

Chapter 18: Relocation Payments and Services

§ 18-01 Services to Individuals Temporarily Displaced by Vacate Orders.

(a) **Definitions.** The following terms used in this section have the meanings stated below.

"**Administrative Code**" means the New York City Administrative Code.

"**Case Manager**" means an employee or agent of HPD assigned to coordinate and direct the provision of Relocation Services to a particular Relocatee.

"**Claimant**" means a person claiming eligibility for Relocation Services.

"**Family**" means those individuals who permanently resided in the Former Apartment with a Relocatee at the time the Vacate Order was issued.

"**Former Apartment**" means the dwelling unit in which the Relocatee and his or her Family formerly resided that is the subject of a Vacate Order.

"**HCR**" means the State of New York Homes and Community Renewal.

"**Housing Maintenance Code**" means Chapter 2 of Title 27 of the Administrative Code.

"**HPD**" means the City of New York Department of Housing Preservation and Development.

"**NYCHA**" means the New York City Housing Authority.

"**Prepared for Occupancy**" means, with respect to any dwelling unit, one that is free of all immediately hazardous violations of record pursuant to the Housing Maintenance Code, supplied with all appropriate fixtures and appliances, reasonably cleaned, and available for occupancy.

"**Relocatee**" means an individual, or a head of household and his or her Family, whose Former Apartment is the subject of a Vacate Order and who is eligible for Relocation Services under any provision of these Rules. "Relocatee" shall not include an owner of the property that is the subject of the Vacate Order or his or her Family.

"**Relocation Services**" means all relocation services offered or provided to a Relocatee by HPD, including Shelter Services.

"**Rule**" or "**Rules**" means 28 RCNY § 18-01.

"**Shelter Services**" means temporary shelter relocation services offered or provided to a Relocatee by HPD.

"**Site Occupancy Record**" means a written file concerning a Relocatee, maintained by a Case Manager, containing all documents and information concerning the Relocatee.

"**Standard Apartment**" means a dwelling unit approved by HPD that:

- (i) Has adequate floor area for the Relocatee and his or her Family pursuant to the Housing Maintenance Code;
- (ii) Has no immediately hazardous violations of record in the dwelling unit;
- (iii) Has no violations of record in the dwelling unit for vermin, mice, or other pest infestations, unless a letter from a licensed exterminator certifies that the building is under contract to be serviced monthly;
- (iv) Does not have any rooms or facilities which can be reached only through a public area, unless the dwelling unit is approved for single room occupancy use or is a room in a dwelling unit;
- (v) Has heat and hot water;
- (vi) Contains a private kitchen or kitchenette for the exclusive use of the Relocatee and his or her Family, unless the dwelling unit is approved for single room occupancy use or is a room in a dwelling unit;
- (vii) Contains private and fully enclosed toilet and bathing facilities for the exclusive use of the Relocatee and his or her Family, unless the dwelling unit is approved for single room occupancy use or is a room in a dwelling unit; and
- (viii) Has a window or adequate light and ventilation in each room pursuant to the Housing Maintenance Code.

"**Uninhabitable**" means, with respect to any dwelling unit, one that is unfit for human habitation, due to substantial structural or other damage that has not been remedied.

"**Vacate Order**" means one of the following orders of a local governmental agency requiring occupants of a building or dwelling unit to discontinue occupancy:

- (i) Vacate Order issued by the Department of Health and Mental Hygiene, pursuant to Administrative Code § 17-159 or other provision of law;
- (ii) A Vacate Order issued by the Department of Buildings pursuant to Administrative Code §§ 28-207.4 et seq. or other provision of law;
- (iii) A Vacate Order or other order issued by the Fire Department, pursuant to Administrative Code § 15-227 or other provision of law; and
- (iv) A Vacate Order or other order issued by HPD, pursuant to Housing Maintenance Code § 27-2139 or other provision of law.

"**Vacate Date**" means the date of issuance of a Vacate Order. If more than one Vacate Order affects a building or dwelling unit, "Vacate Date" means the date of issuance of the first Vacate Order affecting such building or dwelling unit.

(b) **Relocation Services.**

(1) To request Relocation Services, a Claimant for Relocation Services must provide:

- (i) Proof of identity, such as a driver's license, passport, government identification card, or other photo identification, and, for children, a birth certificate, letter from school with address, or proof of legal guardianship; and
- (ii) Documentation that he or she resided in the Former Apartment. Documentation of residency may include:
 - (A) a lease, sublease or license agreement verifying that the Claimant resided at the Former Apartment; or
 - (B) any two of the following:

- (a) a valid government-issued identification listing the Former Apartment as the Claimant's address;
- (b) a valid record from any government agency listing the Former Apartment as the Claimant's address;
- (c) a valid record relating to medical treatment, such as a prescription, that lists the Former Apartment as the Claimant's address;
- (d) a notarized written statement from the owner of the Former Apartment verifying that such Claimant resides at the Former Apartment, provided, however, that a statement by the owner stating that such Claimant does not reside at such Former Apartment shall not be used, by itself, to prevent such claimant from receiving Relocation Services without further documentation provided by such owner;
- (e) a valid, current utility bill addressed to the Claimant at the Former Apartment;
- (f) a written, notarized statement from a third party, non-governmental service provider, on the provider's letterhead, verifying that the provider's services were provided to the Claimant and that the Claimant resides at the Former Apartment; and
- (g) any other forms of verification that the department may deem appropriate, including, but not limited to, official payroll documentation, bank statement, or credit card statement.

(2) Upon receiving notice of a Vacate Order and verifying eligibility of a Relocatee, HPD will issue a notice of eligibility and offer Relocation Services to a Relocatee as provided in these rules. If HPD finds a Claimant to be ineligible, it will issue a notice of ineligibility. An offer of Relocation Services shall be made only once to any Relocatee while the Vacate Order is in effect.

(i) A Relocatee must accept or decline an offer of Relocation Services, as applicable, in whole or in part, in writing where a notice of eligibility has been issued by HPD.

(ii) If a Relocatee does not accept an offer of Relocation Services in writing, such offer (or the part not accepted) will be permanently withdrawn.

(3) If a Relocatee accepts an offer of Shelter Services, HPD may order a Relocatee to move from one temporary shelter to another if, in the judgment of HPD, this facilitates the work of HPD or reduces the costs of temporary shelter.

(4) A Relocatee who declines an offer of Shelter Services may be eligible for other Relocation Services as provided in these Rules. However, a Relocatee who has declined an offer of Shelter Services will not be eligible for any further Shelter Services, despite eligibility for other Relocation Services.

(5) HPD will provide a Relocatee with a copy of these Rules in English and Spanish and such other language as it deems necessary. HPD will notify such Relocatee of the name, office address and telephone number of the Case Manager assigned to the Relocatee. A copy of these Rules in English and Spanish and such other language as HPD deems necessary will also be made available in the offices of Case Managers.

(6) HPD will assist a Relocatee in completing and submitting an application for housing or a NYCHA housing application on behalf of the Relocatee. A Relocatee who fails or refuses to complete such application(s) will be ineligible for any further Relocation Services and subject to termination.

(7) HPD will pay the cost of Shelter Services in such amount as HPD deems adequate for Relocatees residing in temporary shelters.

(8) HPD will refer a Relocatee to one Standard Apartment. A Relocatee may request that such Standard Apartment be located in a particular borough, if available, provided, however, that a Relocatee may not refuse a Standard Apartment on the basis that it is not located in the preferred borough.

(9) HPD may withdraw its referral of a Standard Apartment and the Relocatee may withdraw his or her acceptance if the Standard Apartment is not Prepared for Occupancy within 30 days after the date that the Relocatee informed HPD of his or her acceptance.

(10) If HPD notifies the Relocatee that the Former Apartment has been repaired, the Relocatee's unjustified failure or refusal to return to the Former Apartment constitutes grounds for termination of Relocation Services.

(c) **Relocation Payments.** A Relocatee may be eligible for the following relocation payments:

(1) **Moving Expenses.** HPD will reimburse a Relocatee whose possessions are moved from the Former Apartment to a storage facility, a Standard Apartment, or lawful dwelling unit for his or her moving expenses in an amount determined by HPD. HPD will not reimburse a Relocatee if he or she is entitled to payment of moving expenses from another governmental agency or other source.

