

CITY OF MARIANNA, FLORIDA
ANTIDISPLACEMENT AND RELOCATION ASSISTANCE PLAN

I. Displacement Avoidance Policy

The City of Marianna is committed to a policy to make all reasonable efforts to ensure that activities undertaken through the use of Community Development Block Grant (CDBG) funds will not cause unnecessary displacement or relocation. Such federally funded programs will be administered in such a manner that careful consideration is given during the planning phase with regard to avoiding displacement. The City of Marianna will also provide information to and keep citizens involved in the process regarding pending land use changes, zoning and rezoning actions that threaten the preservation of residential areas.

Involuntary displacement shall be reserved as a last resort action necessitated only when no other alternative is available and when the activity is determined necessary in order to carry out a specific goal or objective that is of benefit to the public. In this case, community development and housing programs will be planned in a manner which avoids displacement of households or businesses. However, voluntary (temporary or permanent) relocation may be necessary in order to achieve a benefit to a household or business (such as rehabilitation or replacement of the building). Such benefits shall be identified and requested by the displacee. Voluntary displacement may also occur when a property owner voluntarily offers his home or business property for sale to the local government. In these cases, the seller may be required to waive rights as a condition of sale of the property, and the Uniform Relocation Act provisions will govern actions of the local government and/or its representative. 24 C.F.R. Part 570 is a governing document on displacement and is incorporated by reference. 49 C.F.R. Part 24 provides Uniform Relocation Act information and is incorporated by reference. As pertains to the City of Marianna's tenant Assistance, Relocation and Real Property Acquisition Plan, the U.S. Department of Housing and Urban Development Handbook #1378, shall be adopted in its entirety as a part of this policy as amended.

II. Definitions of "Standard" and "Non-Standard Suitable for Rehabilitation" Dwelling Unit Condition

In the absence of federal and state provided definitions, the following is provided to establish a frame of reference and context when dealing with matters of displacement and/or relocation as defined in 24 CFR Part 570 and 49 CFR Part 24.

A. Standard Condition

A dwelling unit is considered standard if it has no major defects or only slight defects which are correctable through the course of regular maintenance. It must be in total compliance with applicable local housing and occupancy codes; be structurally sound, watertight and in good repair; be adequate in size with respect to number of rooms and area of living space and contain

the following:

1. A safe electrical wiring system adequate for lighting and other normal electrical devices,
2. A heating system capable of sustaining a healthful temperature (consistent with normal, year round climatic conditions),
3. A separate, well-lighted and ventilated bathroom that; provides user privacy and contains a sink, commode, and a bathtub or shower stall, all in good working order and properly connected.
4. An appropriate, sanitary approved source of hot and cold potable water,
5. An appropriate, sanitary and approved sewage draining system,
6. A fully usable sink in the kitchen, attached to a potable water source,
7. Adequate space and service connections for a stove and a refrigerator,
8. An unobstructed egress to a safe, open area at ground level,
9. Be free of any barriers which would preclude ingress or egress if the occupant is handicapped.
10. Meet the Section 8 Housing Quality Standards,
11. Comply with the lead-based paint requirements of 24 C.F.R. Part 35, and
12. Meet the requirement of the local Existing Housing Code.

Failure to meet any of these criteria automatically cause a dwelling to be considered "substandard."

B. Substandard Condition Suitable for Rehabilitation

A dwelling unit is considered substandard if it does not fully comply with the standard criteria, or has minor defects which require a certain amount of correction but can still provide safe and adequate shelter or has major defects requiring a great deal of correction and will be safe and adequate once repairs are made.

To be suitable for rehabilitation, a housing specialist must carefully inspect the dwelling and prepare a work write-up of repairs necessary to bring it up to standard condition. A cost estimate of repairs will be prepared based on the needs identified in the work write-up. If these costs are equal to or less than 75% of the value of a comparable replacement unit as obtained

from more than one licensed contractor, the dwelling will be considered suitable for rehabilitation. If the predicted cost exceeds 75%, the unit will be deemed unsuitable.

This criteria is arbitrary, however, and the governing body may authorize deviations based on the unique aspects of each dwelling, owner, tenant, etc. on a case by case basis. Each deviation so approved must be thoroughly documented.

