



Meeting Date: 07 / 10 / 2012

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Karl Lawson *Karl Lawson* Agenda Item No. I-4
 Reviewed By: City Manager *JPB* City Attorney *Holmberg* Finance *AC* Other (Specify) _____

DATE: June 26, 2012

TO: City Council

FROM: Karl Lawson, Acting Housing Director *(KL)*

SUBJECT: Affordable Housing and Rehabilitation Division Relocation Appeals Process

RECOMMENDATION

That City Council adopt a Resolution Establishing an Affordable Housing and Rehabilitation Division Relocation Appeals Process.

DISCUSSION

Beginning in 1977, the City instituted programs to assist qualified property owners and homebuyers to purchase and rehabilitate homes. The City utilizes and leverages funding from various sources for the specific purposes of providing purchase loans to first-time homebuyers and rehabilitation loans to several categories of homeowners, including owners of mobilehomes.

On rare occasions, families are required to temporarily vacate their properties while rehabilitation work is underway. Families subject to these temporary relocations are provided with relocations benefits in accordance with established law. The U. S. Department of Housing and Urban Development (HUD) requires local governments to create an administrative procedure whereby relocated persons may appeal administrative determinations regarding their rights and benefits related to relocation.

On March 26, 2012, HUD issued guidelines to local jurisdictions specifying required elements to be included into local appeal procedures. Staff has reviewed those guidelines and incorporated the requirements into the attached Relocation Appeals Process (Attachment No. 1).

The proposed Relocation Appeals Process allows affected individuals to appeal staff determinations related to eligibility for relocation benefits, as well as the amount of relocation benefits and the manner in which those benefits are provided. The process also creates Relocation Appeals Board, consisting of individuals from outside of the Affordable Housing and Rehabilitation program; guarantees appellants' rights of due process and access to all pertinent documents; and requires the Board to issue a written decision setting forth the rationale for the decision.

Revision of Homebuyer Assistance Program Process

June 25, 2012

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Staff recommends adoption of this Process in furtherance of the City's commitment to equitable treatment of all City residents and full compliance with HUD requirements.

FINANCIAL IMPACT

None.

ATTACHMENTS

- #1: Proposed Affordable Housing and Rehabilitation Division Relocation Appeal Process
- #2: Resolution Adopting Relocation Appeal Process

RELOCATION APPEALS PROCESS

June 2012

A. Purpose

The purpose of the Relocation Appeals Process is to provide a mechanism whereby affected persons may appeal certain determinations of the City of Oxnard Affordable Housing and Rehabilitation program regarding relocation. The City shall provide a copy of this appeals process to affected persons at the time such persons are notified in writing as to any relocation determination subject to this appeals process.

B. Scope

Determinations related to the following are subject to the Relocation Appeals process:

1. Whether an individual qualifies as a displaced person and thus is eligible for relocation benefits.
2. The amount of relocation benefits provided.
3. The manner in which relocation benefits are provided.
4. Other matters pertinent to the applicable laws and regulations related to the relocation process.

C. Relocation Appeals Board

The Housing Director shall establish a Relocations Appeals Board (hereinafter "the Board"), consisting of no fewer than three (3) and no more than five (5) persons. That Board shall consist of individuals from outside of the Affordable Housing and Rehabilitation program. No person who has participated in the administration of any specific relocation matter shall be eligible to serve on the Board hearing that appeal. Members of the Board shall be ineligible to hear an appeal on any matter in which he or she has any financial or other interest.

D. Filing an Appeal

Any person wishing to appeal any determination ("Appellant") must submit an appeal, in writing, no later than sixty (60) days following receipt of written notification of the City's determination regarding that Appellant's eligibility for relocation benefits, the amount of relocation benefits, the manner in which relocation benefits are provided, or such other determination related to the relocation benefits and processes. The Appellant must submit the written appeal to the Manager of the Affordable Housing and Rehabilitation Program, 435 South "D" Street, Oxnard CA 93030. Appended hereto is a sample appeal form which may be used. No appeal shall be rejected for failure to use this appeal form. Written appeals should specify the determination that is being appealed, must set forth the requested remedy sought by the Appellant, and must provide an address for receipt of correspondence and notices related to the appeal. Appellant may submit any pertinent documentation or material in support of the appeal.

E. Due Process

Appellant has the right at all times to be represented by an attorney or other representative of Appellant's choice, and at Appellant's expense, by submitting an authorization signed by Appellant designating his/her representative. Appellant and his/her authorized representative have the right to inspect and copy all materials pertinent to the appeal prior to the hearing, and the City shall provide same to the appellant and/or his/her legal representative, upon request with proper authorization. The City may impose reasonable conditions on the inspection that are consistent with applicable laws.

F. Appellant's Right to Assistance

In accordance with HUD policy, an Appellant may request assistance in preparing their appeal. The City shall facilitate the provision of such assistance by referring Appellant to another individual or outside agency not involved in the City's relocation process.