(2) **Storage Expenses.** HPD will reimburse a Relocatee whose possessions are moved from the Former Apartment to a storage facility for his or her storage expenses in an amount determined by HPD. HPD will not reimburse a Relocatee if he or she is entitled to payment of storage expenses from another governmental agency or other source. If a Relocatee's Relocation Services have been terminated or have expired, HPD will not reimburse storage expenses beginning 60 days after HPD has provided a termination or expiration notice to the Relocatee.

(3) **Relocation Allowance Payment for Replacing Personal Property.** HPD will provide a Relocatee with a relocation allowance payment for personal property as provided in Table A of this subdivision, or in such other amount as may be determined by HPD, if the Relocatee satisfies all of the following criteria:

(i) An entity designated by HPD or the Fire Department certifies that the Relocatee has lost all or most of his or her personal property as a result of a fire or other disaster that resulted in the Vacate Order;

(ii) The Relocatee is not under investigation or the subject of pending charges, and has not been convicted of or pled guilty to any charges, in relation to a fire of suspicious origin or any other unlawful act that caused or contributed to the Vacate Order;

(iii) The Relocatee is moving into a Standard Apartment or other lawful dwelling unit; and

(iv) The Relocatee's Relocation Services have not been terminated pursuant to these Rules.

Table a – Relocation Allowance Payment for Personal Property

Number of bedrooms	Allowance Payment
1	\$150.00
2	\$200.00
3	\$250.00
4	\$300.00
5	\$350.00

6 or more	\$400.00
Single room occupancy unit	\$100.00

(d) **Duties of a Relocatee.** A Relocatee must comply with the following:

- (1) The Relocatee must actively seek out a lawful dwelling unit and accurately report his or her progress to his or her Case Manager weekly or at such intervals as HPD requires. A Relocatee must keep HPD informed of his or her current address, telephone number and other contact information.
- (2) In the case of a Relocatee, prior to moving from a temporary shelter to a lawful dwelling unit found by his or her own efforts, or to signing a lease for such lawful dwelling unit, the Relocatee must notify his or her Case Manager in writing. This notice must include the address of the Relocatee's Former Apartment, the address of the lawful dwelling unit, and the names of the Relocatee and his or her Family.
- (3) A Relocatee who believes that a dwelling unit referred to him or her by HPD is not a Standard Apartment will deliver a notice to his or her Case Manager specifically stating in writing the facts upon which such conclusion is based within one week after the referral of such dwelling unit.
- (4) After having accepted a Standard Apartment referred by HPD and having been notified that it is Prepared for Occupancy, the Relocatee must deliver a notice to his or her Case Manager, within three business days after such notification, stating any facts which in his or her opinion would constitute grounds for a determination that the accommodations have not been Prepared for Occupancy.
- (5) The Relocatee must complete an application with NYCHA for housing and provide any information requested by HPD or by NYCHA relating to relocation efforts or the Relocatee's eligibility for Relocation Services.
- (6) The Relocatee must advise his or her Case Manager and HPD in writing whenever he or she finds a lawful dwelling unit through his or her own efforts and the date of expected occupancy.
- (7) The Relocatee must respond to and comply with all notices of appointments with his or her Case Manager and HPD and with prospective landlords or agents, including, but not limited to, appointments to view potential Standard Apartments.
- (8) If the Former Apartment is subject to rent control or rent stabilization, the Relocatee must apply to HCR to establish reduced rent for the Former Apartment. If HCR establishes the reduced rent for the Former Apartment at \$1.00 per month or another nominal amount, the Relocatee must pay such rent, without interruption, to establish and maintain any such right to reoccupy the Former Apartment when repairs have been completed.
- (9) If the Relocatee enters into an agreement with the owner of the Former Apartment terminating or diminishing his or her legal rights to occupancy of the Former Apartment, such action will result in termination of Relocation Services.

(e) **Termination of Relocation Services: Non-occupancy in Temporary Shelter.** This subdivision applies to a Relocatee who has accepted an offer of Shelter Services by HPD.

- (1) Before a Relocatee voluntarily moves out of a temporary shelter provided by HPD, he or she must deliver a written notice, which includes the moving date, to his or her Case Manager. Except as otherwise provided in this subdivision, upon such notification, HPD will terminate Relocation Services on the moving date.
- (2) If a Relocatee is or will be absent from any temporary shelter provided by HPD for four or more consecutive days but intends to return, he or she must notify HPD in writing in advance as to the cause of such absence, the date upon which he or she can return, and include any supporting documentation, which is subject to approval by HPD.
- (3) Except where a Relocatee has notified HPD in compliance with paragraph (2) of this subdivision and HPD has approved the absence from the temporary shelter, HPD may terminate Relocation Services as provided in these Rules upon HPD's determination that a Relocatee is not residing at his or her temporary shelter.

(f) **Termination of Relocation Services: Refusal of Referral.**

- (1) After notice and hearing as provided in subdivisions (h) through (l) of these Rules, Relocation Services will be terminated upon a Relocatee's unjustified refusal of one Standard Apartment that is Prepared for Occupancy and referred to him or her by HPD.
- (g) **Termination of Relocation Services: Other Grounds.** Relocation Services may be terminated after notice and hearing pursuant to subdivisions (h) through (l) of these Rules, even if HPD has made no referral to a Standard Apartment, upon occurrence of any one of the following:
 - (1) The Relocatee unjustifiably fails or refuses to move into the Former Apartment after having been notified by HPD or the owner that such dwelling unit or room has been repaired and is no longer Uninhabitable, as required by paragraph 10 of subdivision (b);
 - (2) The Relocatee fails or refuses to fill out an application with NYCHA for housing or any other housing application required by HPD, or fails or refuses to provide information required by HPD or NYCHA relating to relocation efforts or the Relocatee's eligibility for Relocation Services, as required by paragraph 6 of subdivision (b) or makes material misstatements or conceals material facts from HPD, NYCHA, or any other entity in any housing application that the Relocatee has submitted;
 - (3) The Relocatee fails or refuses to comply with the obligation to actively seek out a lawful dwelling unit and to accurately report his or her progress to the Case Manager on a weekly basis or at such intervals as HPD requires, or fails to keep HPD informed of his or her current address, telephone number and other contact information, as required under these Rules, as required by paragraph 1 of subdivision (d);
 - (4) The Relocatee or any member of his or her Family residing in a temporary shelter provided by HPD engages in conduct which threatens the health, safety or property of a Family member, other residents, guests or visitors in the shelter; City personnel, agents or employees; the owner of the shelter, his or her agents or employees; or any other person;
 - (5) The Relocatee makes material misstatements or conceals material facts from HPD, NYCHA, or any other entity concerning his or her initial or continued eligibility for Relocation Services;
 - (6) The Relocatee fails to respond to or comply with a notice for an appointment with employees of HPD, a Case Manager, or with prospective landlords or agents, including, but not limited to, an appointment to view a potential Standard Apartment;
 - (7) The Relocatee is ineligible for Relocation Services:
 - (i) because he or she did not in fact dwell in the Former Apartment or, the Relocatee is subject to a final order of eviction at the time that he or she would otherwise have been eligible for Relocation Services;
 - (ii) because the Relocatee has failed, where required, to file the application to HCR required by paragraph 8 of subdivision (d) of these Rules or has failed to remain current on his or her obligation to pay a reduced rent of \$1.00 per month or another nominal amount for the Former Apartment as established by HCR;
 - (iii) because the Relocatee has signed or otherwise entered into an agreement with the owner of the Former Apartment terminating or diminishing

his or her legal rights to occupancy of the Former Apartment, as provided by in paragraph 9 of subdivision (d);

(iv) because the Former Apartment is no longer Uninhabitable and the Relocatee has unjustifiably failed or refused to return to the Former Apartment; or

(v) because he or she is otherwise ineligible for Relocation Services; or

(8) The Relocatee behaves in a manner which substantially interferes with the orderly operation of the temporary shelter provided by HPD, including, but not limited to, repeated violations of any rules or regulations of such shelter.

(h) Hearing Procedures for Termination of Relocation Services.

(1) Prior to the termination of Relocation Services, HPD will give the Relocatee notice of the intended termination and an opportunity to be heard, according to the procedures stated in these Rules.

(2) HPD will deliver a notice of intention to terminate Relocation Services to a Relocatee in the manner provided in subdivision (n) of these Rules no fewer than seven days prior to the scheduled date of the hearing, provided, however that if the notice of intention to terminate to a Relocatee is based upon an allegation that the Relocatee behaved in a manner described in paragraph 8 of subdivision (g), or engaged in conduct described in paragraph 4 of subdivision (g), then the notice will be delivered no fewer than three days prior to the scheduled date of hearing. The notice will be in Spanish and English and such other language as the Department deems necessary. The notice will state:

(i) the date upon which HPD intends to terminate Relocation Services;

(ii) the factual and legal basis upon which HPD intends to terminate such Relocation Services;

(iii) the time, date and place of the hearing;

(iv) that for good cause, the Relocatee may request a change in the hearing date indicated in HPD's notice of intended termination;

(v) that appearance at the hearing will stay any intended termination of Relocation Services until at least seven days after a hearing officer's decision; and

(vi) that, if the Relocatee requests a hearing, he or she has the right to be represented by an attorney or other representative, to have a translator present, to testify, to produce witnesses to testify, to offer documentary evidence, to cross-examine opposing witnesses, and to examine the Site Occupancy Record, upon request, at a reasonable time prior to the hearing.

(3) If the Relocatee is unable to attend the hearing at the time, date and place indicated in the notice of intended termination, he or she must deliver notice of such unavailability to HPD in writing at least three days before the proposed hearing date.

(i) Hearing Procedures; Conduct of Hearing.

(1) The termination hearing will be conducted by an impartial hearing officer designated by HPD. The hearing officer will have the power to administer oaths and have no prior personal knowledge of the facts concerning the proposed termination of Relocation Services.

(2) The hearing will be informal. All relevant and material evidence will be admissible and the legal rules of evidence will not apply. The Site Occupancy Record will be part of the evidence at any hearing whether or not the Case Manager is or can be present. The hearing will be confined to the factual and legal issues raised in the notice of intended termination of Relocation Services.

(3) The Relocatee will have a right to be represented by counsel or other representative, to testify, to produce witnesses to testify, to offer documentary evidence, to cross-examine opposing witnesses and to examine the Site Occupancy Record.

(4) For good cause, the hearing may be adjourned by the hearing officer on his or her own motion or at the request of the Relocatee or HPD.

(5) HPD will provide translation services for Relocatees who request such services prior to the date of the termination hearing.

(j) Hearing Procedures: Decision.

(1) After a hearing has concluded, the hearing officer will render a decision which includes:

(i) written findings of fact;

(ii) the legal basis for any decision to terminate or to deny termination of Relocation Services; and

(iii) if the termination is granted, the date of termination of Relocation Services.

(2) A copy of the decision will be provided to the Relocatee. If the termination is granted, a copy of the decision will be provided no fewer than seven days prior to the date of termination set by the hearing officer. In the case of termination for threatening conduct by the Relocatee or a member his or her Family as described in paragraph 4 of subdivision (g) of these Rules, such decision will be provided at least 24 hours before the termination date. Notwithstanding any other provision of these Rules, the hearing officer will not set a date for termination of Relocation Services that is later than 14 days after the date of his or her decision.

(3) Delivery of the copy of a decision rendered pursuant to this section will be made in the manner for giving notice provided in subdivision (n) of these Rules.

(4) A decision rendered pursuant to this subdivision will be final absent a timely appeal as described in subdivision (l) of these Rules, and will apply to the Relocatee and his or her Family, if any.

(k) Hearing Procedures: Default.

(1) Failure to appear at the termination hearing on the date described in HPD's notice of intended termination of Relocation Services, or on any adjourned date, will result in termination of Relocation Services, unless the Relocatee makes a written application to the hearing officer. Such written application must be filed no later than four days before the scheduled date of termination of Relocation Services. In the application, the Relocatee must provide facts establishing that either:

(i) the Relocatee was not properly served with a notice of intended termination of Relocation Services and opportunity for a hearing; or

(ii) the default was excusable and that Relocatee has a meritorious defense to the intended termination.

(2) The termination date may be delayed if such written application is made by the Relocatee prior to the scheduled date of termination of Relocation Services.

(3) The written application submitted to the hearing officer by the Relocatee pursuant to this section may be granted if the Relocatee provides facts establishing either of the grounds described in paragraph (1) of this subdivision. In such circumstance, in accordance with the provisions of subdivision (h) of these Rules, HPD will deliver to the Relocatee a new notice of intention to terminate Relocation Services and opportunity for a hearing. However, the

hearing date will be scheduled on the third business day after delivery of such notice.

(l) **Appeal of Hearing Decision Terminating Relocation Services.**

(1) An appeal from a decision of a hearing officer may be made in writing to the person designated by the Commissioner of HPD, if it is received within five days after the date of delivery of the hearing officer's decision. The record before the Commissioner's designee will consist of the record of the proceedings, the Site Occupancy Record, the hearing officer's decision and any written arguments which the appellant may wish to submit.

(2) Termination of Relocation Services will be stayed pending a determination of the appeal. A copy of the decision on appeal will be delivered in the manner for giving notice provided in subdivision (n) of these Rules. Termination will not be ordered during the seven-day period immediately following the delivery of the decision on appeal. However, in the case of termination for threatening conduct of the Relocatee or his or her Family as described in paragraph 4 of subdivision (g) of these Rules, termination may occur within 24 hours after delivery of notice of an adverse decision on appeal.

(m) **Determination of Claimant's Eligibility for Relocation Services.***

***Editor's note:** There were two subsections designated as (2) in this subsection (m); renumbered at the discretion of the editor.

(1) HPD will provide a written determination approving or denying a Claimant's eligibility for applicable Relocation Services.

(2) A Claimant must advise HPD in writing of his or her acceptance of applicable Relocation Services after receiving the notice of eligibility for such Services. If such Claimant fails to provide such notice, such offer will be permanently withdrawn. A claimant may not administratively appeal a withdrawal of an offer of Relocation Services based upon failure to notify HPD of acceptance.

(3) An appeal by a Claimant from a decision by HPD to deny Relocation Services based upon ineligibility for a reason other than failure to notify HPD of acceptance, may be made in writing to the person designated by the Commissioner of HPD, if it is received within ten days of the date of the denial letter. The record before the Commissioner's designee will consist of the basis for the department's determination and any written arguments which the appellant may wish to submit.

(4) The appeal officer will provide a timely written determination approving or denying the Claimant's appeal. No Relocation Services will be provided pending such determination.

(n) **Notice.**

(i) Any written notice by HPD required to be provided under these Rules will be delivered by one of the following methods:

(1) personally served on a Relocatee;

(2) mailed to the Relocatee at his or her place of residence in a temporary shelter or other residence as provided by such Relocatee, or, in the case of a written determination of eligibility for Relocation Services to a Claimant at the address provided by such Claimant;

(3) left with a person of suitable age and discretion at Relocatee's place of residence in a temporary shelter or other residence as provided by such Relocatee; or

(4) placed under the door of Relocatee's place of residence in a temporary shelter and a copy left with the desk clerk or other responsible representative of the proprietor or lessee of the temporary shelter.

(ii) Unless these Rules specifically require otherwise, where a Relocatee is required to provide any notice under these rules, he or she must provide a copy to his or her Case Manager and HPD in writing.

(Amended City Record 6/19/2015, eff. 7/19/2015; amended City Record 10/13/2017, eff. 11/12/2017)

§ 18-02 Relocation Assistance to Persons Displaced from City-Owned Dwelling Units by Certain Vacate Orders.

(a) *Application.* Notwithstanding the provisions of 28 RCNY § 18-01, this 28 RCNY § 18-02 shall apply to persons residing in City-owned buildings which are subject to a Vacate Order which, by its terms, shall take effect thirty (30) or more days after the date of issuance.

(b) *Definitions.* The following terms used in this section shall have the meaning stated below.

Administrative Code. "Administrative Code" refers to the New York City Charter and Administrative Code.

Agency or Department. "Agency or Department" refers to the Division of Relocation Operations, Department of Housing Preservation and Development (HPD), 75 Maiden Lane, New York, New York 10038.

Prepared for occupancy. "Prepared for occupancy" refers to apartments that are prepared for occupancy when freed of all violations classified as immediately hazardous by the Office of Rent and Housing Maintenance pursuant to Article 2 of Subchapter 5 of Chapter 2 of Title 27 of the Administrative Code, supplied with all appropriate fixtures and appliances, painted, exterminated, if necessary, and reasonably cleansed and available for occupancy.

Relocatee. "Relocatee" refers to an individual or a head of household and his or her family, deprived of a permanent residence rented by the person, household or family in the City of New York as a direct result of the enforcement of a Vacate Order (as defined in these regulations) and eligible for relocation services or benefits under these regulations and any other applicable law. "Family" and "household" shall include those persons who permanently resided with a head of household at the time the Vacate Order was issued.

Relocatee accepts an apartment. "Relocatee accepts an apartment" refers to relocatee has established to the Department that the relocatee has leased an apartment in a privately-owned building; or relocatee has paid the first month rent for an apartment in a City-owned building.

Relocation manager. "Relocation manager" refers to an employee of the Department assigned to coordinate and direct the furnishing of relocation services to a particular relocatee.

Site occupancy record. "Site occupancy record" refers to a written file concerning each relocatee maintained by the relocation manager, recording all pertinent agency actions concerning the relocatee.

Standard apartment. "Standard apartment" refers to an apartment satisfying the following criteria:

(i) There may not be more than three (3) immediately hazardous violations as classified by the Office of Rent and Housing Maintenance pursuant to Article 2 of Subchapter 5 of Chapter 2 of Title 27 of the Housing Maintenance Code, in the building which directly and adversely affect the use of the apartment;

(ii) The number of rooms and the floor area of rooms must be adequate for all resident family or household members and meet the requirements of the Administrative Code;

(iii) There shall be no infestation, by vermin, mice or other pests, or a letter shall be submitted from a licensed exterminator certifying that the building is under contract to be serviced monthly;

- (iv) It must be self-contained and may not have any rooms or facilities which can be reached only by going through a public area;
- (v) The building must have central heat and hot water;
- (vi) There must be a private kitchen or kitchenette within the apartment for the exclusive use of the tenant;
- (vii) There must be private and fully enclosed toilet and bathing facilities within the apartment for the exclusive use of the tenant; and
- (viii) Each room must have a window or adequate light and ventilation.

Suitable Accommodation. "Suitable accommodation" refers to accommodations adequate in size to meet the needs of relocatee and his/her family as defined by § 27-2075 of the Administrative Code.

Vacate Order. "Vacate Order" refers to any order of a governmental agency requiring occupants of a structure to depart therefrom, which order, by its terms, shall take effect thirty (30) or more days after its issuance, pursuant to the following:

- (i) Health Department vacate orders issued pursuant to § 17-159 of the Administrative Code (relating to orders for housing defects likely to cause disease) or other provision of law;
- (ii) Buildings department vacate orders issued pursuant to §§ 26-101 et seq. of the Administrative Code or other provision of law.
- (iii) Fire department vacate orders issued pursuant to § 15-227 of the Administrative Code or other provision of law
- (iv) Code enforcement vacate order issued pursuant to § 27-2139 of the Administrative Code by the Division of Code Enforcement or other divisions of HPD.

(c) *Department duties.*

(1) Upon receiving notice of a Vacate Order which is applicable to a City-owned building, the Department shall promptly offer relocation assistance to residential tenants of the building and shall furnish them with a copy of this section in English and Spanish and notify them of the name, office address and telephone number of the Relocation Manager assigned to them. Copies of this section in English and Spanish shall be posted in the office of the Relocation Manager.

(2) The Department shall refer relocatee to at least three (3) Standard Apartments or apartments which may be repaired to be Standard Apartments, which may be located in other City-owned buildings. Such apartments shall, if available, be located in the borough of the relocatee's choice. If the relocatee prefers relocating into a rooming unit, the relocatee shall be referred to rooming units if any are available.

(3) The Department may, in its discretion, provide temporary shelter as provided in subdivision (n) of this section subject to such conditions as the Department may impose.

(d) *Obligations of Relocatee.*

(1) The relocatee has the duty of inspecting a dwelling unit to which the relocatee has been referred by the Department within three (3) working days. If the relocatee believes that the accommodations are unsuitable or otherwise unacceptable, the relocatee must give the Department a written description of the specific defects claimed within four (4) working days after the referral.

(2) The relocatee has a duty to advise the Department whenever permanent accommodations are found and to keep the Department advised regarding the date of expected occupancy.

(3) The relocatee is entitled to withdraw his or her acceptance of an apartment if the apartment is not prepared for occupancy within thirty (30) days after initial acceptance. In such an instance, the relocatee shall notify the Department in writing, if possible, or orally, within three (3) working days of the withdrawal of acceptance of an apartment.

(e) *Moving expenses allowance.*

(1) *Eligible persons.* A relocatee shall be entitled to a moving expense allowance if the relocatee satisfies the following criteria:

- (i) The relocatee is not entitled to payment of moving expenses from another City agency;
- (ii) The relocatee must be moving to an accommodation to which the relocatee was referred or which has been approved by the Relocation Manager;
- (iii) The relocatee must not be under investigation by the Fire Department in relation to a fire of suspicious origin; and
- (iv) The Department has not determined the relocatee to be ineligible pursuant to subdivision (g) of this section of these regulations.

(2) *Moving expense allowance.* An eligible relocatee shall receive the following assistance:

- (i) The Department may move the relocatee's belongings at the Department's expense, or
- (ii) If the relocatee notifies the Department prior to the date of the move that the relocatee wishes to arrange for moving independently, the Department may grant financial assistance in accordance with a schedule of moving allowances prepared by the agency, which shall provide for an allowance based on the number of rooms vacated as follows:

Number of rooms vacated	Amount
1 - 1 1/2	\$75.00
2 - 2 1/2	\$110.00
3 - 3 1/2	\$150.00
4 - 4 1/2	\$190.00
5 - 5 1/2	\$225.00
6 - 6 1/2	\$250.00
7 - 7 1/2	\$275.00
8 - 8 1/2	\$300.00

Such financial assistance shall be:

(A) By credit against future rent if the relocatee is moving into a City-owned building, or

(B) By reimbursement to the relocatee if the relocatee is moving into a building which is not City-owned, provided that prior to such reimbursement relocatee shall submit a paid bill within ten (10) working days following the move.

(f) *Relocation incentive allowance.*

(1) *Eligible persons.* A relocatee shall be awarded a relocation incentive payment, calculated as set forth below, if the relocatee satisfies the following criteria.

(i) The relocatee must either (A) accept an apartment to which the relocatee has been referred by the Relocation Manager within 10 days of having been referred to three Standard Apartments by the Relocation Manager and move into that apartment within 10 days of the date on which that apartment is prepared for occupancy; or (B) move within 30 days from the initial verbal or written contact of the relocatee by the Relocation Manager after issuance of the Vacate Order; whichever is later;

(ii) The relocatee must move to an accommodation to which the relocatee has been referred by or which has been approved by the Relocation Manager;

(iii) The relocatee must not be under investigation by the Fire Department in relation to a fire of suspicious origin;

(iv) The Department has not determined the relocatee to be ineligible pursuant to subdivision (g) of these regulations.

(2) *Incentive allowance.* An eligible relocatee shall receive a relocation incentive payment in accordance with the Maximum Monthly Shelter Allowance schedule established under Human Resources Administration Regulations, Chapter II, § 352.3(2)-1 as set forth below:

Number of Persons Relocating	Amount of Payments
1	\$152.00
2	\$183.00
3	\$194.00
4	\$218.00
5	\$226.00
6	\$249.00
7	\$303.00
8 or more	\$317.00

The above schedule shall be revised without further amendment to these regulations, whenever HRA amends its Maximum Monthly Shelter Allowance Shelter.