Displacement Policy and Procedures

III. Permanent, Involuntary Displacement

The City of Marianna will provide reasonable relocation assistance to persons (families, individuals, businesses, nonprofit organizations, or farms) displaced (moved permanently and involuntarily) as a result of the use of CDBG assistance to acquire or substantially rehabilitate property. Assistance to displaced persons may include:

- a. Payment for actual moving and relocation expenses documented by receipts and/or vouchers from service providers and utility companies. The documents shall be submitted prior to the disbursement of payment;
- b. Advisory services necessary to help in relocating;
- c. Financial assistance sufficient to enable the displaced person to lease and occupy a suitable, decent, safe and sanitary replacement dwelling where the cost of rent and utilities does not exceed 30 percent of the household gross income of a family earning 80 percent of the median income for the jurisdiction.

A. Provisions for One-for-One Replacement

The City of Marianna will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, and as described in 24 CFR Part 570. Replacement low/moderate-income units may include public housing or existing housing receiving Section 8 project based-assistance.

All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to conversion and will meet the following requirements.

1. The units will be located within the local jurisdiction.
2. The units will meet all applicable local housing, building, and zoning ordinances and will be in standard, or better, condition.
3. The units will be designed to remain low/moderate-income dwelling units for at least 10 years from the date of initial occupancy (applies to initial tenant only).

4. The units will be sufficient in size and number (functionally equivalent) to house at least the number of occupants who could have been housed in the units that are demolished or converted.

Before obligating or expending CDBG/federal funds that will directly result in such demolition or conversion, the local government will make public and submit to the Florida Department of Economic Opportunity and/or the U.S. Department of Housing and Urban Development the following information in writing:

1. A description of the proposed assisted activity.
2. The general location on an area map including approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than low/moderate-income dwelling units.
3. A time schedule for commencement and completion of the demolition or conversion.
4. The general location on a service area map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement units.
5. Identification of the source of funding at the time of submittal and the time frame, location and source for the replacement dwelling unit.
6. The basis for concluding that each replacement dwelling unit will be designed to remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy.
7. Information demonstrating that any proposed replacement of a unit with a smaller unit is consistent with the housing needs of LMI persons in the jurisdiction.

B. Provisions for Relocation Assistance for Residential Displacement

The City of Marianna will provide relocation assistance, as described in 24 CFR Part 570, to each LMI household involuntarily displaced by the demolition of housing or by the conversion of a LMI dwelling to another use as a direct result of CDBG-assisted activities.

Persons that are relocated are entitled to:

1. A choice between actual reasonable moving expenses or a fixed expense and dislocation allowance,
2. Advisory services,
3. Reimbursement for reasonable and necessary security deposits and credit checks,

4. Interim living costs; and

5. Replacement housing assistance which may include a Section 8 housing voucher/certificate and referral to assisted units; cash rental assistance to reduce the rent and utility cost or lump sum payment equal to the present value of rental assistance installments to be used toward purchasing an interest in a housing cooperative or mutual housing association for a period up to 60 months (5 years).

C. Provisions for Non-Residential Relocation

Businesses, non-profit organizations, farms, etc., shall not be relocated unless the move is voluntary, essential to the project from the public view, and the owner waives his/her rights under the Uniform Act except for the following relocation assistance:

1. Actual moving and reasonable reestablishment expenses not less than \$1,000 nor more than \$20,000 equal to a prorata share for the period of interruption of operations of the average annual net earnings. Average annual net earnings are one half of the two taxable years immediately prior to the taxable year it was displaced.
2. No other benefits will be provided and a signed waiver acknowledging this fact will be required.

IV. Temporary, Voluntary Displacement and Relocation

A. Persons occupying housing which is to be rehabilitated using CDBG funds must voluntarily agree to inclusion in the " program and shall vacate the housing at the direction of the City of Marianna (or its CDBG Coordinator), in order to facilitate the safe, timely and economical rehabilitation process.

B. A moving allowance of \$300 will be provided each family unit so displaced. This allowance will be provided in two payments of \$150 each on move out and move back in.

