

1980 S.C. Op. Atty. Gen. 139 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-92, 1980 WL 81974

Office of the Attorney General

State of South Carolina

Opinion No. 80-92

September 5, 1980

***1 SUBJECT: Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.**

A State agency involved in a project necessitating the acquisition of real property and the relocation of persons displaced thereby must comply with the relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if that project involves the use of Federal funding.

TO: The College of Charleston

Monica R. Scott
Director of Planning

QUESTION:

Must the College of Charleston comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 when acquiring real property?

STATUTES:

[42 U.S.C.A., Sections 4601–4655.](#)

DISCUSSION:

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, [42 U.S.C.A., Sections 4601–4655](#), mandates the extension of relocation benefits to persons displaced by real property acquisition when real property is acquired for a program or project undertaken by a federal agency or acquired by a state agency operating pursuant to a federally financed grant. The language of the statute and prevailing case law indicate that benefits are available only to persons displaced under projects undertaken by federal agencies or by state agencies receiving federal financial assistance.

In 1971, Congress enacted the Uniform Relocation Act, Public Law 91–646, 84 Stat. 1894, [42 U.S.C.A., Section 4621](#), and included a policy declaration:

The purpose of this subchapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal and Federally assisted programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.

However, despite this broad statement of policy, the operational sections through which this policy is implemented are narrowly drawn. [42 U.S.C.A., Section 4622\(a\)](#) provides:

(a) Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after January 2, 1971, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head, for:

- (1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;
- (2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the agency; and
- (3) actual reasonable expenses in searching for a replacement business or farm.

These benefits accrue to any ‘displaced person’. A ‘displaced person’ is defined at [42 U.S.C.A., Section 4601\(6\)](#) as follows:

***2** (6) The term ‘displaced person’ means any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of [sections 4622\(a\) and \(b\)](#) and [4625](#) of this title, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

The Federal Court in [Conway v. Harris, 586 F.2d 1137 \(7th Cir. 1978\)](#), in holding that Congress only intended to provide assistance to persons displaced by projects undertaken by federal agencies or by state agencies receiving federal financial assistance cited [Moorer v. Dept. of Housing and Urban Development, 561 F.2d 175 \(8th Cir. 1977\)](#), cert. denied, [436 U.S. 919, 98 S.Ct. 2266, 56 L.Ed. 2d 760 \(1978\)](#), in which the Court stated:

The statute mandates that benefits shall be extended to persons displaced by real property acquisition when the real property is acquired ‘for a program or project undertaken by a Federal agency’ ([§ 4622\(a\)](#)) or ‘[w]henver real property is acquired by a State agency . . .’

([§§ 4627, 4628](#)). Under [§ 4630](#) benefits inure when a person is displaced by action of a State agency operating with a grant ‘under which Federal financial assistance will be available . . .’ We are therefore drawn to the conclusion that the plain statutory language indicates that the URA benefits are available to displaced persons only on projects undertaken by federal agencies or by state agencies receiving federal financial assistance.

This conclusion is supported by other sections of the statute. Section [4633\(a\)](#) provides that the heads of federal agencies concerned with federal projects ‘or programs or projects by State agencies receiving Federal financial assistance . . . shall consult together on the establishment of regulations and procedures for the implementation of [programs for relocation assistance].’

Section [4633\(b\)\[3\]](#) provides

that any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment, may have his application reviewed by the head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency.

In addition, [§ 4625\(b\)](#) provides:

(b) Federal agencies administering programs which may be of assistance to displaced persons covered by this chapter shall cooperate to the maximum extent feasible with the Federal or State agency causing the displacement to assure that such displaced persons receive the maximum assistance available to them.

***3** [561 F.2d at 178–79](#) (footnotes omitted) (emphasis added).

Therefore, under any programs undertaken by a state agency such as the College of Charleston, relocation benefits would have to be extended to any persons displaced by a project receiving federal financial assistance. The Uniform Relocation Act would not apply to any project ‘. . . if it were found that the project had been undertaken by a private party as opposed to a federal, state, or local governmental agency, or in the alternative, if it were found that the project had not received federal financial assistance.’ [Young v. Harris](#), 599 F.2d 870, Rehearing and Rehearing En Banc denied (8th Cir. 1979).

The Uniform Relocation Assistance and Real Property Acquisition Policies Act has been held applicable to a project in which the only federal involvement was the presence of revenue sharing funds. [Goolsby v. Blumenthal](#), 581 F.2d 455, Rehearing En Banc granted (5th Cir. 1978). The South Carolina Supreme Court has stated that ‘One of the purposes of the Federal Act is to provide a uniform policy of real property acquisition practices in all cases involving the use of federal funds.’ [Creative Display v. S. C. Hwy. Dept.](#), 272 S.C. 68, 248 S.E.2d 916 (1978). Thus a state agency must comply with the relocation requirements of the Federal Act whenever it undertakes a project involving the use of federal funds.

CONCLUSION:

A state agency is obligated to provide relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act whenever that agency undertakes a project involving the acquisition of real property funded in whole or in part by federal funds.

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