

Johnson County Residential Antidisplacement and Relocation Assistance Plan

Introduction

Johnson County (the County) does not intend to undertake any activities funded by the U.S. Department of Housing and Urban Development (HUD) that would cause either temporary or permanent displacement of an individual or family. However, the County is required to have a Plan in place and to follow the Plan should such an event occur.

Background

Section 104(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C.5304(d)(4)) (the Act), Section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(16)), and implementing regulations at 24 CFR Part 42, specify that a grantee under the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) programs must certify that it has in effect and is following a "residential antidisplacement and relocation assistance plan" (Plan). As a CDBG and HOME entitlement grantee, Johnson County (County) must certify to the Department of Housing and Urban Development (HUD) that it has and is following such a Plan. All activities involving the use of CDBG or HOME funds that cause displacement as a direct result of demolition or conversion of a lower-income dwelling are subject to the requirements specified in the Plan.

The County is responsible for ensuring compliance with the requirements of the Act, notwithstanding any third party's contractual obligation to the County to comply with the provisions of the Act and the cost of assistance required under the Act. All interpretations, policies and procedures, implementation of assisted projects and relocation assistance in reference to this Plan shall be in accordance with the provisions of the Act. This Plan contains three major components:

➤ **One-For-One Replacement of Low and Moderate Income Dwelling Units**

All occupied and vacant occupiable low/moderate-income dwelling units that are demolished or converted to a use other than as low/moderate-income housing as a direct result of an activity assisted under the Act must be replaced by governmental agencies or private developers with low- and moderate-income dwelling units within three years of commencement of the activity.

➤ **Relocation Assistance**

Relocation assistance must be provided to each low- or moderate-income household that is displaced as a direct result of an activity assisted under the Act.

➤ **Steps to Minimize Displacement**

The County will take steps to minimize the displacement of families and individuals from their homes and neighborhoods as a direct result of activities assisted under the Act.

I. One-for-One Replacement Units

Replacement units must meet the following requirements:

- A.** The units must be located within Johnson County. To the extent feasible, the units shall be located within the same neighborhood as the units replaced.
- B.** The units must be sufficient in number and size to house no fewer than the number of occupants who could have been housed in the units that are demolished or converted. The number of occupants who could have been housed in the units shall be in accordance with applicable local housing occupancy codes. The units may not be replaced with smaller units (e.g., a 2-bedroom unit with two 1-bedroom units), unless the County has provided information demonstrating that such a proposed replacement is consistent with the needs assessment contained in its HUD-approved Consolidated Plan.
- C.** The units must be in standard condition and must at a minimum meet Section 8 Program Housing Quality Standards. Replacement lower-income units may include units brought from a substandard condition to standard condition.
- D.** The units must be designed to remain lower-income dwelling units for at least 10 years from the date of initial occupancy.
- E.** Before the County enters into a contract committing it to provide CDBG or HOME funds for any activity that will directly result in the demolition of lower-income dwelling units or the conversion of lower-income dwelling units to another use, the County must make public and submit in writing to HUD the following information:
 - 1. A description of the proposed assisted activity;
 - 2. The location on a map and number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than for lower-income dwelling units as a direct result of the assisted activity;

3. A time schedule for the commencement and completion of the demolition or conversion;
4. The location on a map and the number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units. If such data is not available at the time of the submission to HUD, the submission shall identify the general location on an area map and the approximate number of dwelling units by size, and information identifying the specific location and number of dwellings units by size shall be submitted and disclosed to the public as soon as it is available;
5. The source of funding and time schedule for the provision of replacement dwelling units;
6. The basis for concluding that each replacement unit will remain a lower-income dwelling unit for at least 10 years from the date of initial occupancy; and
7. Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units is consistent with the needs assessment contained in the Johnson County Consolidated Plan.

The one-for-one replacement requirements may not apply if HUD determines, based on objective data, that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within Johnson County. In making such a determination, HUD will consider such factors as vacancy rates, numbers of lower-income units in the County and the number of eligible families on the Section 8 waiting list.

