

# RIGHT OF WAY

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## THE PROPERTY ACQUISITION PROCESS

A Guide for Property Owners and Tenants

A Fairfax County, VA Publication.

August 2021, Revised September 2024

To request this information in an alternate  
format, call 703-324-5090, TTY 711.

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For language interpretation services, refer to the  
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# Interpretation Services Available



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Español



<b>Arabic</b> <span>اللغة العربية</span> <p>أشرك لنا إلى لغتك لكي نستطيع توفير مترجم عن طريق الهاتف.</p>	<b>Japanese</b> <span>日本語</span> <p>電話通訳をつけますから あなたの話す言語を教えてください。</p>
<b>Armenian</b> <span>Հայերեն</span> <p>Ձեր խոսակցական լեզուն մեզ ցրյց տւելը, դրանքով ձեզ համար հետախօսով քարգմանելը հայտնաբերելը:</p>	<b>Korean</b> <span>한국어</span> <p>사용하시는 언어를 알려주시면 전화 통역관을 마련해 드리겠습니다.</p>
<b>Cambodian</b> <span>ភាសាខ្មែរ</span> <p>សូមបង្ហាញភាសាសម្តែង ប្រយោជន៍ឱ្យយើងដឹង ថ្លែងអ្នកមកប្រើប្រាស់ទូរស័ព្ទលេខ ៤</p>	<b>Laotian</b> <span>ພາສາລາວ</span> <p>ຖ້າວ່າທ່ານສາມາດເຫັນໃຈພວກເຮົາຖ້າກໍ່ເປັນພາສາ ພວກເຮົາຈະໄດ້ຈັດການພາສາທາງໂທລະສັບໃຫ້ທ່ານໄດ້.</p>
<b>Cantonese</b> <span>廣東話</span> <p>請指出你講的語言 我們會為你請電話口譯人員。</p>	<b>Mandarin</b> <span>國語</span> <p>請指出您講的語言 我們會為您請電話口譯人員。</p>
<b>Farsi</b> <span>فارسی</span> <p>زبان خود را به ما نشان دهید تا بتوانیم برای شما مترجمی بر روی خط تلفن فراهم کنیم.</p>	<b>Navajo</b> <span>Diné Bizaad</span> <p>Nizaad choiníł íłígííh nihich'í' íishjáni' íníłééh ákoohgoh binahijí' beésh halne'eh yeeh ata' halne'eh niháh chóidoot' eel</p>
<b>French</b> <span>Français</span> <p>Indiquez-nous quelle langue vous parlez et nous vous fournirons un interprète par téléphone.</p>	<b>Portuguese</b> <span>Português</span> <p>Mostre-nos seu idioma para que possamos providenciar um intérprete pelo telefone.</p>
<b>German</b> <span>Deutsch</span> <p>Zeigen Sie bitte auf Ihre Sprache, so dass wir einen Dolmetscher per Telefon zur Verfügung stellen können</p>	<b>Punjabi</b> <span>ਪੰਜਾਬੀ</span> <p>ਸਾਨੂੰ ਆਪਣੀ ਬੋਲੀ ਦਾ ਨਾਂ ਦਿਖਾਓ ਤਾਂਕਿ ਅਸੀਂ ਤੁਹਾਨੂੰ ਟੈਲੀਫੋਨ ਰਾਹੀਂ ਅਨੁਵਾਦ ਕਰਨ ਵਾਲਾ ਵਿਅਕਤੀ ਦੇ ਸਕੀਏ।</p>
<b>Greek</b> <span>Ελληνικά</span> <p>Ανδείξετε μας ποια γλώσσα μιλάτε: ώστε να σας παρόσχουμε διαμετρητικό μέσο τηλεφώνου.</p>	<b>Russian</b> <span>Русский язык</span> <p>Укажите, на каком языке Вы говорите, чтобы мы смогли предоставить переводчика.</p>
<b>Haitian Creole</b> <span>Kreyòl Ayisyen</span> <p>Montre nou ki lang ou pale, nap bawou yon moun ki pou entèprète pou ou nan telefon,</p>	<b>Spanish</b> <span>Español</span> <p>Indíquenos cuál es su idioma para que podamos proporcionarle un intérprete por teléfono.</p>
<b>Hindi</b> <span>हिन्दी</span> <p>आपकी भाषा बताएं ताकि हम आपके टेलीफोन पर दुभाषिये की सेवाएं प्रदान कर सकें।</p>	<b>Tagalog</b> <span>Tagalog</span> <p>Ituro sa amin ang iyong wika upang makapagbigay kami ng tagasalin sa telepono.</p>
<b>Hmong</b> <span>Hmoob</span> <p>Thov ghia saib koj hais yam lus twg xwv peb thiaj paub npaj neeg txhais-lus hauv xovtoovj pab koj,</p>	<b>Thai</b> <span>ภาษาไทย</span> <p>โปรดระบุภาษาของท่านเพื่อให้เราสามารถให้บริการผู้แปลภาษาทางโทรศัพท์ได้</p>
<b>Italian</b> <span>Italiano</span> <p>Ci indichi la sua lingua e le forniremo un interprete al telefono.</p>	<b>Vietnamese</b> <span>Tiếng Việt</span> <p>Xin chỉ vào ngôn ngữ của quý vị để chúng tôi có thể cung cấp một thông dịch viên qua điện thoại cho quý vị.</p>



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## **INTRODUCTION**

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This brochure was created to assist the public who are affected by the County's public projects that are necessary to ensure the safety and welfare of its residents and the adequacy of the County's infrastructure. To accomplish this, it may be necessary to acquire property rights from private property owners so that projects can be constructed. When property rights are acquired for public use, just compensation is paid for the property rights acquired unless, in some circumstances, a property owner elects to donate property rights to advance a project.

Information and a basic overview about the County's process for acquiring real property rights for projects is provided. Often, the property rights acquired for projects by the County are called "right-of-way". One definition of "right-of-way" is the legal right, established by usage or grant, to pass along a specific route through grounds or property belonging to another. At times, building and/or site improvements may be acquired if they fall within the right of way that is needed to construct a project. When an occupied building, or a home, is acquired, the business owner or homeowner, and/or tenants, may be entitled to receive relocation benefits. A brief overview of relocation benefits is provided.

Many projects offer public information meetings so that people can become more informed about a project and offer their concerns and suggestions. People are encouraged to contact the County's Agents and Managers, whose contact information is provided on the last page, with any questions or comments that they may have regarding a project and to obtain information about prior public meetings that have been held about the project.

## **WHAT IS RIGHT-OF-WAY?**

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Among other reasons, right-of-way is acquired to construct, and/or

to improve streets, sidewalks/trails, storm drainage facilities, and water and sewer facilities. Also, right-of-way is acquired to complete capital improvement projects, such as constructing a new fire station or other County facilities. Right-of-way can be acquired in fee simple ownership (i.e., buying land) and/or by acquiring one or more easements. Absent a donation being made, the County pays for the real property rights that are acquired to complete a project. This payment is often referred to as just compensation that is paid to the property owner for the property rights acquired. When the County acquires fee simple ownership of land, it acquires title to the property. Often, this is referred to as making a dedication to the County. When a permanent easement is acquired, the easement will survive a project's completion. There are several types of permanent easements, but each is obtained for a specific purpose, such as a "Storm Drainage Easement", a "Sidewalk Easement", or a "Sanitary Sewer Easement". When a permanent easement is acquired, the property owner still maintains ownership and use of the underlying land. In addition to permanent easements, the County may acquire temporary easements, such as a Grading Agreement and Temporary Construction Easement. When doing so, the County is effectively renting land while the project is ongoing. For example, the County may acquire a general Grading Agreement and Temporary Construction Easement over land that will provide legal access to construct a project. Upon the project's completion, including a warranty period, the Grading Agreement and Temporary Construction Easement becomes null and void.

## **WHAT IS AN EASEMENT?**

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An easement is defined as a right to enter and otherwise use someone else's land for a specified purpose, such as for enhancing drainage or installing or updating utilities. An easement restricts but

does not terminate the rights of the owner to the use and enjoyment of their land, subject to the easement holder's (the County's) rights. When an easement is acquired, the property owner retains ownership of the land subject to an easement that may cross - either over, or under, the property.

## **WHAT IS JUST COMPENSATION?**

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Absent a property donation being made, the County pays for the real property rights that are acquired to complete a public project. Just Compensation is the fair market value of the property rights that are acquired, plus any "damages" to the remaining property that are not offset by enhancements. Damages and specific benefits are evaluated when a portion of a property is acquired by the County, thus leaving remaining property ("the remainder") to the property owner. When a partial acquisition occurs, after a project is completed, there could be negative and/or positive impacts that affect the remainder's value, or there could be no impacts. Upon considering compensable impacts, if the remaining property becomes devalued because of the project, the loss in property value is called "damages". A property owner is entitled to receive compensation for damages.

## **WHAT IS FAIR MARKET VALUE?**

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The fair market value of a property, as used in this brochure, is defined as the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress (Appraisal Institute, 2020, The Appraisal of Real Estate, 15th Edition).

and

The price which one, under no compulsion, is willing to take for property which he has for sale, and for which another, under no compulsion being desirous and able to buy, is willing to pay for the article. (Talbot vs. Norfolk 158 Va. 387, 163 S.E. 100; 1932).

## **WHAT RULES EXIST FOR BUYING PROPERTY?**

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Property acquisition is a regulated process. It may fall under one or more of the following: Federal law, Federal regulation, state law, Virginia's Administrative Code, VDOT's Right of Way Manual of Instructions, and/or Fairfax County policies. The laws and regulations govern how "right-of-way" is acquired. They are intended to help ensure that a property owner receives "just compensation" for their property. After a partial acquisition has occurred, it is possible that the remaining property may have both positive influences that create value and negative influences that may diminish property value. The positive influences, if any, may offset the negative influences partially or in total.

The County recognizes that the acquisition and relocation process could create an inconvenience for people who are impacted by a project. As required by law, the County offers just compensation for the property acquired. If property is donated, it might provide the owner with the estimated value of the property that is proposed for donation prior to the property owner completing a donation. The County has staff, and at times contractors, within its Land Acquisition Division, referred to as "Land Acquisition Agents" or as "Right-of-Way Agents" ("Agents"). These representatives work with property owners and tenants to complete property related acquisitions. They assist the property owner by informing them about a project and its potential impact. They answer questions that a property owner may have about a project and the proposed acquisition of real property



rights from the property owner and often interphase with the Project Manager to obtain answers to questions. Also, the Project Manager can be contacted directly with any comments or concerns.

When an Agent approaches a property owner to make an offer to acquire property rights, the Agent presents an offer and explains the proposed acquisition to the property owner. When available, the Agent may provide project plans that help show the project's impact on their property. When an offer is made, the property owner is provided with a title abstract or full copies of documents in the chain of title if a dedication is involved and an appraisal or an "appraisal waiver". When the total compensation is expected to be less than

\$10,000, an "appraisal waiver" may be used instead of an appraisal. An "appraisal waiver" is a brief property evaluation report that provides basic information about the property being acquired and it provides a value for the property rights to be acquired by using objective evidence, such as the real estate assessment, to determine the value of the property rights that are proposed for acquisition. An "appraisal waiver" is completed by an Agent and reviewed by an Agent or Manager. Also, upon occasion, the County may use an "appraisal waiver" for property where total compensation is expected to fall over \$10,000 up to \$25,000. When this occurs, the Agent advises that the property owner may receive an appraisal if they wish to have one.

## **WHAT ARE THE COUNTY'S AND THE PROPERTY OWNER'S RIGHTS?**

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The County has the right to acquire the land needed for public projects and infrastructure guided by laws and regulations. The County may condemn property if a voluntary agreement to acquire property rights is not reached with the property owner. The process of condemning property is completed in accordance with Virginia laws

and the approval of the Fairfax County Board of Supervisors. Without this power, the County could not provide people with adequate transportation facilities, utilities, drainage systems and other public needs to meet the demands of the County's growing population and the traveling public. However, in some instances, the County may seek to acquire property voluntarily without the threat of eminent domain. When eminent domain is used for a project, the County explores alternatives to reduce impacts while still allowing for a project to be constructed.

The County's policy is to treat all property owners the same, in a fair and equitable manner, while being courteous, and with as little inconvenience as possible. Sometimes agreements cannot be reached between a property owner and the County. When these situations arise, the property owners, as well as the County, have well-defined rights under the law. These rights safeguard the landowner from receiving less than fair market value for their property and they protect the tax funds set aside by the County for right-of-way purchases from unrealistic demands.

When a voluntary transaction is unable to be used to acquire property rights that are needed for a project, the County may condemn the property. However, prior to doing so a public hearing is held and Board of Supervisor approval is required. When condemning property in Virginia, this often means using a "Quick Take" process. Under this process, the County can deposit its original offer amount made to a property owner with the Clerk of Court to be placed into escrow when recording a "Certificate of Take". Once a Certificate of Take is recorded, the County has acquired defeasible title to the property rights that are needed for a project. However, the County will still attempt to reach a mutually acceptable agreement with the property owner regarding compensation owed. While negotiations continue, the property owner may "draw down"

the funds that the County has placed into escrow with the court. The County can help provide guidance to a property owner about how to draw down the funds. In many instances, the property owner may need to retain an attorney to assist them with a draw down.

At any time during the acquisition and if applicable to the relocation process, a property owner, and/or tenant, is free, but not required, to hire an attorney at their expense, to assist them with legal issues. If a property owner, and/or a tenant, decides to hire an attorney, they are responsible for all legal fees and costs, absent certain circumstances where the court may award fees and costs to the property owner. The County Attorney's Office does not provide a property owner, or a tenant, with legal advice.

## **HOW IS THE LOCATION FOR A PROPOSED PROJECT DETERMINED?**

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Professional staff spend months studying possible locations for public improvements. They evaluate present and anticipated traffic volumes and drainage flows, as well as any other factors that must be considered in deciding on the most appropriate location for public goods. These professionals use care when designing plans to construct infrastructure so that it minimizes, to the extent possible, impact on a property owner.

Before construction plans are prepared, several possible locations are evaluated using ground surveys and sometimes aerial surveys as well. These locations may sometimes be presented and explained at public information meetings to give all interested people an opportunity to express their opinions on the proposed improvements. For large projects, and prior to holding a public meeting (i.e., information meeting, hearing, etc. information is often advertised on the County's website and in local publications. Also,

property owners who will be directly affected by the project are notified by letter.

## **HOW WILL PROPERTY OWNERS BE INFORMED ABOUT A PROJECT?**

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Public meetings (i.e., informational meetings, hearings, etc.) are held for many projects. At these meetings, County representatives can answer questions and provide information about the proposed construction. The County decides whether to hold a public meeting based on public interest, project magnitude, funding source and oversight requirements. If a public hearing is scheduled, people will have a chance to voice their opinions about the proposed project and they will have an opportunity to provide input regarding proposed alternatives or changes. All information provided by people at a public hearing is carefully reviewed by the County.

## **WHAT IS THE OFFER BASED UPON?**

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Property owners impacted by a project where property rights from them are needed to build, operate, and maintain a public improvement shall receive just compensation for the property acquired, including compensation for any land and/or easements acquired and for any site or building improvements that may be included in the proposed acquisition that have contributory value. To determine just compensation, a qualified individual will estimate the fair market value of the property that is proposed for acquisition using the best information available. When compensation is expected to be less than \$10,000, and by using objective evidence such as the property assessment, a property evaluation report, referred to as an “appraisal waiver” is prepared by an Agent as the basis for making an offer to acquire the property rights that are needed. If the proposed acquisition is expected to exceed \$10,000 and even though it may use

an appraisal waiver up to \$25,000, the County often will commission a real estate appraisal to be performed by an appropriately licensed real estate appraiser.

The appraiser considers recent property sales in the community and neighborhood where a property is located, as well as improvement costs and land values. When an appraisal is needed, the appraiser will attempt to contact the property owner by mail and request permission to enter the property so that they may complete an inspection of the proposed property to be acquired. Also, the appraiser will attempt to contact the property owner, or their designated representative, and ask them if they wish to accompany them on the property inspection. If the property owner, or their representative, accompanies the appraiser on a property inspection, it is recommended that they point out any unusual features of the property and/or provide information that they think can help determine the value of the property that is to be acquired. A property owner generally knows their property better than anyone else so their insight, and input provided, about their property is helpful to the appraisal process.

Once the valuation is completed and approved through a review process, the County will make an offer to purchase the right-of-way for just compensation. The property owner will be provided with a copy of the approved document which estimates the fair market value of the right-of-way. In instances where a written review appraisal is completed by a licensed review appraiser, the property owner will also be provided with a copy of the review appraisal, in addition to the appraisal, for their consideration. The offer will be set at the approved appraisal / appraisal waiver amount.

The County often seeks to acquire a partial acquisition of property rights (i.e., a strip of land adjacent to a roadway that is proposed for widening). For a partial acquisition of property rights, a plat, and

plans if provided, will show the area of acquisition that is proposed to be acquired by the County.

## WHAT IS THE OFFER PROCESS?

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An Agent, employed, or contracted, by the County, will be assigned to personally contact the property owner(s). After an appraisal, or an “appraisal waiver” is completed, the Agent will prepare an offer package for the property owner. The offer package will include the appraisal, or appraisal waiver, a plat, the proposed Deed and/or Easement(s) and if available project plans. Prior to making an offer, the Agent sends the title abstract and/or copies of documents within the chain of title.

Once an offer package is prepared, the Agent will offer to visit the property owner in person, absent a request by the property owner to do otherwise. Also, prior to meeting with the property owner, they may mail the offer package to them so that the property owner can review the offer and be prepared to ask any questions about the proposed acquisition prior to meeting with the Agent. The Agent will explain the plans and their impact on the owner’s property, the appraisal, or the “appraisal waiver”, and provide a title abstract and/or title documents. They will answer the property owner’s questions related to the offer and/or about the project. **Please do not hesitate to ask an Agent, or a Project Manager, questions.** Since the decision to accept the County’s offer is an important one, the Agent (and the Project Manager, if necessary) is prepared to make one or more return visits. The property owner is provided with a reasonable amount of time to consider the offer.

## WHAT HAPPENS IF THE OFFER IS ACCEPTED?

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Once an offer package is completed, and an agreement is reached to voluntarily convey the property to the County with a property owner, and the property owner has signed the required Deed and/or

Easement(s) and returned them to the County for recording, along with a lender “release” when needed, it usually takes 45 - 60 days to disburse compensation to the property owner. In most transactions, a “formal” closing process is not undertaken. Instead, the property owner(s) are requested to return the signed Deed and/or Easement(s) to the County. After the Deed and/or Easement(s) are accepted by the County and are recorded with the Clerk of Court, the purchase funds are released to the property owner, predicated that when applicable, a lender has agreed to release the funds to the property owner. If there is a mortgage or lien on the property, or a title defect, additional time may be needed to complete a transaction. If a mortgage or a lien exists, the process of requesting a release from a lender that allows for the County to disburse funds to the property owner can vary both in time and in process. If a release is needed from a mortgage or lien holder, the property owner becomes actively engaged with obtaining one while the County provides them with any guidance that is needed to obtain a release. The County pays reasonable lender review fees to complete a release so that funds can be disbursed to the property owner if the lien holder grants a release. The County does not reimburse the property owner for any attorney fees related to closing the transaction.

## **WHAT HAPPENS IF THE COUNTY’S OFFER IS NOT ACCEPTED?**

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The law recognizes a property owner’s right to not accept a purchase offer and instead have the value of the property acquired established by the courts. In some cases, a difference of opinion exists as to the value of the property needed for right-of-way purposes.

