

HOME and CDBG Relocation Appeal Process

Level I – Dissatisfied Displaced Persons

Whenever a displaced person believes that the Housing Trust Fund Corporation's ("HTFC") development partner¹ failed to properly assess the displaced person's eligible relocation benefits including but not limited to the person's eligibility for, or the amount of, payment or relocation payment, the displaced person should be directed by the HTFC's development partner to contact an HTFC Relocation Agent. The Relocation Agent shall furnish the displaced person with a Relocation Benefits Appeal Form. This appeal must be received no later than sixty (60) calendar days after the person receives written notification of HTFC's development partner's determination of the displaced person's eligible relocation benefits.

Upon receipt of a complete Relocation Benefits Appeal Form, the Relocation Agent will promptly review the Relocation Benefits Appeal Form and consider all pertinent justification and supporting material submitted by the displaced person and all other available information that is needed to ensure a full and fair review of the appeal. Particular attention will be given to the dissatisfaction specified in the Relocation Benefits Appeal Form. Following such review, HTFC's Relocation Agent may adjust, correct, or sustain the original determination of eligibility. The Relocation Agent is responsible to ensure fair and impartial treatment of the displaced person during the Level I appeal process. All appeals will be accomplished in a professional, prompt and efficient manner.

HTFC's Relocation Agent shall make a timely decision based upon the evidence submitted in the appeal and will furnish the displaced person and HTFC's development partner a copy of the decision by means of a written determination. Such written determination will include a full explanation of the basis on which the decision was made. The determination shall be delivered to the displaced person by certified mail, return receipt requested. If all or part of the displaced person's appeal is denied, the Relocation Agent's written determination will advise the displaced person of their right to seek further review.

LEVEL II - Low and Moderate Income Households

If the displaced person qualifies as a low or moderate income household displaced from a dwelling, then they may file a written request for a review of HTFC's Relocation Agent's written determination to the Housing and Urban Development ("HUD") field office. The HUD field office will consider issues pertaining to whether the replacement dwelling was comparable to prior housing and whether such is decent, safe, and sanitary; adequate in size to accommodate the occupants; functionally equivalent; and in an area not subject to

¹ For purposes of the Community Development Block Grant ("CDBG") "development partner" includes CDBG recipients (UGLGs) and their sub-recipients (for and not for profit partners). For purposes of the NYS HOME Local Program, these terms may also be read to mean: sub recipient, state recipient, local program administrator or community housing development organization.

unreasonably adverse environmental conditions. After the HUD field office completes its review and renders a decision, that decision will be final unless a court (LEVEL III) determines the decision was arbitrary and capricious. If the displaced person does not qualify as a low or moderate income household, then they would not be eligible for HUD field office review and would skip to LEVEL III judicial review.

LEVEL III

If the displaced person is still not satisfied with the decision of the HTFC's Relocation Agent or the HUD field office, as it may pertain, the displaced person may bring an Article 78 proceeding in a New York Supreme Court. The outcome of the Article 78 proceeding will constitute a final decision in the case.

Additional Appeal Process Information

Scope and Application. This process shall govern all practice and procedures in all appeals involving displaced persons who believe that an HTFC development partner failed to properly consider the person's eligibility for relocation benefits, including but not limited to, the person's eligibility for, or the amount of, payment or relocation payment.

Level I Appeal Filing. All correspondence shall be addressed to HTFC's Relocation Agent, Thomas Koenig, Housing Trust Fund Corporation, 38-40 State St., Albany, New York, 12207.

Forms-Copies. Copies of any forms referred to in this process shall be made available, upon request, from HTFC's Relocation Agent, Thomas Koenig.

HTFC's development partner shall permit a person to inspect and copy all materials pertinent to his or her appeal except materials which are classified as confidential by HTFC's development partner. HTFC may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

Right to Representation. Legal counsel may represent a person or other representative in connection with his or her appeal, but solely at the persons own expense.

Appointment of HTFC Relocation Agent. The Relocation Agent may be either the Head of the HTFC or his or her authorized designee. The Relocation Agent shall not have been directly involved in the action appealed.