G. Processing of Appeals

Within five (5) days of receipt of the written Appeal, the City shall send written confirmation of receipt of the appeal to Appellant. The letter may also request that Appellant supply additional information. Said letter shall be sent by certified mail, return receipt requested, and shall notify Appellant of the hearing process; shall advise Appellant of his/her right to inspect the case file; and shall advise Appellant of his/her right to be represented by an attorney or other person of Appellant's choosing. The letter shall include a copy of the regulations governing the appeal. The letter shall also constitute the Hearing Notice, and shall set a hearing date that shall be at least ten (10) but no more than fifteen (15) work days from the date of receipt the letter. To the extent practical, written communications with the Appellant shall be in English and also in the native language of the Appellant when so requested in the appeal form. Upon request by either party, the date of the hearing may be continued for good cause.

H. Appeal Hearing

The Board shall conduct the hearing at the date, time and place indicated in the Hearing Notice, or at such later date as may be scheduled pursuant to an approved continuance. The Board shall designate one of its members to Chair the Appeal Hearing. The Appellant/Appellant's representative shall specify the determination that is being appealed, and the requested remedy being sought by Appellant. The City shall provide the Board and shall make available to Appellant the case file and all pertinent documentation supporting the determination.

Appellant/Appellant's representative shall provide the Board with any documentation in support of Appellant's position. All documents and materials received by the Board shall be marked as Exhibits, and copies shall be provided to both parties. Witnesses shall testify under oath or affirmation, and shall be subject to cross-examination by the other party and by members of the Board. The Board itself, and each party, may make an audio or stenographic recording of the hearing, at that party's expense.

Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the Appeals Board shall be supported by substantial evidence relevant to the matters in question. The decision to deny an appeal may not be based solely upon hearsay evidence.

I. Decision

Within ten (10) work days after the conclusion of the Appeal Hearing, the Board shall issue a written Decision on the appeal, based on a review of the evidence and the applicable statute and regulations. The Decision shall be supported by substantial evidence. If the Board is unable to issue a Decision within ten work days, the Board shall send written notification to the parties advising them of that fact and providing an estimated date for issuance of the Decision. The Decision must be adopted by a majority of the Board, shall be signed by the Chair, and shall be mailed to Appellant and Appellant's attorney or other representative. The Board may utilize City personnel, including non-Housing Department staff, and specifically the City Attorney or outside legal counsel, to aid in drafting proposed findings and decisions. The Board's Decision shall constitute the final administrative determination of the City on the matter being appealed. The Board's Decision shall set forth the following:

- (a) The date of the appeal hearing.
- (b) The issue being appealed
- (c) Specification of the regulations governing the appeal
- (d) Identification of the documents, exhibits, and information relied upon by the Board in reaching its Decision
- (e) The rationale for the Decision, including evaluation of the documentation/exhibits with respect to the regulations
- (f) A statement advising Appellant of his/her right to seek further review by HUD and/or judicial appeal.

(Appeal Form on next page)

**RELOCATION APPEALS PROCESS
APPEAL FORM**

(This form may be used for persons who wish to appeal determinations made by the City of Oxnard Affordable Housing and Rehabilitation Division regarding relocation benefits.)

Information about the person who is submitting this appeal:

Name: _____

Mailing address: _____

Telephone: Home: _____ Work: _____
Cell: _____ Other: _____

Address of the property from which you are being relocated: _____

What you are appealing?:

- A determination that someone is not eligible for relocation benefits
- The amount of relocation benefits offered or provided
- The manner in which the relocation benefits are offered or provided
- Another decision of the Affordable Housing and Rehabilitation Division
(Please describe briefly: _____)

What are you requesting?

Please indicate here what it is that you are requesting from the Affordable Housing and Rehabilitation Division:

Additional information: Please provide any additional information or reasons which support your appeal, such as an explanation of why you believe that the decision you are appealing is incorrect. Attach additional pages if needed.

Preferred Language: ___ English ___ Spanish ___ Other: _____

Signature: _____ Date Submitted: _____

(Please submit your appeal to Affordable Housing and Rehabilitation Division, 435 South "D" Street, Oxnard CA 93030, Attention: Program Manager)

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD, CALIFORNIA,
ADOPTING THE AFFORDABLE HOUSING AND
REHABILITATION PROGRAM RELOCATION APPEALS PROCESS

WHEREAS, since 1977 the City of Oxnard has provided assistance to qualified homeowners and first-time homebuyers to assist them in the purchase and rehabilitation of homes in the City and

WHEREAS, on some occasions, individuals and families are required to vacate properties while rehabilitation work is being performed; and

WHEREAS, individuals who are relocated are eligible for certain relocation benefits; and

WHEREAS, the U. S. Department of Housing and Urban Development has issued guidelines setting forth the requirement that local governments adopt procedures whereby individuals may appeal determinations related to their eligibility for relocation benefits;

WHEREAS, whereas it is in the best interest of all concerned that such relocation appeal procedures be set forth with clarity; and

WHEREAS, the Affordable Housing and Rehabilitation Division has developed, and the City Council has reviewed and considered, relocation appeals procedures that meet the requirements set forth by HUD;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard, California, hereby approves the Affordable Housing and Rehabilitation Relocation Appeals Process, effective immediately.

PASSED AND ADOPTED THIS 10th day of July, 2012, by the following vote:

AYES:

NOES:

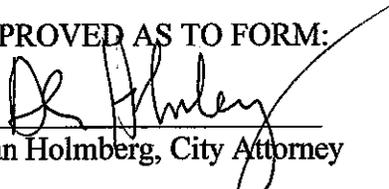
ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney