

# RELOCATION APPEALS BOARD GUIDE

## 1. Background

### 1.1 General Background

The Relocation Appeals Board's responsibility is to investigate, mediate and hold hearings on grievances and disputes between relocated persons who are dissatisfied with their relocation services and the displacing agencies that are responsible for providing those services.

The Relocation Appeals Board of the City and County of San Francisco is the oldest of its kind in the nation. Founded in March 1967, the Relocation Appeals Board is a resource for individuals and families whose residence or business is displaced by public action.

The Relocation Appeals board was formalized by the Board of Supervisors of the City and County of San Francisco in 1972 with the enactment of Ordinances 333-72 and 334-72. The local governing provisions are codified at Chapter 24B of the San Francisco Administrative Code.

The Relocation Appeals Board has five members. The members are appointed by the Mayor and confirmed by the Board of Supervisors.

In the absence of a pending appeal, the Relocation Appeals Board holds regular meetings once a year. .

All meetings of the San Francisco Relocation Appeals Board are open to the public.

### 1.2 Jurisdiction of the Relocation Appeals Board

The Relocation Appeals Board hears disputes between displaced persons and the displacing agency after the displacing agency has responded to a claim. If the displaced person is **not** satisfied with the displacing agency's response, the displaced person may submit his or her dispute to the Relocation Appeals Board for review. The Relocation Appeals Board may affirm the decision of the displacing agency, reject the decision of the displacing agency and require that it provide further benefits or services, or remand the claim for further consideration by the agency in light of the findings or rulings of the Relocation Appeals Board.

The Relocation Appeals Board only reviews disputes when the displacing agency is an agency of the City and County of San Francisco; the Relocation Appeals Board does not have authority to review disputes with State and Federal agencies.

### 1.3 Governing Laws

1.3.1 Federal Law: The federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) is codified at Title 42, United States Code, section 4600 et seq. This law requires that the federal government provide relocation advice and payments when it acquires real property under its power of eminent domain. In July 1, 1972, the federal law became binding on the states. Federal laws pertaining specifically to relocation payments and services are codified at Title 42, United States Code, section 6080 et seq. Regulations regarding relocation payments and services are codified at Title 49 of the Code of Federal Regulations, section 24 et seq.

1.3.2 State Law: Following enactment of the URA, in 1971 California's legislature enacted the California Relocation Assistance Act with the intent to "implement the 1970 federal enactment and to extend comparable benefits statewide and payable by the state and its political subdivisions, to persons displaced by the acquisition of land under the eminent domain law after July 1, 1972. The California Relocation Assistance Act is in the California Government Code; sections 7260 et seq. govern relocation payments and assistance.

The California Relocation Assistance Act provides relocation assistance to persons if they are "displaced" by public projects. Persons are "displaced" if agency action requires them to move from all or part of their property; they can be "displaced" by any agency action, it need not be a condemnation<sup>1</sup>. California law allows a displaced person certain compensation for a forced relocation, including relocation assistance and reimbursement of moving costs.

California law requires that each city or county that has a redevelopment agency also have a relocation appeals board "to hear all complaints brought by residents of the various project areas relating to relocation. [The Relocation Appeals Board] shall determine if the redevelopment agency has complied with the provisions of [state law] and, where applicable, federal regulations."<sup>2</sup>

1.3.3 Local Ordinance: The San Francisco Relocation Appeals Board is governed by Chapter 24B of the San Francisco Administration Code.

## **2. Procedures for Appealing to the Relocation Appeals Board**

The Relocation Appeals Board reviews disputes between a relocatee and a displacing agency related to claims for relocation benefits or services. The Relocation Appeals Board does not hear appeals until claims for relocation benefits or services have been denied in whole or in part by the displacing agency. The Relocation Appeals Board will hear claims where a displacing agency fails to respond to a claim after a reasonable time.

### **2.1 Complaint**

An appeal to the Relocation Appeals Board begins with a complaint. If you are preparing a complaint to the Relocation Appeals Board, you must include at least the following:

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<sup>1</sup> 57 Ops. Atty. Gen. p. 72 (1974); Superior Strut & Hangar v. Port of Oakland, 140 Cal. Rptr. 515, 518 (1977).

<sup>2</sup> California Government Code 33417.5.