In instances where agreements cannot be reached, the County may acquire the property by eminent domain, also known as “condemnation,” which is a right given to local, state, and federal

governments to acquire private property needed for public use. Eminent domain or condemnation proceedings are initiated by the Land Acquisition Division after attempts to reach a voluntary agreement have been made, but without success. Prior to initiating a condemnation of property, a public hearing is held about the proposed condemnation. At this hearing, the Board of Supervisors may grant their approval to condemn a property. If approved, the Right-of-Way Agent prepares a Certificate of Take and notifies the property owner by registered or certified mail that the Certificate will be recorded with the Clerk of the Circuit Court for the purpose of taking immediate possession of the right-of-way that is needed. Once appropriate notice is provided, a Certificate of Take is recorded with the Clerk of the Circuit Court, and an amount of money equal to the initial offer made to property owner is deposited in an interest-bearing account through the Clerk of the Circuit Court for the property owner's benefit. Once a Certificate of Take is recorded, defeasible title to the property rights needed to complete a project are transferred to the name of the condemning authority, which is typically the County. This process allows the County to proceed with the public improvement project while negotiation continues to reach an agreed upon compensation for the property that has been acquired by the County. A settlement between a property owner and the County is still possible right up to the time the case is heard in court.

If a settlement is not reached, the County Attorney will initiate legal proceedings necessary to allow the property owner to present evidence to the Circuit Court about the value of the property acquired. A jury or panel of commissioners will hear the evidence of both parties and issue an award of just compensation for the property acquired. Also, a property owner may elect to have the value determined by a Judge. The valuation set by the court-appointed jury, commissioners, or Judge is binding on both the property owner and the County, unless



overturned upon appeal.

If the award of just compensation differs from the amount of funds placed with the Clerk of the Circuit Court or withdrawn by the landowner, necessary adjustments are made. The court proceedings determine just compensation for the property needed and damages, if any. Damages occur when a partial acquisition of property is acquired, and the impact of the acquisition makes the remaining property less valuable when compared to its value before the project. A Judge may hear issues relating to whether the project is for a public purpose.

## **WHAT HAPPENS IF I AM A DISPLACED PERSON?**

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Occasionally, the right-of-way for County projects pass close to or even through a dwelling or business. In such cases, the County may purchase the building. If so, then it may be necessary for the owner and/or the tenant to move. When a relocation is needed, the federal Uniform Relocation Assistance and Real Property Acquisition Act ("The Uniform Act") is followed when projects are partially or totally funded by the federal government. When a project is funded locally and/or by the state with no federal funding involved, a similar relocation process is followed pursuant to applicable state and local regulations. Within the Code of Virginia, Title 25.1, Chapter 4. Relocation Assistance and Real Property Acquisition Policies, codifies similar regulations found in the Code of Federal Regulations that are related to the Uniform Act for administering relocation benefits.

## **HOW DOES THE COUNTY ASSIST WITH MOVING A DISPLACED PERSON?**

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A "Displaced Person" who is required to complete a residential move is entitled to receive relocation costs and assistance in locating replacement housing. For each case the consideration, type, and amount of compensation depends upon the individual

circumstances and applicable criteria. The Agent will assist the property owner or tenant with answering any questions related to relocation benefits and they can assist, to a certain extent, by helping ensure a smooth relocation. To ensure that displaced residents and businesses receive all payments to which they are entitled, the County abides by applicable state and federal regulations regarding the payment of relocation assistance.

In the case of a residential relocation, the Agent will assist by evaluating and determining a property owner or tenant's needs and preferences. The Agent will provide the property owner with information about properties that are available for rent or for sale. The Agent is required to inspect a proposed replacement home to determine that the replacement home is decent, safe, and sanitary prior to a Displaced Person signing a lease or a sale contract. A replacement home should meet County (i.e., local building codes), State and Federal guidelines. The Agent can assist with obtaining transportation to potential replacement properties and they will help gather information on other programs which may provide housing assistance to those who are eligible (e.g., low-income housing, social services, etc.).