II. Relocation Assistance

Johnson County will ensure that relocation assistance is provided as described in 24 CFR 570.606 to each low- to moderate-income person who is displaced by the demolition or by the conversion of a low/moderate income dwelling unit to another use as a direct result of a CDBG or HOME assisted activity. Relocation notices must be distributed to the affected persons in accordance with 49 CFR 24.203 of the URA. Such displaced person may elect to receive either relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), or may elect to receive the following assistance:

- A.** The relocation assistance described at 24 CFR Part 42, Subpart C (General Relocation Requirements) and Subpart D (Payment for Moving and Related Expenses);

- B.** The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit, and credit checks required to rent or purchase the replacement dwelling unit; and
- C.** Replacement housing assistance. Households are eligible to receive one of the following forms of replacement housing assistance:
 - 1. Each person shall be offered rental assistance equal to 60 times the amount necessary to reduce the monthly rent and estimated average monthly cost of utilities for a replacement dwelling to the "Total Tenant Payment", as determined under 24 CFR 813.107. All or a portion of this assistance may be offered through a housing voucher for rental assistance under the Section 8 program, if available. Where Section 8 assistance is provided to the displaced person, the County must provide the person with referrals to comparable units.
 - 2. In lieu of the housing voucher or cash assistance described above, the person may elect to receive a lump sum payment allowing them to secure participation in a housing cooperative or mutual housing association. This lump sum payment shall be equal to the capitalized value of 60 monthly installments of the amount that is obtained by subtracting the "Total Tenant Payment", as determined under 24 CFR 813.107, from the monthly cost of rent and average monthly cost of utilities at a comparable replacement dwelling unit. To compute the capitalized value, the installments shall be discounted at the rate of interest paid on passbook savings in a federally insured financial institution conducting business within Johnson County.

D. Eligibility for Relocation Assistance

A lower-income person is eligible for relocation assistance if they are considered to be a "displaced person" as defined in 24 CFR 42.305. A displaced person means a lower-income person who, in connection with an activity assisted under the CDBG or HOME program, permanently moves from real property or permanently moves personal property from real property as a direct result of demolition or conversion of a lower-income dwelling. (NOTE: Public Law 105-117 enacted a change in the definition for "displaced person" under the URA to exclude aliens not lawfully present in the United States from receiving Federal relocation benefits.) For purposes of this definition, a permanent move includes a move made permanently and:

- 1. After notice by the owner to move from the property, if the move occurs on or after the date of the submission of a request to the Johnson County

Community Development office for CDBG or HOME assistance that is later approved for the requested activity; or

2. After notice by the owner to move from the property, if the move occurs on or after the date of the initial official submission to HUD of the Consolidated Plan under 24 CFR Part 91 describing the assisted activity; or
3. Before the dates described in 1 & 2 above, if the County or HUD determines that the displacement was a direct result of conversion or demolition in connection with a CDBG or HOME assisted activity; or
4. By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:
 - a. The tenant moves after execution of the CDBG or HOME agreement covering the acquisition, rehabilitation or demolition and the move occurs before the tenant is provided written notice offering the tenant the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex upon completion of the project under reasonable terms and conditions, including a monthly rent and estimated average monthly utility costs that do not exceed the greater of the tenant's monthly rent before such agreement, or the total tenant payment as determined under 24 CFR 813.107 if the tenant is lower-income, or 30 percent of gross household income if the tenant is not lower-income.
 - b. The tenant is required to relocate temporarily, does not return to the building/complex, and either is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or other conditions of the temporary relocation are not reasonable.
 - c. The tenant is required to move to another dwelling unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.
5. If the displacement occurs on or after the appropriate date described in 1 & 2 above, the lower-income person is not eligible for relocation assistance if:
 - a. The person is evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable federal, State or local law, or other

good cause, and the County determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

- b. The person moved into the property on or after the date described in 1 & 2 above after receiving written notice of the expected displacement; or
- c. The County determines that the displacement was not a direct result of the CDBG or HOME assisted activity and the HUD office concurs with this determination.