1. Name of the aggrieved person;
2. Address of the property from which the aggrieved person is being displaced;
3. The nature of the dislocation, i.e., a family residence, business, warehouse, etc.;
4. The displacing agency and the agency responsible for providing services as well as the name and address of the person at the agency who is responsible for handling the claim;
5. A brief description of the grievance and grounds for appeal to the Relocation Appeals Board;
6. Documents in support of your claim, or, if they are voluminous, a summary of the documents that support your claim;

The complaint must be signed. The signature of the complaining person verifies the accuracy and the truthfulness of the complaint. Unsigned complaints will not be accepted.<sup>3</sup>

## 2.2 Delivery of the Complaint to Board Secretary, Displacing Agency

The complaining party or its representative shall deliver the signed complaint to the Secretary of the Relocation Appeals Board at the following address:

Eugene Flannery, Secretary  
Relocation Appeals Board of the City and County of San Francisco  
1 South Van Ness Avenue, 5th Floor  
San Francisco, CA 94103

If there are questions about the handling of the complaint, please contact the Secretary of the Relocation Appeals Board at (415) 701-5598.

In addition to filing the complaint with the Board's Secretary, the complaining party must send a copy to the responsible agent at all displacing agencies that are subject to the dispute.

## 2.3 Authorization for Release of Information

After your complaint is received, the staff of the Relocation Appeals Board will mail to you a "Request for Authorization to Release Confidential Information." This authorization, when signed, allows the displacing agency to respond to your complaint with relevant information. Please sign the "Request" and return it to the Secretary of the Relocation Appeals Board at the above address.

## 2.4 Written Answer By Displacing Agency, Reply

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<sup>3</sup> See generally San Francisco Admin. Code #24B.7.

The displacing agency will answer your complaint in writing within 15 days (unless a longer time is allowed by the Board) and will provide you with a copy of its answer.

The Board or the Secretary of the Board may request that you file a written reply to the displacing agency's answer. Your reply should be filled with the Secretary and a copy mailed to the responsible person at the displacing agency, usually the person who filed the answer.

When the written complaint, answer, and reply (if any) are received, the review process begins.

### **3. Pre-Hearing Mediation**

The Secretary, his delegate or a member of the Relocation Appeals Board will review your complaint, the answer, any reply and all other pertinent materials to your claim and the dispute. This person is the mediator. The mediator will attempt to resolve the dispute prior to a formal hearing and review by the Relocation Appeals Board.

The mediation may take any form deemed suitable by the mediator and the Relocation Appeals Board. This may include ex parte conferences with the claimant, the displacing agency, or others in order to reconcile the dispute; conferences, requests for further written submissions, interviews of witnesses, or brief presentations by the disputants to clarify their positions may be requested. If the efforts of the mediator cause the dispute to be resolved to the satisfaction of all parties, the appeal to the full Relocation Appeals Board will be dismissed.

If the complainant is not satisfied with the results of the mediation, the matter will be presented to the Relocation Appeals Board at a formal hearing. Upon written request of the complainant or upon the mediator's determination that attempts to resolve the dispute have failed, the Secretary will set the appeal for hearing before the Relocation Appeals Board at a regularly scheduled meeting. The Secretary will give written notice of the time, place and the date of the appeal to all parties.

### **4. Hearings Before the Relocation Appeals Board**

#### **4.1 Parties; Representation by Lawyers; Notices**

No claimant who presents an appeal to the Relocation Appeals Board needs to be represented by a lawyer, although any party who presents an appeal to the Relocation Appeals Board may be so represented.

Whenever any document containing an attorney's name, address and telephone number is filed by an attorney on behalf of a party, or whenever any party advises in a complaint or other written notice to the Board that the party's is represented by counsel, all notices sent by the Board or other parties shall thereafter be sent to the party's attorney instead of to the party. Notices will not be sent to both the attorney and the party represented by the attorney.

#### **4.2 Discovery (exchange of information)**

There is no procedure for pre-appeal discovery or exchange of information between disputants. Parties may be requested to exchange information or to provide statements to the Relocation Appeals Board, the mediator, or the Secretary in an attempt to resolve the dispute. No party is obligated to provide information in response to such a request, though the failure to provide requested information may be considered by the Relocation Appeals Board on appeal.

#### 4.3 APPEALS HEARD AT REGULAR MEETINGS; EMERGENCY SESSIONS

All appeals to the Relocation Appeals Board shall be heard at a regularly scheduled meeting of the Relocation Appeals Board. An appeal may be heard outside of a regularly scheduled meeting only under special circumstances.

A complaint may petition for an expedited appeal at a specially convened meeting by demonstrating special circumstances. Such a petition must be submitted to the Secretary of the Relocation Appeals Board at least five days prior to the date requested for an expedited appeal. The petition must set forth the basis of the request for the expedited appeal and must include the following information:

- the date that the claim that is subject to the appeal was submitted to the displacing agency;
- the date of final response by the displacing agency;
- the date of written complaint initiating the appeal;
- the hardship that would attend hearing the appeal at a regularly scheduled meeting;
- and an explanation of any prior delays in the presentation or prosecution of the claim or the appeal.

