, chipping scaling paint; provide lead-based paint to residents).
- Units that meet the VSHA Section 8 Housing Quality Standards are considered "decent, safe and sanitary" replacement units. (Contact VSHA or HOME staff for a copy of the Housing Quality Standards Inspection Booklet.)
- Units must be inspected by qualified persons who are knowledgeable of the local housing code.

**Permanently Displaced Households are Eligible for the Following Benefits**

- ⇒ **Advisory Services:** Includes timely notices, information booklets, explanation of assistance, referrals to comparable housing and rental assistance programs, referrals to social services, counseling and advice on rights under the Fair Housing Act.
- ⇒ **Replacement Housing Assistance:**
- Assistance is provided in the form of rental assistance
  - Amount of rental assistance varies depending upon whether the family was in occupancy more or less than 90 days prior to execution of the P&S.

- Rental Assistance may be in the form of 42 months of Replacement Housing Payments for eligible households or tenant-based rental assistance under Section 8 if it is available.
- If a household receives a Section 8 subsidy they are no longer eligible for replacement housing payments.
- Cash rental assistance must be provided in installments rather than a lump sum payment. A lump sum payment is possible only when the assistance will be used to purchase a home.

⇒ **Moving and Related Expenses:** The displaced person has the option of

- A payment for actual reasonable moving and related expenses; or
- A moving expense and dislocation allowance determined by Department of Transportation schedule that is published periodically (*Refer to Residential Moving Expense and Dislocation Allowance Schedule,*

## **Disbursements and Recordkeeping**

### **Disbursements for Temporary Relocation**

⇒ Disbursements for temporary relocation payments can be processed on a monthly basis as part of a grantee's regular project disbursement provided adequate documentation is submitted. (*See the attached Temporary Relocation Reimbursement Chart, Appendix #10.*)

⇒ A separate Temporary Relocation Reimbursement chart must be completed and submitted for each tenant. Grantee should retain a copy of the form to be added to and forwarded to VHCB for subsequent disbursements.

⇒ Payments can be made for the following:

- Rent differential -- the difference between the tenants current rent (including utilities) and the temporary rent (including utilities). To determine the value of any tenant paid utilities, use the VSHA Utility Schedule. **Note: The tenant should continue to pay rent during a temporary move and is eligible for the differential only.**
- Moving expenses to and from the temporarily occupied housing. Moving reimbursement for temporary moves can be ONLY for actual documented out of pocket expenses as long as they are reasonable.

- Other reasonable out of pocket expenses incurred with the temporary move such as utility hook-ups and storage charges.

⇒ Documentation is required for any reimbursements. For example, copies of bills are required for hook-up charges, storage fees, and other miscellaneous costs; while copies of leases or rent receipts will be required to establish the temporary rent.

### **Disbursements for Permanent Displacement**

**Note: URA is complicated. Please consult with a HOME staff person before you proceed with a project involving permanent displacement.**

⇒ Disbursements for permanent displacement can be processed on a monthly basis as part of a grantee's regular project disbursement, provided adequate documentation for each displaced tenant is submitted. Adequate documentation includes the following:

- Copies of 90-day notice
- A separate Site Occupant Record must be completed and submitted for each displaced tenant. (*See the attached Site Occupant Record - Residential, Appendix #11).*
- Completed "Claim for Rental Assistance or Down payment Assistance" form. (*Refer to Claim for Rental Assistance or Down payment Assistance form included in these materials as Appendix #12).*
- Completed "Claim for Moving & Related Expenses" form. (*Refer to Claim for Moving & Related Expenses form included in these materials as Appendix #13).*
- Completed "Selection of Most Representative Comparable Replacement Dwelling" form. (*Refer to Selection of Most Representative Comparable Replacement Dwelling included in these materials as Appendix #8).*
- Copy of VSHA Housing Quality Standards Inspection booklet to document replacement unit is decent, safe and sanitary.

### **Businesses Who Will be Permanently Displaced**

**If you will be permanently displacing a business you must contact HOME Program staff at VHCB before you submit your application for HOME funds for more information regarding your obligations under the Uniform Relocation Act. Please keep in mind that it is a VHCB goal to conduct HOME activities where displacement is kept to a minimum.**

## **Section 104(d) of the Housing and Community Development Act of 1984**

Section 104(d) applies whenever HOME funds are used in a project. There are two distinct components to 104(d):

⇒ Displaced Person - only low income households, i.e. households with annual income at or below 80% of median, are covered by 104(d)

Any person who qualifies for 104(d) assistance is covered by the URA.

Tenants who are not considered low income and are therefore not eligible for 104(d) are eligible for assistance under the URA.

⇒ Units - only units that are “converted” to use other than long-term housing, demolished or eliminated are covered by 104(d)

### **Key Definitions**

⇒ Section 8 Fair Market Rents are determined by HUD for individual market areas and based upon the number of bedrooms in a unit.. These rents are published annually by HUD.