C. The City of Marianna may provide a safe, decent and sanitary housing unit for use as temporary relocation housing. The unit shall be available free of charge to temporarily displaced households for the time period authorized by the CDBG Coordinator, generally for the period of rehabilitation construction. Households who occupy the unit shall have a \$75 refundable deposit withheld from their initial moving allowance payment. This deposit shall be refunded in full immediately after the relocation unit is vacated in a clean and undamaged condition. The deposit refund shall be denied in full or in part for payment of damages to the owner/lessee due to the occupants' (a) failure to properly clean or maintain the unit, (b) physical damage to the unit, (c) loss of keys to the unit, or (d) need for any special condition such as fumigation. A \$25 per day penalty may also be assessed for the household's failure to properly vacate the relocation unit when directed to do so by the CDBG Coordinator.

D. A storage allowance of up to \$150 will be provided each family unit displaced if storage is necessary and essential to the move.

E. Insurance cost of up to \$100 for the replacement value of the household property in connection with the move will be provided each family unit displaced if storage is necessary and essential to the move.

V. Permanent, Voluntary Displacement and Relocation

If it is determined by the City of Marianna that the occupants of a dwelling should be permanently relocated, and the occupants voluntarily consent, the government will assist in the relocation to a decent, safe and sanitary dwelling unit. Benefits, if provided, will be limited to increases in monthly housing costs incurred by the occupant in an amount equal to the lesser of 60 times the increase or 30 percent of the person's annual income. 24 Part 570 must be consulted to determine specific limitations. Payment of relocation benefits for housing assistance will be spread over 60 months (42 months for non-LMI relocatees).

VI. Tenant Assistance Policy/Rental Rehabilitation

A. It is not the City of Marianna's policy to displace families in rental units. Participating landlords will be required to warrant that the proposed rehabilitation will not cause any tenant to be permanently displaced unless the owner will be able to relocate the tenant displaced in accordance with HUD relocation criteria. Rental Rehab funds will not be used to rehabilitate the structures if the rehabilitation will cause the displacement of LMI families.

B. If it becomes necessary for an owner to move a tenant from a unit as a direct result of rehabilitation assisted through rental rehabilitation funds, the owners will assure that the tenant is offered a decent, safe and sanitary dwelling unit at an affordable rate as described in the applicable regulations. No tenant will be considered displaced if the owner has offered the tenant a decent, safe, sanitary and affordable unit and the tenant has declined the offer.

C. Should displacement become necessary for a LMI family as a result-of rental rehabilitation assistance, the owner will assure that tenants are provided the necessary financial assistance, information, counseling, referrals and housing location options regarding Federal Fair Housing rights, and other relocation services as needed without regard to race, color, religion, sex, familial status, age, handicap or national origin, so as to enable the family to obtain decent, safe and sanitary housing at an affordable rent.

D. The Housing Authority at the City of Marianna of _____ shall provide federal preference to any qualified LMI family subject to relocation. Where Section 8 Housing vouchers are available, such preference will apply.

E. Where required, compensation to obtain replacement housing shall not exceed \$_____ threshold. Should such projected compensation to the tenant exceed this

threshold, consideration shall be given to not performing the demolition rehabilitation which would cause the displacement.

VII. Displacement of Homeowners

Homeowners will have their homes demolished with CDBG funds only as a voluntary action, when rehabilitation of the dwelling is not feasible or cost effective.

Although homeowners have a right to assistance as previously discussed, CDBG funds available for relocation assistance are limited; therefore, financial assistance shall not exceed that described in accordance with 49 C.F.R. 24.401. and the regulations under U.S. HUD Handbook 1378.

VIII. Appeals/Counseling

A. If a claim for assistance is denied by the local governing body, the claimant may appeal to the State Department of Economic Opportunity and the decision of the State shall be final unless a court determines the decision was arbitrary and capricious.

B. Counseling will be provided to displacees in the areas of household finance, fair housing rights, real estate transactions, and locating and evaluating replacement housing options. Counseling shall be provided by the CDBG Coordinator to permanently displaced households to ensure that:

No person will be discriminated against based upon age, race, color, religion, sex, handicap, familial status, national origin, or presence of children in the household.