The petition must be signed by the complainant.

The President of the Board will review petitions for expedited appeal. If the petition is granted, the Secretary will attempt to convene a quorum of the Board at the date and time requested in the petition. If a quorum cannot be convened at the date and time requested, the appeal will be heard at the earliest date and time at which such a quorum may be convened.

Any party or agency that opposes an expedited hearing may submit a letter to the Secretary explaining why an expedited hearing is unnecessary, inappropriate, or prejudicial to the other parties.

#### 4.4 Postponements

The President of the Board may grant a postponement of a scheduled appeal only for good cause. Good cause may include, but is not limited to, showings of the following:

- (1) illness of a party, attorney, or other authorized representative of a party, or a material witness;

- (2) verified travel outside of San Francisco scheduled before the receipt of the notice of hearing; or
- (3) any other reason that makes it impracticable to appear on the scheduled date due to unforeseen circumstances or verified pre-arranged plans that are not reasonably susceptible to change.

Inconvenience is not good cause.

Requests for postponements must be made in writing at the earliest possible date. Requests to postpone an appeal should include supporting documentation. Requests to postpone an appeal should be served upon all other parties or their counsel.

The parties to an appeal may agree to a postponement once without approval of the Board if they notify the Board at least five days prior to the date of the appeal. Stipulated postponements closer than five days to a scheduled appeal may be granted only with permission from the President of the Board or the Secretary either in writing or at the hearing for the appeal.

The parties to an appeal may agree to additional postponements only with approval of the Board. A joint request for postponement shall be submitted in writing.

#### 4.5 Pre-Appeal Submissions

Each party to an appeal shall submit the following to the Secretary to the Board and to each other party or its counsel at least five days prior to the scheduled appeal:

1. A brief explanation of the law that supports the party's position.
2. A summary of the facts that the party expects to show at the hearing an appeal
3. A list of the witnesses to be called by the party and a summary of the witnesses' testimony.
4. All documents that the party intends to present at the hearing on appeal.
5. The name of the party intends to present at the hearing on appeal, including any physical objects, large maps, diagrams, enlarged photographs.
6. The name of the party or the attorney who will be primarily responsible for presenting the appeal to the Relocation Appeals Board.

The parties shall submit six copies of all submissions to the Secretary for distribution to the members of the Relocation Appeals Board and staff.

#### 4.6 Absent Parties

If a party fails to appear at a properly noticed hearing the Board may, as it deems appropriate, continue the appeal, decide the case on the submitted documents, or proceed with a hearing and render a decision. If the absent party is the complainant, the Board may dismiss the complaint. If the absent party is the displacing agency, the Board may enter a decision affirming the complaint against that agency

#### 4.7 Conduct of Appeal

Appeals shall be conducted in conformity with these rules unless otherwise ordered at any hearing or by formal amendment to these rules by a majority of the members of the Relocation Appeals Board.

Each party will make a brief opening or introductory statement. Complainant will make the first statement; each displacing agency adverse to complainant will make the second statement(s); complainant may make a brief reply statement.

Complainant will present its case first, including the presentation of witnesses, documents, diagrams, photographs, summaries, charts, or other materials relevant to the claim.

Oral evidence shall be taken only on the oath or affirmation of the witness.

Each party shall have the right to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses on any matter relevant to the issues before the Board. The complainant may be called as a witness even if the complainant does not testify in its own behalf. The agent of the displacing agency may be called as a witness even if the agent does not testify on behalf of the displacing agency.

Third party witnesses (witnesses that are neither the complainant or the displacing agency) may be presented by either side. If presented, they may be cross-examined. Neither party may subpoena or compel the testimony of third party witnesses.

Adverse witnesses (persons who are employed by or under the control of the adverse party) may not be compelled to give testimony. However, any party may request that an adverse witness testify. To request the testimony of an adverse witness, a party shall request the presence of such witness by sending notice to the adverse party at least 10 days prior to the date of the appeal. The request shall state the name of the adverse witness, the relationship between the adverse witness and the adverse party, the subject matter of the adverse witness' testimony, and the anticipated testimony from the witness. If the adverse party does not make the witness available at the appeal, the Board may consider in its decision the absence of the witness against the adverse party and the anticipated testimony in favor of the party that requested the testimony.

The parties may present all relevant evidence that furthers the decision-making process. The parties are not bound by civil rules of evidence except as stated in these rules. Parties and witnesses may introduce hearsay in support of their claims. Hearsay evidence offered for admission is admissible for all purposes and, if assessed as credible by the Relocation Appeals Board, may provide the sole basis in support of a finding or decision.

Evidentiary privileges protected by law are honored in an appeal before the Relocation Appeals Board but must be asserted promptly. Unasserted privileges and untimely objections are waived.

The Relocation Appeals Board may limit the presentation of evidence, the number of witnesses, or remarks of the parties or counsel in order to avoid the presentation of irrelevant, repetitious or unruly inflammatory testimony, evidence or other matters.

The Board or its counsel may, from time to time, interrogate witnesses, question counsel, or request further evidence in the course of the appeal process.

#### **4.8 Burden of Proof on Appeal**

In any appeal to the Relocation Appeals Board by a displaced person regarding the displacing agency's treatment of a claim, the displaced person has the initial burden of demonstrating that the claim for relocation payments or benefits was timely, proper, and reasonable.

In order to overcome a complaint by a displaced party who satisfies the burden of demonstrating that the claim was timely, proper and reasonable, it is the burden of the displacing agency to demonstrate that the claim for relocation payments was not timely, proper, reasonable, or that it is defective under applicable law or regulations. The displacing agency may discharge its burden of proof by demonstrating that it has made an offer to settle the claim, that the offer to settle the claim was rejected, and that the offer to settle the claim was more reasonable than the original claim and in conformity with applicable law and regulations.

#### **4.9 Record or Proceedings**

The Relocation Appeals Board may record the proceedings on appeal by audio or video tape or by causing a transcript to be made. The Relocation Appeals Board may request that the parties to the appeal share the expense of recording or transcribing the proceedings for the benefit of the Board or the parties.

In the event that the Board does not elect to record or transcribe the proceedings, any party may retain a stenographer or tape record the proceedings in order to keep a record, provided that the party so recording the proceedings makes available to the Board a copy of the transcript or recording of the proceedings if the Board so requests, and such copy or transcript shall be tendered without charge. The party transcribing or recording the proceedings must also make available to other parties a transcript or recording at a reasonable charge not to exceed that party's proportional share of the cost of obtaining such a record.

#### **4.10 Additional Submissions**

The Board may request that either or both parties present any additional briefing, documents, information, declarations or testimony to the Relocation Appeals Board following the hearing on appeal. All such submissions shall be filed with the Secretary of the Board within the time requested by the Board and served to all other parties or their counsel. No party need respond to such submissions unless requested to do so by the Board, or unless such party requests in writing from the Board permission to respond and such permission is granted in writing.

### **5. Decisions on Appeal**



The Relocation Appeals Board will deliberate on the appeal following the close of presentation of evidence. The deliberations of the Relocation Appeals Board are public.

The decision of the Relocation Appeals Board to affirm the complaint in whole and to order the relief requested, to grant the complaint in part and to order part of the relief requested, or to grant the complaint in part and order relief other than that requested, must be based on the agreement of a majority of the voting members. The agreement of a majority of the voting members of the Board on the nature and extent of relief to be awarded is sufficient to constitute a ruling of the Board, and such shall be the decision of the Board, notwithstanding any disagreement among the voting members as to the basis of such relief.

The President of the Board shall appoint a member of the Board or the Secretary to draft a resolution setting forth the Board's ruling. A resolution that satisfactorily sets forth the Board's ruling. A resolution that satisfactorily sets forth the Board's ruling shall be affirmed and signed by the President of the Board and served to the parties to the appeal by registered mail.

## **6. Appeal to the Superior Court**

If the Board issues a final decision other than to grant the relief requested in the complaint, the complaining person may seek further review by administrative mandamus in the San Francisco Superior Court. The procedures for pursuing a claim of administrative mandamus are set forth in section 1094.5 of the California Code of Civil Procedure.

Deadlines for filing a petition for review in the Superior Court are strict. The time to bring a petition is governed by Section 1094.6 of the California Code of Civil Procedure. Failure to file a timely petition for review may result in waiver of your right to further review.

## **7. Approval of the Rules**

These General Rules and Procedures are approved by the members of the Relocation Appeals Board this 6 day of Sept., 1995 and shall govern all proceedings before this Board until otherwise revoked, amended, or replaced by a majority vote of this Board. These General Rules and Procedures shall be made available at the request of any person and the Secretary of the Relocation Appeals Board shall provide copies of these General Rules and Procedures to all parties to appeals before the Relocation Appeals Board.

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