The County's goal is to offer a homeowner or residential tenant the opportunity to relocate to a comparable replacement home. The replacement home must meet certain standards, including state and County building, plumbing, electrical, housing and occupancy codes.

**Please do not sign a sale contract or a lease agreement for a new home until a Right-of-Way Agent has inspected the proposed replacement dwelling and they have certified in writing that it meets decent, safe, and sanitary guidelines required by law and regulation.**

## **HOMEOWNER RELOCATION ASSISTANCE**

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The County's goal is to offer a Displaced Person the opportunity to be acquired. If a Displaced Person has been a homeowner (owner-occupant) for 90 days or more before an offer to purchase is made, he or she is eligible for certain relocation benefits. If another home is not found that meets the guidelines and that is comparable to the home that is being acquired, a Displaced Person may be entitled to receive a replacement housing payment. Also, they may be entitled to a mortgage interest differential payment if the interest rates on the new mortgage exceed the interest rate on their current mortgage. A Displaced Person can also be reimbursed for certain incidental closing costs. The combined total of these payments shall not exceed

\$31,000, and the payments will be limited to the actual amount spent on eligible expenses when buying a replacement home. If a Displaced Person has been a homeowner for at least 90 days, but less than 180 days, and they choose to buy another home, they may be eligible for a maximum of \$7,200 as reimbursement for reasonable expenses required for the purchase. If the Displaced Person has been a homeowner for at least 90 days before the offer to purchase their home is made and they choose to rent rather than buy, they may be entitled to a maximum of \$7,200. The exact amount depends on the rent required for a house that meets County, State and Federal guidelines and on the rental value of the current home.

## **RESIDENTIAL TENANT RELOCATION ASSISTANCE**

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If a Displaced Person rented a home for at least 90 days before an offer to purchase has been made with the property owner, they may be entitled to a maximum of \$7,200. If they currently rent a home but instead of renting a replacement home, they wish to buy a home, they may be eligible for a maximum of \$7,200, which can be applied towards

the purchase price of a replacement home.

## **WHAT IF COMPARABLE HOUSING IS NOT AVAILABLE?**

If comparable housing is not available within the \$7,200 and \$31,000 limits, it will be necessary to consider other options under the “last resort” housing program. If a Displaced Person is eligible for reimbursement under the last resort housing program, the various options will be fully explained to them by an Agent. They will not be required to move until comparable housing is made available.

## **HOW ARE MOVING EXPENSES REIMBURSED?**

The County pays actual reasonable moving expenses for a maximum distance of 50 miles. **Please keep receipts of all expenses.** Payment from the County can also be made using a fixed moving cost schedule. A Displaced Person must apply to the County in advance indicating how and when they anticipate moving. Once a request is reviewed, they will be notified in writing of the approved amount for moving expenses. The Agent will be glad to assist them in filling out the request. Payment for moving expenses shall not be made until the replacement residential property is inspected by an Agent to ensure that it is decent, safe, and sanitary and the move is completed.

## **HOW SOON MUST I MOVE?**

A “Notice of Intent to Acquire” may be sent to a property owner. The purpose of the “Notice of Intent to Acquire” is to establish eligibility for relocation benefits in advance of negotiations for the property acquisition that is commencing. It is used in exceptional circumstances, primarily residential, to relieve hardships to potential displaced persons.

The construction or development of a highway project must be scheduled so that to the greatest extent practicable assurance will be made that no person lawfully occupying real property will be

required to move from a dwelling, business, farm, or nonprofit organization for at least 90 days from the date the written offer for the property is made.

A 90-day assurance notice will be issued when a written offer for the property is made. In the case of a residential displacee, the 90-day assurance notice will be issued on or after the date a written offer for the property and the replacement housing payment offer have been made.

The 90-day assurance notice will state that the displaced person will not be required to move from a dwelling, business, farm, or nonprofit organization before 90 days from the date of the notice. The 90-day assurance notice will further state the displaced person will be given a specific date by which the property must be vacated in a final written notice to be issued at least 30 days in advance of the specific date.

The final written notice may be given to the displaced person at the time the department has legal possession of the property, provided the specific vacation date is at least 90 days after the date the written offer for the property was made and at least 30 days in advance of the date the property must be vacated. No written final notice will be required where a displaced person moves prior to the time such notice should be given.

## **HOW DO I KNOW IF I AM A DISPLACED PERSON?**

The Agent determines if people located in a home or a business are eligible to become designated as a “Displaced Person”. A general information notice is sent. Also, the Agent seeks to interview all potential displaced persons to determine their eligibility to be categorized as a “Displaced Person” while also learning more about their relocation needs. In most instances, a person must provide evidence that they are legally permitted to be within the United States to become designated as a “Displaced Person”. There are certain exceptions for immediate family members when a residential

relocation is undertaken.

If a “Displaced Person” is required to relocate from a residence, either as an owner-occupant or as a tenant-occupant, they will receive a written notice advising them of the intended date by which they are required to vacate the property (a “90-Day Notice”). No one is expected to move immediately, and no one is required to vacate their home unless, and until, adequate replacement housing is made available. Businesses may be required to relocate by a designated time irrespective of if a replacement location has been identified. However, every effort is made to provide the business owner with ample time to complete a relocation of their business if they wish to relocate the business.

### **BUSINESS, FARM OR NONPROFIT ORGANIZATION RELOCATION ASSISTANCE?**

In the case of a commercial relocation, the Agent will explain what the business owner may be able to receive. The business owner can be reimbursed for approved moving expenses to relocate his or her business. Unlike a residential relocation, a business relocation does not receive the same level of assistance to find a replacement business location. It becomes incumbent on the business owner to undertake a search to find a suitable location that meets their specific needs. Often, a local commercial leasing agent or broker can be of helpful assistance.

A business, farm or non-profit organization can be reimbursed for the actual cost of moving for a maximum distance of 50 miles, unless an exception for a longer moving distance is requested and granted. Please keep receipts of all expenses. In some instances, the displaced business can be reimbursed for the loss of tangible personal property and for the expense of looking for a replacement site.

A Displaced Person must apply to the County, before they move, whether they are moving a business, a farm, or a nonprofit organization.

If the County approves the move, and after the new property is inspected and the move takes place, and a moving cost claim is submitted, reimbursement for moving expenses can be reimbursed.

As a part of the actual moving expenses, a small business farm, or non-profit organization may be entitled to a reestablishment payment not to exceed \$25,000 for expenses that are actually incurred in relocating and reestablishing a business, farm, or non-profit organization at the replacement site (i.e., new stationary, etc.). Also, they may be entitled to receive up to \$2,500 for searching expenses related to finding a new business location. It is recommended that the Displaced Person work closely with their agent to learn what expenses are eligible for reimbursement.

### **BUSINESS, FARM OR NONPROFIT LUMP SUM PAYMENT OPTION.**

A lump sum payment option exists, in lieu of paying for moving and business establishment expenses, when a Displaced Person's business is eligible for relocation. However, the business owner must provide evidence for the net income received over the past two years to determine their eligibility and the amount of benefit that they may be entitled to receive. A fixed payment in lieu of payment for actual moving and related expenses has a minimum of \$1,000 and a maximum of \$75,000 if:

- The business vacates or relocates from the displacement site.
- The business cannot be relocated without a substantial loss of clientele or net earnings.
- The business is not a part of a commercial enterprise having more than 3 other entities which are not being acquired by the County.
- It is a source of income for the displaced owner.

A farm operation also can receive a minimum of \$1,000 or a maximum

of \$75,000 if:

- The farm operation stops or is relocated elsewhere on the remaining property.
- The project impedes the efficiency of the farm operation.
- The project makes it economically unfeasible to operate the remaining property as a farm.

A non-profit organization can receive a minimum of \$1,000 or a maximum of \$75,000 if:

- If cannot be relocated without a substantial loss of clientele or membership.

## **WHAT HAPPENS IF I AM DISASTISFIED WITH THE RELOCATION SERVICES?**

If a Displaced Person does not agree with the relocation services that have been provided, they may appeal by asking for instructions on how to do so from their assigned Agent.