⇒ Low Income Person is a person or household with annual income  $\leq 80\%$  of median income as published by HUD for household size and market area.

⇒ Low/Moderate-Income Dwelling Unit is a rental unit that has a market rent including estimated tenant-paid utilities that is equal to or below the Section 8 Fair Market Rent.

- The determination of a lower income unit is not based upon the income of the occupant.
- A unit with a rent above the Fair Market Rent that is occupied by a low income tenant is not a low/moderate income unit.
- A unit with a rent below the Fair Market Rent that is occupied by a high income tenant is a low/moderate income unit.

⇒ Demolish means to tear down a unit.

⇒ Conversion means to change a housing unit to a non-housing unit, to increase the rent on a lower income rent above the Fair Market Rent, to change a housing unit to an emergency shelter.

### **Replacement Housing Assistance triggered by tenant characteristics**

Eligible persons may receive rental assistance for 60 months rather than 42 months under the URA. Payments are calculated using the difference between the rent and utility costs for the replacement unit or comparable unit and the tenant's Total Tenant Payment. ((The chart on page 11-19 illustrates the different benefit amounts under URA and 104(d).)

### **One for One Replacement triggered by unit characteristics**

Section 104(d) requires that all "occupied" and "vacant occupiable" units that are demolished or converted to a use other than as low/moderate-income dwelling units must be replaced with low/moderate-income units.

### **Triggers for Replacement**

Grantees **must replace a unit if:**

- ⇒ It meets the definition of low/moderate dwelling unit; AND
- ⇒ It is occupied or is vacant and occupiable; AND
- ⇒ It is to be demolished or converted to a unit with rents above the Fair Market Rent or to a use that is no longer permanent housing.

A unit **does not need to be replaced if:**

- ⇒ It does not meet ALL of the triggers above.
- ⇒ It is substandard and not suitable for rehabilitation and has been vacant for more than 3 months.

Income of current residents is not a trigger for replacement.

### **Replacement Units**

⇒ Replacement units must be:

- Within the grantees jurisdiction;
- In standard condition;
- Affordable for low income families for at least 10 years.

⇒ The number of bedrooms replaced must equal the number of bedrooms removed:

- Replaced bedrooms do not need to be in the same unit configuration (2 one-bedroom units can be replaced with 1 two-bedroom unit)

⇒ Replacement units must be developed within four years of demolition/conversion (up to one year prior and 3 years after)

⇒ Exceptions to the one-for-one replacement can be waived by HUD under certain circumstances.

**For a detailed explanation of the one-for-one replacement requirements please refer to *All the Right Moves: Tenant Assistance and Relocation in HUD Programs* handbook and consult with VHCB staff.**

**Is 104(d) triggered?**

**Is it a low/moderate-income unit? i.e. rent =< Fair Market Rent**

**No**

**Section 104 is not triggered**

**Yes**

**Is the unit being demolished or converted?**

**No**

**Section 104 is not triggered**

**Yes**

**Are HOME Funds being used?**

**No**

**Section 104 is not triggered**

**Yes**

**Is the household income less than 80% of median?**

**No**

**Section 104 is not triggered**

**Yes**

**Section 104 is triggered**



### **Sample Calculation of Replacement Housing Payments**

**NOTE:** The information presented below is simplified to give you an idea of the potential cost of replacement housing assistance benefits for which permanently displaced tenants may be eligible. Please do not use this chart to calculate actual benefits. This is complicated and you must consult with HOME staff any time a tenant might be permanently displaced.

#### **EXAMPLE #1: URA Replacement Housing Payment for Permanently Displaced Tenant**

\$600 Rent and utilities at actual replacement dwelling (new residence)

\$500 Rent and utilities at comparable replacement dwelling

Choose the lesser: \$500

\$400 Rent and utilities at the displacement dwelling (old residence)

\$300 30% of adjusted gross monthly income

Choose the lesser: \$300

Replacement Housing Payment is:

$\$500 - \$300 = \$200 \times 42 \text{ months} = \$8,400$

#### **EXAMPLE #2: URA and 104(d) Replacement Housing Payment for Permanently Displaced Tenant from Unit that was Demolished or Converted**

\$600 Rent and utilities at actual replacement dwelling (new residence)

\$500 Rent and utilities at comparable replacement dwelling

Choose the lesser: \$500

\$400 Rent and utilities at the displacement dwelling (old residence)

\$300 30% of gross monthly income (tenant has income  $\leq$ 80% median)

Choose the lesser: \$300

Replacement Housing Payment is:

$\$500 - \$300 = \$200 \times 60 \text{ months} = \$12,000$

Note: If a household receives a Section 8 subsidy, they are no longer eligible for replacement housing payments.

## APPENDICES

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