E. Counseling Services Available

- Personal interview to determine the relocation needs and preferences of each household to be displaced
- Explain relocation options
- Provide referral to select replacement dwellings from a full range of neighborhoods within the total housing market
- Provide counseling on how to search for suitable replacement housing
- Advise households of their rights under the Federal Fair Housing Act
- Inspect the replacement housing selected by the person to ensure that the unit is decent, safe and sanitary according to Section 8 Housing Quality Standards

III. **Minimizing Displacement**

The CDBG and HOME regulations regarding the demolition or conversion of lower-income dwelling units are designed to ensure that lower-income persons are provided with adequate, affordable replacement housing. Involuntary displacement should be discouraged whenever a reasonable alternative exists. Involuntary displacement is extremely disruptive and disturbing, especially to lower-income persons who do not have the means to locate alternative housing.

There are various ways that displacement can be minimized. The following are steps that will be taken to minimize the involuntary displacement of lower-income persons when CDBG or HOME funds are involved:

- A. All CDBG and HOME applications will be reviewed to determine whether involuntary displacement is likely to occur. Those applications involving displacement will receive a lower priority recommendation for funding unless it can be shown that alternatives are not available.

- B. Applicants who apply for CDBG or HOME funds to acquire property for the development of lower-income housing will be encouraged to purchase vacant land or vacant dwellings.
- C. In the case of in-fill and other projects where vacant land or vacant dwellings are not available and the project involves potential displacement, the applicant shall agree to allow the displaced lower-income person(s) to occupy the new housing at an affordable rent.
- D. Applicants who utilize CDBG or HOME funds to rehabilitate or convert a lower-income unit to a non-residential use will be required to supply replacement housing consistent with paragraph I, as well as relocation assistance.
- E. The cost of any required relocation assistance and the provision of replacement housing will be borne by the applicant.

IV. Appeals

A person who disagrees with a determination made by Johnson County concerning whether the person qualifies as a displaced person, or the amount of the relocation assistance for which the person may be eligible, may file a written appeal of that determination with Johnson County. A low-income person who is dissatisfied with Johnson County's determination on his or her appeal may submit a written request for review of that determination to the local HUD field office.

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 U.S. Department of Housing and Urban Development
 Gateway Tower II, Room 200
 400 State Avenue
 Kansas City, Kansas 66101-2406

V. Definitions

- A. **“Comparable replacement dwelling unit”** means a dwelling unit that:
 1. Meets the criteria of 49 CFR 24.2(d)(1) through (6); and
 2. Is available at a monthly cost for rent plus estimated average monthly utility costs that does not exceed the “Total Tenant Payment” determined under 24 CFR 813.107 after taking into account any rental assistance the household would receive.
- B. **“Lower-income dwelling unit”** means a dwelling unit with a market rental (including utility costs) that does not exceed the applicable Fair

Market Rent (FMR) for existing housing and moderate rehabilitation established under 24 CFR Part 888.

- C. **“Standard condition”** means units that at a minimum meet the Existing Housing Quality Standards of the Section 8 rental subsidy program.
- D. **“Substandard condition suitable for rehabilitation”** means units with code violations that can be brought to Section 8 Housing Quality Standards within reasonable monetary amounts.
- E. **“Vacant occupiable dwelling unit”** means a dwelling unit that is in a standard condition; a vacant dwelling unit that is in substandard condition, but is suitable for rehabilitation; or a dwelling unit in any condition that has been occupied (except by a squatter) at any time within the period beginning 3 months before the date of execution of the agreement by the County covering the rehabilitation or demolition.

References

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646; 84 STAT. 1984 (42 USC 4601)
- Amended by: Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Pub. L. 100-117, 101 Stat. 246-256 (42 USC 4601 note)
- 49 CFR 1.48(cc) [54 FR 8928, March 2, 1989; as amended at 57 FR 33266, July 17, 1992; 57 FR 53295, November 9, 1992; 64 FR 7132, February 12, 1999]
- Section 104(d) of the Housing and Community Development Act of 1974, 42 USC 5304(d)

Appendices

- **When a Public Agency Acquires Your Property** (HUD-1041-CPD)
- **Relocation Assistance to Tenants Displaced from their Homes** (HUD-1042-CPD)
- **Relocation Assistance to Displaced Businesses, Nonprofit Organizations, and Farms** (HUD-1043-CPD)
- **Relocation Assistance to Displaced Homeowners** (HUD-1044-CPD)
- **Relocation Assistance to Tenants Displaced from Their Homes (Section 104(d))** (HUD-1365-CPD)