



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: RELOCATION RULES AND
REGULATIONS POLICY

DATE: 11-13-07

Approved

Date

11/14/07

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Adoption of a resolution approving a revised and updated City Council Policy 7-4 regarding the City's Relocation Policy, to be retitled "City Policy and Guidelines for Relocation Assistance under State and Federal Laws for Persons Displaced by City's Capital Improvement Projects" in order to adopt federal and state regulations as the City's guidelines for relocation benefits, and repealing Resolutions 41149, 41786, and 44463 as the rules and regulations contained therein have been superseded in federal and state law.

OUTCOME

Adoption of the resolution will permit the City to ensure compliance with current applicable federal and state requirements and provide clear direction to staff in residential and business relocation activities stemming from the City's property acquisitions.

BACKGROUND

There are two sets of government codes that the City uses in connection with relocation matters, each of which are available for review in the City Clerk's Office.

The first is the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended. The URA is a federal law that establishes minimum relocation responsibilities for federally funded programs and projects that require the acquisition of real property (real estate) and the displacement of persons from their homes, businesses, non-profits, mobile-homes or farms. The URA's protection and assistance apply to the acquisition, rehabilitation or demolition of real property for federal or federally funded projects by a federal, state and/or local public agency. The URA Final Rule dated January 4, 2005, became effective on February 3, 2005. The objectives of the URA are:

- To provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

- To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement.
- To ensure that no individual or family is displaced unless decent, safe and sanitary (DSS) housing is available within the displaced person's financial means.
- To help improve the housing conditions of displaced persons living in substandard housing.
- To encourage and expedite acquisition by agreement and without coercion.

The second government code that provides for relocation guidelines, as overseen by the Department of Housing and Community Development (HCD) is California Government Code Section 7260, et seq. In accordance with that Code, HCD has recently issued updated guidelines and procedures implementing the Relocation Assistance Act, Title 25, Section 6000, et seq. Their guidance may also be used for monitoring relocation and real property acquisition activities for certain programs administered by the City and other local jurisdictions and agencies.

State law requires that the City adopt relocation rules and regulations. By adopting the revised policy, the City will be adopting applicable federal and state rules and regulations as its own rules, instead of setting out separate rules which basically mirror the provisions of federal and state laws. Such guidelines and rules, as they now exist or as they may be amended from time to time in the future, are referred to in this Policy and will be referred to as the City Policy 7-4: “City Policy and Guidelines for Relocation Assistance under State and Federal Laws for Persons Displaced by City’s Capital Improvement Projects”.

ANALYSIS

The purpose of the Relocation Policy is to ensure that uniform, fair and equitable treatment is afforded persons and businesses displaced by property acquisition activities of the City of San José. As the City conducts a program or project under the URA or Title 25, the City must carry out its legal responsibilities to affected property owners and displaced persons. The City should plan accordingly to ensure that adequate time, funding and staffing are available to carry out these responsibilities. Some of those responsibilities include:

- **For Residential Displacements**
 - Provide relocation advisory services to displaced tenants and owner occupants
 - Provide a minimum 90 days written notice to vacate prior to requiring possession
 - Reimburse for moving expenses
 - Provide payments for the added cost of renting or purchasing comparable replacement housing

- **For Nonresidential Displacements (businesses, farms, and non-profit organizations)**
 - Provide relocation advisory services
 - Provide a minimum 90 days written notice to vacate prior to requiring possession
 - Reimburse for moving and reestablishment expenses

If the City utilizes federal funding for any phase of a project that necessitates relocation, the City is required to follow the requirements of the URA. If the City does not use federal funding and instead uses funding by the State of California and/or solely municipal funding, the City must follow the requirements of Title 25.

The only major difference between the federal URA and State Title 25 is that under the federal URA, the City will be required to request and receive proof from individuals being relocated that they are either a citizen or national of the United States, or an alien who is lawfully present in the United States. A person who is an alien not lawfully present in the United States is not eligible to receive federal URA relocation benefits or relocation advisory services. The State Title 25 does not require the City to make a determination of a relocatee's lawful alien or natural status in order for the individual to receive relocation benefits.

By adopting this resolution approving revised Policy 7-4, Council also repeals prior resolutions that set out Relocation Rules and Regulations that were adopted in the early 1970's and are very outdated.

A copy of the proposed revised Policy is attached as Exhibit A.

EVALUATION AND FOLLOW-UP

The updates and revisions to the Council Policy will provide appropriate relocation assistance and benefits consistent with federal and state law.

POLICY ALTERNATIVES

Alternative #1: Retain the City's current relocation policy

Pros: The City would not have to rewrite/republish its "Relocation Information for Residential" and/or "Relocation for Business" manuals or provide training to City staff as may be necessary to instruct staff as to ways to implement new relocation policy.

Cons: The current policy does not provide clear direction on how to administer a relocation program, plan and/or process as required by current law.

Reason for not recommending: Having an updated and clear policy of relocation laws, regulations and guidelines will assure that each entitled and qualifying displacee will receive relocation assistance and that the relocation program and project be carried out in the fairest, sound and equitable manner. Implementation of an updated City relocation policy will provide distinct clear laws, regulations and guidelines that are in adherence with federal and state requirements.

Alternative #2: Adopt the federal relocation law as the City's relocation policy

Pros: As the federal relocation law is "stricter" than the state guidelines; the federal guidelines can be used for not only federal projects but state and local projects as well. Having one set of guidelines will eliminate potential confusion as to which guidelines do or do not apply to a specific project.

Cons: If the City's relocation policy is modeled after the stricter federal guidelines, the City's Real Property Agents will be required to seek proof of citizenship or legal residency on every project that involves relocation.

Reason for not recommending: If the City utilizes the federal relocation guidelines when state or local funding is used without federal financing, some residents of the City may be deprived of relocation benefits for which they would otherwise be eligible.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater; **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City, adherence to either federal and/or state laws, regulations, codes, and applicable guidelines. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum will be posted on the City's website for the December 4, 2007, City Council agenda.

COORDINATION

This memo has been coordinated with the City Attorney's Office, City Manager's Budget Office and Planning, Building and Code Enforcement Department.

CEQA

CEQA: Not a project.

Katy Allen

KATY ALLEN
Director, Public Works Department

For questions please contact PHILIP PRINCE, DEPUTY DIRECTOR, at 408-535-8300.