Displacees receive information concerning the full range of housing opportunities within the local housing market.

This Antidisplacement and Relocation Assistance Plan was approved and adopted by the City of Marianna Commission of on the _____ day of _____, 20__.

Mayor

**FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY
DISPLACEMENT/RELOCATION GRIEVANCE PROCEDURES**

I. PURPOSE

The following pages prescribe State requirements governing appeals of certain local government actions relating to displacement/relocation activities.

II. BASIC RIGHTS AND RULES

A. Actions which may be appealed. A person may file an appeal in any case in which he believes that the local government has:

- (1) Failed to properly determine his eligibility for, or the amount of, assistance required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and implementing regulations or any local policy related to relocation payments. A person's acceptance of a payment that is less than the full amount he claimed does not limit his right to appeal the local government's determination. A person may also appeal the refusal of the local government to waive the time for filing a claim or the one-year purchase and occupancy requirement;
- (2) Failed to provide appropriate housing referrals or to properly inspect the replacement dwelling or failed to comply with a requirement that there are available comparable replacement dwellings or safe, decent and sanitary housing, as appropriate, prior to requiring displacement; or
- (3) Failed to comply with a requirement of giving notice of right to continue in occupancy.

B. Order of appeal. An appeal must be filed with the Chairman of the City of Marianna Commission or Mayor of the City or their designee in accordance with the provisions of this subpart. If a person is not satisfied with the results of the local government's determination on his appeal, he may seek to have his appeal reviewed by the State Department of Economic Opportunity (hereafter referred to as the Department) in accordance with Section IV (Department Review of Appeals).

C. Joint appeals. Two or more persons may join in filing a single appeal if each has grounds for an appeal as specified in paragraph A of this section.

D. Right to representation. A person has a right to be represented by legal counsel and to be accompanied by an advisor, attorney or other representative in any personal appearance in connection with his appeal, but solely at his own expense.

E. Review of files by person making appeal. The local government shall permit a person to inspect and copy all files and records pertinent to his appeal.

F. Minimum notice to move. If a person files a written appeal under paragraph A(2) or A(3) of this section, he shall not be required to move from the real property until at least 20 days after he receives the local government's written determination on his appeal, or, if he submits his request to the Department for a review, the written Department determination. The person shall be given at least 20 days advance notice of the date by which he must move.

G. Law rules and regulations applicable to the CDBG program. In deciding appeals, applicable laws, rules and regulations will be applied in a manner that best fulfills the objective of providing "fair and equitable treatment" so that displaced persons do "not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole."

III. APPEAL TO LOCAL GOVERNMENT

A. Timing for initiating appeal to local government. Unless waived by the local government or the Department, an appeal to the local government (either oral or written appeal) shall be filed as follows:

- (1) An appeal concerning eligibility for, or the amount of, a payment shall be filed within 6 months after the local government's notification to the person of its determination on the claim. An appeal of the local government's refusal to waive the time limit for filing a claim or its refusal to waive the on-year purchase and occupancy requirement shall be filed within 30 days after such refusal;
- (2) An appeal alleging failure to provide appropriate housing referrals or to properly inspect the replacement dwelling or failure to comply with availability of comparable replacement dwellings or safe, decent, and sanitary housing guidelines prior to displacement shall be filed not later than 6 months after the person's displacement; and
- (3) An appeal alleging failure of the local government to comply with notice of right to continue in occupancy, shall be filed not later than 6 months after (a) the person's permanent move from the real property, or (b) the end of the 4-year occupancy period, whichever occurs first.

B. Oral appeal to local government. If a persons, orally or in writing, asks to make an oral appeal to the local government, the local government shall give him to opportunity to present his appeal orally to an appropriate local government official within 15 days. The local government shall prepare a summary of the matters discussed in the oral presentation and include it as a part of its case file. If the local government does not grant the full relief requested by the person, it shall promptly notify him to that effect, in writing (certified mail, return receipt requested) with a copy to the Department. The notification shall indicate that the person has a right to file a written appeal under this Section. A person's request for an oral presentation shall

not entitle him to any postponement of displacement.

