

## Guidance Document 4

# POTENTIAL DISPLACEMENTS CAUSED BY PARTIAL ACQUISITIONS

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### PURPOSE

The purpose of this guideline is to suggest criteria to be used for determining when a displacement may occur as a result of a partial acquisition of real property, providing advisory services and delivering notices, and specifying the time period within which potential displacees will have the option to relocate and file claims. This guideline is intended to assist in those situations when the Department does not require the relocation of a displaced person to certify the right of way for advertisement and construction, but determines that the impact of a partial acquisition is such that the potential displaced person should be given the option of relocating.

### AUTHORITY

Section 334.044(2), Florida Statutes; 49 CFR, Part 24; Rule Chapter 14-66, Florida Administrative Code.

### REFERENCES

Right of Way Manual, Section 9.2, General Relocation Requirements

### DEFINITIONS

**Partial Acquisition:** For purposes of this guideline, a partial acquisition occurs when the Department obtains a substantial, permanent real property interest in a portion of a parent parcel.

## **4.1 Relocation Assistance for Partial Acquisitions**

**4.1.1** Relocation assistance for occupants on partial acquisitions should be limited to persons who were in occupancy at the initiation of negotiations and should be subject to the Department's Relocation Assistance Operating Procedures and should be provided in the same manner and to the same extent as in all other cases of displacement, with the exception of those differences set forth in this guideline.

## **4.2 Determining Displacement in Partial Acquisitions**

**4.2.1** The District Relocation Administrator, in coordination with other Department personnel, should be responsible for determining if a displacement may occur as a result of a partial acquisition. The District Relocation Administrator may consider each of the following items when making this determination. The existence of only one of the circumstances set forth below may constitute just cause for the determination of displacement.

**4.2.2** Guidelines for Residential Displacements - The District Relocation Administrator may consider the probable effect in the after situation of each of the following to the occupants of real property subject to a partial acquisition. This decision can be made at the initiation of negotiations or when additional information becomes available resulting in a change in the initial decision.

- (A)** Design safety standards
- (B)** Severance of building
- (C)** Change in highest and best use
- (D)** Impairment or reduction of access
- (E)** Change in neighborhood situation
- (F)** Elevation of new roadway
- (G)** Viable living unit (septic or water system taken) remaining in the after situation
- (H)** Appraiser's opinion of after situation

- (I) Project effects on decent, safe and sanitary status of dwelling in the after situation
- (J) Local, State or Federal Code requirements
- (K) Other circumstances and/or factors which, in the judgment of the District Relocation Administrator, would justify giving the occupant the option to relocate

**4.2.3 Guidelines for Non-Residential Displacements -** The District Relocation Administrator should consider the probable effect in the after situation of each of the following on the occupants of the real property subject to a partial acquisition. This decision can be made at the initiation of negotiations or when additional information becomes available resulting in a change in the initial decision.

- (A) Substantial reduction of parking facilities in the after situation
- (B) Type of business, i.e., walk-in clientele, length of average visit, business transactions conducted off-site, etc.
- (C) Change in highest and best use
- (D) Irreparable disruption or taking of process systems
- (E) Severance of building
- (F) Irreparable disruption of internal traffic
- (G) Impact of road design on operation of business
- (H) Design safety standards
- (I) Ability to obtain operating permits in the after situation
- (J) Appraiser's opinion of after situation
- (K) Impairment or reduction of access
- (L) Potential business damage claims

- (M) Local, State or Federal Code requirements
- (N) Other circumstances and/or factors which, in the judgment of the District Relocation Administrator, would justify giving the occupant the option to relocate.

**4.2.4** The District Right of Way Manager must make the final determination of displacement when such a decision would appear to conflict with the conclusion in the Department's approved appraisal regarding the remainder property.

**4.2.5** The District shall include in the Relocation Assistance file written justification for each determination of displacement made under this guideline. The applicable guidelines, any additional pertinent considerations and the reasoning used in arriving at the determination must be clearly set forth in this justification.

### **4.3 Relocation Advisory Services To Be Provided**

**4.3.1** The occupant is eligible for all advisory services and assistance as set forth in the *Right of Way Manual, Section 9.2, General Relocation Requirements* whether or not they choose to relocate.

### **4.4 Relocation Notices**

**4.4.1** Notice of Potential Displacement/Option to Relocate - When the District determines that a displacement is warranted as a result of a partial acquisition, the District should deliver a written notice of potential displacement to the displacee that states:

- (A) The person is being given the option to relocate;
- (B) Should the displacee choose to relocate, he/she must do so and file all claims for reimbursement for eligible expenses within a period not to exceed eighteen (18) months from the date of receipt of the notice or the date of the Department's acquisition of the property needed for the project, whichever is later. This time period can be extended for good cause. Any extension shall be in writing and approved by the District Relocation Administrator.
- (C) If the displaced person does not relocate and file all claims within the eighteen (18) month period, he/she should not be considered displaced as a result of the acquisition and should be considered ineligible for relocation assistance.

- (D) This notice should be given to potential displacees no later than thirty (30) days from the date the determination of potential displacement is made.

**4.4.2** All potential displacees should receive a Notice of Eligibility in accordance with ***Right of Way Manual, Section 9.2, General Relocation Requirements***, at the same time as the Notice of Potential Displacement/Option to Relocate is delivered.

**4.4.3** All potential residential displacees will receive a Statement of Eligibility in accordance with ***Right of Way Manual, Section 9.2, General Relocation Requirements***.

**4.4.4** The District will not be required to update comparables or replacement housing payment calculations after delivery of the Statement of Eligibility for persons relocated under the provisions of this Guideline.

## **HISTORY**

04/02/98; 12/19/00