

RESOLUTION No. 2002-07

A resolution of the Town of Cinco Bayou adopting an anti-displacement policy and relocation plan as part of its participation in the Community Development Block Grant (CDBG) program.

WHEREAS, The Town of Cinco Bayou finds it in the best interests of the community to participate in the Community Development Block Grant (CDBG) program as a way to provide improvements needed for the benefit of everyone in the community; and

WHEREAS, adoption of certain plans and policies is required for eligibility for CDBG funding.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CINCO BAYOU, FLORIDA, THAT:

The following plan is adopted as its

CDBG ANTIDISPLACEMENT AND RELOCATION PLAN

I. Displacement Avoidance Policy

The local government 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. The CDBG program will be administered in such a manner that careful consideration is given during the planning phase with regard to avoiding displacement. The local government will also provide information to and keep citizens involved in the process regarding pending 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 displacement 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 CFR Part 570 is a governing document on displacement and is incorporated by reference. 49 CFR Part 24 provides Uniform Relocation Act information and is incorporated by reference.

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 bathtub or shower stall,
4. An appropriate, sanitary and approved source of hot and cold potable water,
5. An appropriate, sanitary and approved sewage drainage system,
6. A fully usable sink in the kitchen,
7. Adequate space and service connections for a refrigerator,
8. An unobstructed egress to a safe, open area at ground level, and
9. Be free of any barriers which would preclude ingress or egress if the occupant is handicapped.

Failure to meet any of these criteria automatically causes a dwelling to not be considered standard.

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 trained 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 65% 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 65%, the unit will be deemed unsuitable.

This criteria is arbitrary, however, and the local 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. Provisions for One-for-One Replacement

The local government 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 funds that will directly result in such demolition or conversion, the local government will make public and submit to the Florida Department of Community Affairs 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.

IV. Permanent, Involuntary Displacement

A. Provisions for Relocation Assistance for Residential Displacement

The local government will provide relocation assistance, as described in 24 CFR Part 570, to each low/moderate-income household involuntarily displaced by the demolition of housing or by the conversion of a low/moderate-income 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).

B. 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 entity=s net earnings before taxes during 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.

V. Permanent, Voluntary Displacement and Relocation

If it is determined by the local government that occupants of a dwelling (not included in the rehabilitation or demolition/permanent relocation program) should be permanently relocated, due to CDBG activities, 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 actual moving costs, counseling, and 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 CFR Part 570 must be consulted to determine specific limitations.

Compensation to obtain replacement housing shall not exceed \$6,000 unless approved otherwise by the local governing body. Should the amount the tenant is entitled is expected to exceed this threshold, consideration shall be given to not performing the demolition or activity which would cause the displacement.

IV. Tenant Assistance Policy/Rental Rehabilitation

A. It is not the local government=s policy to permanently displace families in rental units. Participating landlords will be required to warrant that the proposed rental 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.

B. If it becomes necessary for an owner to permanently or temporarily move a tenant from a unit as a direct result of rehabilitation assisted through rental rehabilitation funds, the owner will assure that the tenant is offered a comparable, 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 full financial compensation for moving, and a comparable decent, safe, sanitary and affordable rental unit and the tenant has declined the offer. However, rental rehabilitation will not be assisted with CDBG funds if the tenant lawfully refuses to relocate.

C. Should displacement become necessary for a LMI family as a result of the 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.

VII. 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 local government (or its CDBG Administrator), in order to facilitate the safe, timely and economical rehabilitation process. The Administrator shall determine the necessity for temporarily vacating the dwelling, and the appropriate duration, generally the entire rehabilitation construction period.

B. The CDBG budget is limited, necessitating that owners are responsible for finding and paying for (if necessary) temporary housing.

C. A moving/displacement 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.

D. The local government may provide a safe, decent and sanitary housing unit for use as temporary relocation housing. If financed with CDBG funds, the unit shall be available free of charge to temporarily displaced households for the time period authorized by the CDBG Administrator, 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 occupant=s (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 Administrator.

VIII. Permanent, Voluntary Displacement and Relocation of Homeowners

A. 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. This form of demolition, with provisions for permanent replacement housing, is referred to as demolition relocation. CDBG funds available for permanent relocation assistance are limited. Therefore, financial assistance shall not exceed that described in the following paragraphs.

B. Selected homeowners who meet CDBG very low or low-income limits will receive demolition/relocation assistance not to exceed a locally adopted maximum dollar amount (unless approved otherwise by the local governing body). The amount will depend upon the actual cost of demolition and the replacement dwelling price, with limits based upon the number of bedrooms needed by the household to meet Section 8 standards. The dollar limits for demolition/relocation assistance are contained in the CDBG housing/Rehabilitation/Replacement Policies and Procedures Manual. The assistance amount may be further limited by budget constraints of the CDBG program, so that homeowners may be offered less than these limits. If an owner refuses to accept an offer of assistance, the dwelling will not be demolished and no assistance will be provided.

C. To the extent feasible, replacement units will be of comparable size and type as original units. Type shall mean single family detached, mobile/manufactured home, or attached. If the unit is attached (duplex, triplex) and the displaced owner also owns the other unit (s) as rental property, up to \$10,000 per unit shall be granted for construction of attached replacement units, provided that zoning and other applicable regulations allow construction of an attached unit (s), and that the unit (s) which will be rented for a period of seven years to CDBG income eligible households at affordable rent levels. Affordable shall mean the average monthly cost for rent and utility charges (water, sewer, electric, gas) and shall not exceed 30% of the tenant household=s gross monthly income.

D. Homeowners will be encouraged to relocate onto the property from which they were displaced or onto other property which they own, in order to reduce the cost of the replacement unit. Land shall be included as an eligible replacement unit cost only when the existing site is unsuitable due to inadequate size (based upon zoning or other applicable regulations) or location in a wetland or 100 year floodplain. Existing new housing that is in standard condition may also be approved as replacement housing if included in the CDBG program. Payment shall be disbursed only upon the CDBG

Administrator=s approval of the replacement unit, based upon the unit being new, affordable and standard.

E. If a homeowner chooses to not purchase a replacement dwelling, compensation shall be determined in the same manner as described in Section V. Compensation shall not be less than \$2,000. This type of assistance will generally not be approved, as there is no replacement unit provided pursuant to the Uniform Act requirements.

F. If space is available, displaced homeowners may be offered temporary replacement housing in one of the units which may be provided by the CDBG program for housing rehabilitation displacees (although there is not likely to be such units available). Moving and storage allowances will be provided as annotated in section VII.

IX. Appeals/Counseling

A. If a claim for assistance is denied by the local governing body, the claimant may appeal to the State 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 Administrator to permanently displaced households to ensure that:

- No person is 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.

ADOPTED AND PASSED THIS ____ DAY OF _____, 2002.

Mayor

ATTEST:

Town Clerk