C. Request for review of written appeal. A persons may file a written appeal to the local government, whether or not he has made a prior oral presentation. The appeal may include any related statement of fact or other material. If necessary, the applicable time limit for filing an appeal shall be extended to assure that the person has at least 30 days after receiving notification of the decision on his oral appeal in which to file a written appeal.

D. Scope of review of written appeal. The local government shall consider a person's written appeal, regardless of form. In deciding the appeal, the local government shall consider:

- (1) All applicable laws, rules, regulations, and any other State or federal requirements;
- (2) All pertinent justification and written material submitted by the person making the appeal; and
- (3) All material upon which the local government based the determination(s) being appealed and any other available information that is needed to insure a fair and full review of the appeal. However, the local government must ensure that the person making the appeal has had reasonable opportunity to review any such materials and information on which an adverse ruling on the appeal may be based.

E. Determination and notification after written appeal. Within 30 days after receipt of all information submitted by a person in support of his appeal, the local government shall make its written determination on the appeal and furnish the person with a copy by certified mail, return receipt requested. The written determination shall include, at a minimum:

- (1) The local government's decision upon review of the appeal;
- (2) The factual and legal basis upon which the decision is based;
- (3) If any payment or other relief to the person is granted, a brief statement on how this will be provided; and
- (4) If the full relief requested is not granted, a statement of the person's right to appeal to the Department within 30 days and the address of the appropriate office.

F. Request for additional time. If a person makes a reasonable request for additional time to gather and prepare information for a written appeal, he must be granted a reasonable amount of additional time.

G. Assistance to person making appeal. If a person is unable to prepare a written appeal, the local government shall offer him appropriate assistance and notify him of other available sources of assistance.

H. Recommendation by third party. A person making an appeal and the local

government may, by mutual agreement, arrange for a third party to review the appeal and make recommendations to the local government for its final determination. The agreement may provide for an extension of the 30-day time limit for local government review. In reviewing the claim and making recommendations, the third party shall comply with the provisions of paragraph (D) of this section. After receiving the recommendation, the local government shall comply with the requirements of paragraph (E) of this section.

I. Local government official to hear appeal. The local government official hearing an oral appeal or conducting the review of a written appeal shall be either the chairman of the City of Marianna commission or mayor of the city or his authorized designee other than an official directly involved in the action appealed or a subordinate to such an official.

IV. DEPARTMENT REVIEW OF APPEAL

A. Request for Department review. If a person is not satisfied with the local government's determination on his appeal, he may request that the Department review the local government's determination. The request must be sent to the Chief, Bureau of Community Assistance, Division of Housing and Community Development, Department of Economic Opportunity, 107 East Madison Street, Tallahassee, Florida 32399-6508 within 30 days after the person received the local government's decision. The person must also furnish the local government with a copy of their request for Department review.

B. Determination and notification by the Department. The Department may elect to assign staff to review or participate in the review. The Department, upon receipt of the request to review the decision and within 14 days after receipt of the materials described in "C" below, shall make its written determination and shall furnish a copy to the local government and the person requesting the review. The Department's determination shall include, but need not be limited to:

- (1) The Department's finding after review;
- (2) The factual and legal basis upon which the finding is based, including any pertinent explanation; and
- (3) If any payment or other relief for the person is recommended, the Department will provide appropriate directions to the local government on how this is to be provided.

C. Submission of local government agency's file. Within 5 days after receiving a copy of a person's appeal to the Department, the local government shall submit to the Department a complete copy of its case file on the appeal.

V. LOCAL GOVERNMENT DISMISSAL OF APPEAL NOT BASED ON MERITS.

General. If the local government dismisses an appeal as being late, or premature, or because of any other reason not based on the merits of the issues involved, it shall notify the person in writing, with a copy to the Department, of its reasons for the dismissal. The

notification shall be sent to the person within 10 days, certified mail (return receipt requested), after he files the appeal and shall indicate that he shall have 30 days to seek the Department review of the dismissal per Section IV above.

VI. JUDICIAL REVIEW

Nothing in this subpart shall in any way preclude or limit a person from seeking judicial review of his appeal on its merits or seeking any other legal remedy available.