(g) *Determination of Ineligibility for Benefits.* The Department may determine that a relocatee is ineligible for benefits if:

(1) A relocatee unjustifiably refuses to accept three (3) standard apartments or, if the relocatee is to be relocated to a rooming unit, three (3) rooming units which are suitable accommodations, to which the relocatee has been referred by the Department.

(2) The relocatee has made material misstatements or concealed material facts from the Department concerning the relocatee's initial or continued eligibility for relocation services;

(3) Suitable and habitable permanent accommodations are available to the relocatee at the time of notice of determination;

(4) The relocatee has failed to respond to a notice for appointment with employees of the Department, as required;

(5) The relocatee did not in fact dwell in the vacated premises;

(6) The relocatee, if in temporary shelter, has had temporary shelter benefits terminated under subdivisions (f)(3) or (5), (g) or (h) of 28 RCNY § 18-01;

(7) The relocatee or a member of the family or household has engaged in conduct which threatens the health, safety or property of the residents, guests or visitors of residents of the building to be vacated or the staff of the Department;

(8) The relocatee was subject to legal action by the Department which is resolved in the Department's favor;

(9) The relocatee has refused, without good cause, a request by the Department to provide pertinent information relevant to the agency's relocation efforts, or the relocatee's eligibility for benefits or services; or

(10) The relocatee is otherwise ineligible.

(h) *Review of agency determination.*

(1) *Protest of determination ineligibility.* If it is determined by the agency that the relocatee is ineligible for benefits, the relocatee may, within thirty (30) days of receiving written notification of ineligibility, file with the Assistant Commissioner of the Division of Relocation Services a written protest and request that the determination be reviewed. The relocatee's protest shall set forth the basis for the protest and the reasons claimed as the grounds on which such determination should be reversed. The protest shall be reviewed by the Assistant Commissioner unless the relocatee indicates that he or she desires a hearing or the Assistant Commissioner, in his or her discretion, directs that a hearing be held. Upon receipt of a request for a hearing or if a determination is made that a hearing would be appropriate, the Department shall establish the time, date and place for the hearing and provide notice of the hearing to the relocatee. The provisions of subdivisions (i) to (m) of this section of the regulations shall apply to the notice of hearing and the hearing procedures.

(2) *Other claims for review of an agency action.* In situations other than a determination of ineligibility, if a relocatee believes he or she has been or will be harmed by any action of the Department which the relocatee believes is in violation of any law or regulations, the relocatee may make application for relief to the Assistant Commissioner of the Division of Relocation Operations. The relocatee shall file a written request setting forth the action and the manner in which he or she believes he or she will be harmed. The Assistant Commissioner, in his or her discretion, may issue a determination on the request or direct that a hearing be held on the application. If a hearing is to be held, the provisions of subdivisions (i) to (m) of this section shall apply to the notice of hearing and hearing procedures.

(i) *Hearing procedures: Conduct of hearing.*

(1) A hearing held pursuant to subdivision (h) of this section shall be conducted by an impartial hearing officer appointed by the Department in accordance with the Manual for Hearing Officers in Administrative Adjudication. The hearing officer may be an employee of the agency. The hearing officer shall have the power to administer oaths and shall have no prior personal knowledge of the particular facts concerning the denial of benefits or the claim to be reviewed.

(2) The Department shall establish the date, time and place of any hearing and shall provide notice of the date, time and place of the hearing to the relocatee in the manner provided in subdivision (m) of this section at least three (3) days prior to the hearing date.

(3) A hearing shall be informal. All relevant and material evidence shall be admissible. Any site occupancy record shall be part of the evidence at any hearing whether or not the Relocation Manager is or can be present. A hearing shall be confined to the factual and legal issues raised in the determination for which review has been sought by the relocatee.

(4) A relocatee shall have a right to be represented by counsel or other representative, to testify, to produce witnesses to testify, to offer documentary evidence to cross-examine opposing witnesses and to examine the site occupancy record.

(5) For good cause, a hearing may be adjourned by the hearing officer on the hearing officer's own motion or at the request of a relocatee or the Department.

(6) A hearing officer shall make a written summary of the proceedings including a statement of the relocatee's oral and written position and shall annex any documentary evidence offered at the hearing in support thereof. The relocatee shall be shown this summary and given the opportunity to object. In the case of a Spanish-speaking relocatee, the summary shall be read to the relocatee in Spanish. In the event any objection is not resolved at the hearing, that objection shall be made part of the summary. The relocatee shall promptly be provided with a copy of the completed summary. The hearing officer may, in the hearing officer's discretion, combine this summary with any findings of fact.

(7) The Department will provide adequate translation services for a Spanish-speaking relocatee.

(j) *Hearing procedures: decision.*

(1) The hearing officer shall render a decision which shall include written findings of fact and shall state the legal basis for any decision. The decision shall be final absent a timely appeal as described in subdivision (l) below.

(2) A copy of the decision shall be mailed or delivered to the relocatee within seven (7) business days after the hearing. Delivery shall be made in the manner for giving notice provided in subdivision (m) of this section.

(3) The hearing officer may take into consideration relevant circumstances, including, in appropriate cases:

(i) The relocatee's cooperation with the Department;

(ii) That the accommodation previously accepted by the relocatee and not withdrawn by the Department is not prepared for occupancy;

(iii) That physical incapacity or illness of the relocatee or member of the family or household prevented the relocatee from complying with the relocatee's obligations under subdivision (d) hereof; and

(iv) The hardship which will result to the relocatee or the family or household.

(k) *Hearing procedures: default.* Failure to appear at a scheduled hearing shall result in dismissal of the claim for review of an agency action unless, upon written application to the Department, the relocatee establishes either:

(1) That the relocatee was not properly served with a notice of hearing; or

(2) That the default was excusable and that relocatee has a meritorious defense to action taken by the agency.

(l) *Appeal of hearings.* An appeal from a decision of a hearing officer may be made in writing to the Assistant Commissioner of Division of Relocation Services or the Assistant Commissioner's designee provided it is received by the Department not less than five (5) days after service of the hearing officer's decision. The record before the Assistant Commissioner shall consist of the summary of the proceedings, the site occupancy record, the hearing officer's decision and any affidavits or documentary evidence or written arguments which the appellant may wish to submit. A copy of the decision on appeal will be delivered in the manner for giving notice provided in subdivision (m) of this section.

(m) *Notice.* Unless this article provides for another method of notice, any notice required under these regulations to be given or served by the Department shall be:

(1) Personally served on the relocatee;

(2) Left with a person of suitable age and discretion at the relocatee's place of residence and mailed to the relocatee; or

(3) Affixed to the door of the relocatee's place of residence and mailed to the relocatee.

(n) *Temporary shelter.*

(1) The Department, in its discretion, may provide temporary shelter prior to or after the effective date of the vacate order. The Department may limit the granting of such benefits to situations in which the relocatee has selected a permanent accommodation and the dwelling is not yet ready for occupancy.

(2) The Department, if it provides temporary shelter, shall pay the actual cost of temporary shelter up to \$12 per day for one adult and \$7 per day for each additional person residing with the relocatee in the room or, if suitable substitute shelter is unavailable for these amounts, the Department may pay such additional sums as are necessary to obtain suitable shelter for the relocatee.

(3) If a relocatee is provided temporary shelter, the relocatee shall be provided with a copy of 28 RCNY § 18-01, in English and in Spanish, upon moving into temporary shelter and only the provisions of that section relating to termination of temporary shelter benefits and the obligations of a relocatee in temporary shelter shall apply to the relocatee.

(o) *Waiver.* The Department may waive all or part of the foregoing rules and regulations where the circumstances warrant such exemption. Any waiver to be effective shall require the written approval of the Assistant Commissioner of the Division of Relocation Operations or his or her designee and shall include a specific statement of the reason(s) for such waiver.

§ 18-03 FINDER'S FEES. [REPEALED]

(Repealed City Record 6/13/2018, eff. 7/13/2018)

§ 18-04 Relocation of Tenants from Public Improvements and Quasi-Public Sites and City Assisted Urban Renewal Sites.

(a) *Purpose.* The purpose of this section is to implement for the City of New York the rules and regulations affecting relocation practices and benefit payments for those eligible site occupants who are displaced from public improvement and quasi-public sites or from urban renewal sites which are not federally assisted.

(b) *Definitions.*

Business concern. "Business concern" refers to a corporation, partnership, individual proprietor or other private entity, including a nonprofit organization, engaged in some type of business, professional or institutional activity necessitating fixtures, equipment, stock in trade, or other tangible property for the carrying on of the business, professional or institution.

City assisted urban renewal site. "City assisted urban renewal site" refers to undertakings and activities of the City of New York in a designated area, under an urban renewal plan as authorized under the provisions of Article 15 of the General Municipal Law, and which is not assisted by the Federal Government.

Displaced person. "Displaced person" refers to any family, individual, or partnership, corporation or association who is displaced or moves from real property, or who moves his personal property from such real property, in or after the date of the acquisition of the real property for the site or project.

Dwelling. "Dwelling" refers to the purpose of determining payments to residential tenants or persons in occupancy under regulations governing all benefit payments other than moving expenses, the term "dwelling" shall mean the primary place of permanent abode of a person and does not include seasonable or part time dwelling units such as beach houses or vacation bungalows.

Family. "Family" refers to two or more individuals who by blood, marriage, adoption or mutual consent live together as a family unit. For example, two roommates would not be a family, but a couple, who live together as a family, even if not formally married, would be entitled to benefits as if they were married. A certificate of registration as domestic partners in the City of New York shall be evidence of a family relationship for the purposes of this section.

Finder's fee apartment. "Finder's fee apartment" refers to a standard dwelling unit which is provided to the Department of Housing Preservation and Development by any owner, agent or broker for a fee, and into which a relocatee has been moved by the Department.

Furnished room. "Furnished room" is a room rented furnished, usually by the week, which does not have a toilet and bath for the exclusive use of the tenant. Unit must be in conformance with local code standards for boarding houses, or other dwellings for congregate living.

Individual. "Individual" refers to a person who is not a member of a family.

Institutionalized. "Institutionalized" refers to a term to mean the placement of a residential tenant to any hospital, nursing home, or other institution on an indefinite basis.

Property. "Property" refers to tangible personal property, excluding fixtures, equipment and other property which under State or local law are considered real property, but including such items of real property as the site occupant may lawfully remove.

Public housing. "Public housing" refers to housing operated, maintained or leased by the New York City Housing Authority.

Public improvement site. "Public improvement site" refers to an area which the City of New York has condemned for a public use; such public uses may be schools, libraries, hospitals, parks, playgrounds, road widening, police stations, fire houses, etc.

Standard Unit. "Standard unit" refers to one which is decent, safe and sanitary and must:

- (i) have a window or adequate light and ventilation in every room.
- (ii) have central heat and central hot water system.
- (iii) have a kitchen or kitchenette for the exclusive use of the tenant.
- (iv) have a fully enclosed bathroom containing toilet and bath for the exclusive use of the tenant.
- (v) have no hazardous violations as recorded by the Department of Buildings against the premises.
- (vi) be inspected and approved as standard by the Department of Housing Preservation and Development.
- (vii) rental should not exceed 25 percent of the relocatee's gross income or within the financial means of the displaced person.
- (viii) not be generally less desirable than the acquired dwelling with respect to public utilities, public and commercial facilities, and be reasonably accessible to the displaced persons present or potential place of employment.
- (ix) not be overcrowded.

(c) *Basic eligibility conditions for relocation payments.* In order to qualify for benefits as a displaced person all the following conditions must be fulfilled:

- (1) The real property in which the person resides or does business must have been acquired by the City of New York; and the person must have moved as a result of its acquisition.
- (2) The person must be an occupant of the real property on the date title vested in the City of New York.
- (3) Displacement is made necessary by the acquisition of such real property by the City of New York.

(d) *Determinations and appeals.* Determinations by the Commissioner of the Department of Housing Preservation and Development or his designee, shall be final as to payments under these rules and regulations. However, in the event of dissatisfaction by any displaced person, such person shall have the following right of review:

- (1) In case of any disputed questions of eligibility or determinations of the amount of a relocation payment, which is not disposed by agreement, the displaced person may request and will receive a review by the Commissioner or his designee, which designee shall not be one who has participated in the original decision.
- (2) Upon such review, the displaced person may submit any and all additional material in writing for consideration in the matter.
- (3) Such review as provided in paragraph (1) above, must be requested in writing within 30 days of the date of the original determination by the Department. The request shall be sent to Commissioner of the Department of Housing Preservation and Development, 100 Gold Street, New York, N.Y. 10038.
- (4) The decision of the Commissioner shall be made in writing to the displaced person making such appeal, which decision shall be final.

(e) *Moving and related expenses.* Whenever the acquisition of real property for a program or project will result or has resulted in the displacement of any displaced person from the required site on or after the effective date of these rules, the head of the Department of Housing Preservation and Development or his designee, shall make a payment to any displaced person upon application as approved by such official for:

- (1) The actual reasonable expenses in moving himself, his family, business, or other personal property;
- (2) The actual direct loss of tangible personal property incurred as a result of moving or discontinuing a business 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 Department of Housing Preservation and Development, or his designee;
- (3) The actual reasonable expense of searching for a substitute business site. The amount of this payment is limited to \$500. Payment for expenses related to the finding of replacement housing is not authorized.

(f) *Actual reasonable expenses in moving.*

- (1) *Allowable expenses.*
 - (i) Packing and crating of personalty.
 - (ii) Advertising for packing, crating and transportation as the head of the Department of Housing Preservation and Development or his designee may require.
 - (iii) Storage of personal property for a period not to exceed 6 months when the head of the Department of Housing Preservation and Development, or his designee, determines that storage is necessary.
 - (iv) Insurance premiums covering loss and damage of personal property while in storage or transit.
 - (v) Removal, dismantling and reassembly of machinery, equipment, appliances and other items, not acquired as real property, including reconnection of utilities which do not constitute an improvement to the replacement site, and which were not acquired by the City of New York.
 - (vi) Such other reasonable expenses as determined by the head of the Department of Housing Preservation and Development, including expenditure incurred by and in behalf of the City incidental to the move.

(2) *Limitations.*

- (i) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially established by the Department of Housing Preservation and Development unless the Department of Housing Preservation and Development determines that documentation submitted by the displaced person justifies a larger amount.
- (ii) When an item of personal property used in connection with any business is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale, or the cost of moving, whichever is less.
- (iii) When personal property used in connection with any business to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the head of the Department of Housing Preservation and Development or his designee, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market.
- (iv) The owner of an outdoor advertising display who does not receive either a fixture award or a fee award, and who does not conduct a business on the site, shall be entitled only to moving expenses. However, the amount of the moving expense to be paid shall be limited to the less of
 - (A) The value of the sign or
 - (B) The actual moving cost.

(v) In the event any tenant who moves chooses to take actual moving expense allowances, the following notice to the Department of Housing Preservation and Development is required:

(A) Residential tenants must provide not less than 5 days written notice with moving estimate before the move takes place of tenant's intention.

(B) Commercial tenants must provide notice of intention to move not less than 30 days nor more than 90 days prior to the commencement of the move, and must submit 3 independent bona-fide estimate or bids at least 15 days prior to the commencement of the move.

(g) *Exclusions from moving expenses and losses.* The following items are excluded from moving expenses and losses:

- (1) Cost of moving structures, improvements or other real property in which the displaced person reserved ownership.
- (2) Interest on loans to cover moving expenses.
- (3) Loss of good will.
- (4) Loss of profits.
- (5) Loss of trained employees.
- (6) Personal injury.
- (7) Cost of preparing the application for moving and related expenses.
- (8) Modification of personal property to adapt it to the replacement site, except when required by law.
- (9) Additional expenses incurred because of living in a new location.
- (10) Such other items as the head of the Department of Housing Preservation and Development determined should be excluded.

(h) *Actual direct loss of property by business.*

- (1) When the personal property other than stock kept for sale is abandoned, the displaced person is entitled to payment for the difference between the in-place value and the amount which he receives from the sale of the item, or the cost of moving, whichever is less.
- (2) When the displaced person does not move personal property and claims direct loss, he shall be required to make bonafide effort to sell it.
- (3) When personal property is sold and the business reestablished, the displaced person is entitled to payment as provided in 28 RCNY § 18-04(f)(2)

(ii).

(i) *Expenses in searching for replacement business site.*

- (1) Subject to the limitation herein, the following items are allowed:
 - (i) Travel costs.

- (ii) Reasonable cost for meals and lodging.
- (iii) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed \$10 per hour.
- (iv) Broker or realtor fee to locate a replacement business with the advance approval of the head of the Department of Housing Preservation and Development or his designee.

(2) *Limitation on such expenses.* The total amount which a displaced person may be paid for searching expense shall not exceed \$500.

(j) *Payments in lieu of moving and related expenses.*

(1) *Residential tenants.*

(i) Any displaced person eligible for moving expense payments who is displaced from a dwelling may, in lieu of actual moving expense, elect to accept a fixed moving expense allowance not to exceed \$300 according to the following schedule:

(A) *For persons who own furniture:*

No. of Rooms	Amount / No. of Rooms	Amount
1 - 1 1/2	\$120 / 5 - 5 1/2	\$300.00
2 - 2 1/2	\$170 / 6 - 6 1/2	\$300.00
3 - 3 1/2	\$215 / 7 - 7 1/2	\$300.00
4 - 4 1/2	\$260 / 8 - more	\$300.00

(B) *For persons who do not own furniture:*

\$25, for the first room and \$15 additional for each additional room.

(ii) Every displaced residential tenant who chooses a fixed payment moving expense in lieu of actual moving expense shall also be entitled to a Dislocation Allowance of \$200. This Dislocation Allowance is not subject to any set off by the Department of Housing Preservation and Development.

(iii) In the event any residential tenant is required by the Department of Housing Preservation and Development to move to another unit within the same site, whether through emergency or furtherance of clearance, such tenant can at his option elect to receive actual money expenses or the fixed "in lieu of payment. No Dislocation Allowance can be paid for an on-site move.

(2) *Business fixed payment.* Any displaced person otherwise eligible for moving expense payment who is displaced from his place of business may elect to choose one of three types of fixed payments in lieu of actual moving and related expenses:

(i) *Six times the monthly rental.* This choice may be elected by any commercial tenant. The maximum payment if \$4,000, the minimum is 400, and such choice replaces actual moving expenses and related expense. It is not necessary to submit moving estimates.

(ii) *"In lieu of" payment.* This choice may be selected by a commercial tenant who satisfies the head of the Department of Housing Preservation and Development, or his designee, that:

(A) The business cannot be relocated without a substantial loss of its existing patronage. Loss of existing patronage to a business must include the following factors: the type of business conducted by the displaced concern; the nature of the clientele of the displaced concern; and the relative importance of the present and proposed location to the displaced business; and

(B) The business is not a part of a commercial enterprise having at least one other establishment not being acquired by the City of New York, which is in the same or similar business; and

(C) The business contributes materially to the income of the displaced owner. This standard eliminates those part-time family occupations such as newspaper routes, part-time typing, etc. unless they contribute substantially to the displaced person's income.

This "in lieu of" payment shall be in the amount equal to the average annual earnings of the business, except that such payment shall not be less than \$2,500 nor more than \$10,000.

Any "in lieu of" payment to an eligible non-profit making organization shall be limited to \$2,500 unless it is in fact operating a profit making business.

The definition of "contributes materially to the income of the displaced owner" shall mean:

- (a) That the business had average annual gross receipts of at least \$2,000, or
- (b) That the business had average annual net earnings of at least \$1,000 or
- (c) That the business contributed at least 33 1/3 percent of the average total annual income of the owner or owners.

The average annual receipts, earning or income is determined by one half the sum during the 2 taxable years immediately preceding the taxable year in which the business moves, or during such other period as the head of the Department of Housing Preservation and Development may determine.

In the event this choice is taken by the tenant no moving estimates or bids are necessary to be submitted by tenant. This choice replaces actual moving expenses and related expense.

(iii) *A negotiated payment.* This choice may be selected by commercial tenants only upon prearrangement and consent of the head of the Department of Housing Preservation and Development, or his designee. This choice replaces actual moving expenses and related expenses. The negotiated amount is the specific amount approved for payment(s) by the Department of Housing Preservation and Development prior to any actual move and requires the submission by the tenant of at least three acceptable estimates or bids for moving, the physical inspection by the Department of Housing Preservation and Development, the written offer by the tenant to accept a stipulated amount, and the written approval, prior to the move, from the Department of Housing Preservation and Development. The stipulated amount must be considerably below the lowest estimated cost of the move. If this choice is taken, no detailed bills need be submitted by the tenant.

(k) *Replacement housing for homeowner.*

(1) The addition to payments otherwise authorized pursuant to subdivisions (e), (f), (j) and (t) of this section, the head of the Department of Housing Preservation and Development or his designee, shall make an additional payment not in excess of \$15,000, to any displaced person who is displaced

from a dwelling actually owned and occupied by such displaced person for not less than 180 days prior to the acquisition of the property. Such additional payment shall include the following elements:

(i) The amount, if any, which when added to the amount of condemnation award or purchase price (if by negotiation) of the dwelling acquired by the City of New York, equals the reasonable cost of a comparable replacement dwelling which is decent, safe and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market.

(ii) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the City of New York was encumbered by a bonafide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the acquisition of dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of the amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on saving deposits by commercial banks in the general area in which the replacement dwelling is located.

(iii) Reasonable expenses incurred by such displaced person for evidence of title, recording fees and other closing costs incidents to the purchase of the replacement dwelling, but not including prepared expenses. Attorneys fees shall be not more than one percent of the purchase price, with a minimum of \$200.

(2) The additional payment of replacement housing for homeowners shall be made only to such displaced person who purchases and occupies a replacement dwelling which is a decent, safe and sanitary dwelling, not later than the end of the one year period beginning on the date on which he receives from the City of New York payment for the acquired dwelling, or on the date on which he moves from the acquired dwelling whichever is the later date.

(3) Whenever a displaced person is eligible for a payment but has not yet purchased a replacement dwelling, the head of the Department of Housing Preservation and Development shall at the request of the displaced person, provide a written statement to any interested person, financial institution or lending agency as to such person's eligibility for a payment and the requirements that must be satisfied before such payment can be made.

(l) *Eligibility for homeowners replacement housing.*

(1) A *displaced owner*. Occupant is eligible for a replacement housing payment if he meets the eligibility requirements enumerated under subdivision (k) of this section.

(2) A displaced owner-occupant of a dwelling who is determined to be ineligible for a homeowners replacement housing payment may be eligible for a replacement housing payment for tenants and others as more fully set forth in subdivision (n) of this section.

(m) *Computation of homeowners replacement housing payment.*

(1) *Differential payment for replacement housing.*

(i) *Displaced owner*. Occupants shall have the right to elect to use either a schedule method or comparative method in determining the amount to be paid.

(A) *The schedule method*: The schedule of average prices of comparable sales housing in the locality, is as follows:

No. Bedrooms	Average Sales Price
1	\$40,600
2	\$40,600
3	\$56,700
4	\$71,400
5 or more	\$71,400

(B) *The Comparative Method*: The cost of comparable unit is determined on a case by case basis through the use of the sales price (together with any adjustments necessary to reflect the market sales experience) of one or more dwelling determined to be the most representative of the acquired dwelling and conforming to the definition of "comparable replacement housing". The comparable dwellings may be selected by the Relocation Agency, or by the displaced person with the approval of the Relocation Agency.

(ii) *Limitations.*

(A) If the displaced person, of his own volition, purchases and occupies a decent, safe and sanitary dwelling at a price less than the acquisition price of the acquired building, no differential payment shall be made.

(B) If the displaced person, of his own volition, purchases and occupies, a decent, safe and sanitary dwelling at a price less than the average sale price, as above, of a comparative replacement dwelling, the differential payment will be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(C) If the dwelling unit occupied by the claimant was part of a structure owned by the claimant which also included space used for non-residential or multi-residential purposes, the amount of the differential payment shall be determined by using as the acquisition payment of the dwelling unit only that part of the total payment which relates to the value of the claimant's residential use portion of the structure.

(D) When an eligible claimant, who has received all or a portion of a rental assistance payment (because he elected to rent), subsequently files a claim for replacement housing payment for homeowners, the total amount of the rental assistance payment he has received must be deducted from the amount of the payment to which he may be entitled.

(2) *Interest payment*. The interest payment shall be based on present value of the reasonable cost of the interest differential, including points paid by the purchaser on the amount refinanced not to exceed the amount of the unpaid debt for its remaining term at the time of acquisition of the real property.

(3) *Incidental expenses.*

(i) The incidental expense payment is the amount necessary to compensate the homeowner for costs incident to the purchase of the replacement dwelling such as:

(A) Legal, closing and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings of plats, and charges incident to recordation. Attorney fees are limited to one percent of the purchase price but not less than \$200.

- (B) Lenders, Federal Housing Administration, or Veterans Administration appraisal fees.
- (C) Federal Housing Administration application fee.
- (D) Certification of structural soundness when required by lender, Federal Housing Administration or Veterans Administration.
- (E) Credit report.
- (F) Title policies or abstracts of title.
- (G) Escrow Agent's Fee (mortgage fee).
- (H) State revenue stamps, or sale or transfer taxes.

(ii) No fee, cost, charge or expenses is reimbursable which is determined to be a part of the finance charge under Title I of the Federal Truth in Lending Act and Regulation "Z" issued pursuant thereto.

(n) *Replacement housing payment for tenants and certain others – eligibility.*

(1) A displaced tenant or owner-occupant of less than 180 days before condemnation date, is eligible for a replacement housing payment if he actually occupied the dwelling for not less than 90 days immediately prior to the acquisition of the property, and meets the other eligibility requirements.

(2) In addition to amounts otherwise authorized, the Relocation Agency shall make a payment to or for any displaced person from any dwelling not eligible to receive a payment under subdivision (k) of this section which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days prior to the acquisition of such dwelling. Tenant or other occupant of the property shall be notified of the actual date of title vesting in the City.

(3) Payment under subdivision (n) shall be either:

(i) The amount necessary to enable such displaced person to lease or rent for a period not to exceed 4 years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed \$4,000, or

(ii) The amount necessary to enable such person to make a down payment and including incidental expenses described in subdivision (m)(3) of this section (incidental expense), on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public and commercial facilities, but not exceeding \$4,000 except that, if such amounts exceed \$2,000 such person must equally match any such amount in excess of \$2,000 in making the down payment.

(A) The displaced person is required to apply all of the portion of the total down payment which was not needed to meet the cost of incidental expenses, toward the purchase of the dwelling.

(B) The down payment for the replacement housing shall be limited to that amount which would normally be required for a conventional loan, unless otherwise approved by the head of the Relocation Agency, or his designee.

(4) An owner-occupant otherwise eligible for payment of a Homeowners Replacement Housing Payment but who rents instead of purchases a replacement dwelling is eligible for replacement housing payment for tenants.

(5) The additional payment of Replacement Housing Payment for Tenants and Certain Others shall be made only to such displaced person who moves into a unit which is decent, safe and sanitary, and a standard dwelling, not later than six months from the date he moves from the site dwelling or six months from the effective date of these regulations, whichever is later.

(6) If individuals, not a family, are joint occupants of a single family unit acquired for a project, each eligible claimant shall be paid a prorated share of the total payment applicable to single individual. The total payment made to all such claimants shall not exceed the total applicable to a single individual.

(o) *Computations of replacement housing payment for displaced tenants.*

(1) Displaced tenants who rent shall have the right to elect to use either a Schedule Method or a Comparative Method to determine the payment due them.

(2) *Schedule:* The Schedule of Average Rents in the City of New York is as follows:

No. of Bedrooms	Average Contract Monthly Rental	Average Utilities		Average Gross Monthly Rentals	Average Gross Annual Rentals
		Gas	Elec		
0	214	5	17	\$236	\$2,832
1	240	5	21	\$266	\$3,192
2	283	7	25	\$315	\$3,780
3	328	8	28	\$364	\$4,368
4	372	9	31	\$412	\$4,944
5 or more	372	9	31	\$412	\$4,944

Replacement housing payment under the schedule method is computed by determining the amount necessary to rent a suitable replacement dwelling unit for 4 years (the average monthly cost from the schedule) or the new actual rent paid, whichever is lower, and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to condemnation if such rent is reasonable, or if not reasonable, 48 times the monthly economic rent for the dwelling unit as established by the Relocation Agency. For purpose of these regulations, economic rent is defined as the amount of rent the displaced tenant would have had to pay for a similar dwelling unit in areas not generally less desirable than the dwelling unit to be acquired.

(3) *Comparative method.* The cost of a comparable unit may be determined on a case-by-case basis by using the average month's rent for one or more dwellings determined to be the most representative of the acquired dwelling conforming to the definition of "comparable replacement housing." The comparable dwellings may be selected by the Relocation Agency, or by the displaced person with the approval of the Relocation Agency. The payment is to be computed by determining the amount necessary to rent for 4 years a suitable replacement dwelling or the new actual rent paid, whichever is lower, and subtracting from the amount so determined the lesser of 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of condemnation, or if not reasonable, 48 times the monthly economic rent for the dwelling unit established by the Relocation Agency.

(4) *Exceptions.*

(i) The head of the Department of Housing Preservation and Development may establish the average month's rent by using more than 3 months, if he deems it advisable.

(ii) Notwithstanding any of the provisions herein, payments for persons displaced on or after the effective date of this regulation shall not exceed 48 times the difference between the base monthly rental and the lesser of (A) the comparable monthly rental (whether Comparative or Schedule) for a replacement dwelling or (B) the actual monthly rental for the replacement dwelling into which the displaced person is relocated. The \$4,000 limitation shall as apply.

(5) *Disbursement of rental replacement housing payment.* All rental replacement housing payments in excess of \$500 will be made in 4 equal installments on an annual basis. Before making each installment payment, the Relocation Agency must verify that the tenant is in decent, safe and sanitary housing.

(p) *Replacement housing payment to purchaser.* If the tenant elects to purchase instead of rent, the payment shall be computed by determining the amount necessary to enable him to make a down payment and to cover incidental expenses on the purchase of replacement housing.

(1) The down payment shall be the amount necessary to make a down payment on a suitable replacement dwelling. Determination on the amount "necessary" for such down payment shall be based on down payment that would be required for a conventional loan.

(2) Incidental expenses of closing the transaction are those as described in subdivision (m)(3) of this section.

(3) The full amount of the down payment must be applied to the purchase price and such down payment and incidental costs shown on the closing statement.

(q) *Computation of replacement housing payment for certain others.*

(1) A displaced owner-occupant not eligible under subdivision (k) of this section, replacement housing payment for homeowner, because he elects not to purchase a replacement dwelling, but wishes to rent, may receive a rental replacement housing payment not to exceed \$4,000. The payment shall be computed in the same manner as indicated in subdivision (o) of this section except that the present rental rate for the original dwelling shall be the economic rent as determined by market data.

(2) A displaced owner-occupant who does not qualify for a replacement housing payment under subdivision (k) herein, because of the 180 day occupancy requirement and elects to rent, is eligible for rental replacement housing not to exceed \$4,000. The payment will be computed in the same manner as indicated herein, except that the present rental rate for the original dwelling shall be the economic rent as determined by market data.

(3) A displaced owner-occupant who does not qualify for a replacement housing payment under subdivision (k) herein because of the 180 day occupancy requirement and elects to purchase a replacement dwelling, is eligible for a replacement housing downpayment and closing cost not to exceed \$4,000. The payment will be computed in the same manner as shown herein.

(r) *Bonus assistance for tenants.* In the addition to payments otherwise authorized, and subject to the limitations below, the head of the Relocation Agency shall make an additional payment to every displaced person who moves into permanent decent, safe and sanitary accommodations according to the following schedule:

No. of Rooms	Tenant Found Apts.	Public Housing and Finders Fee Apts.
1 to 3	\$300	\$150
4	\$400	\$200
5	\$500	\$250
6	\$600	\$300
7	\$700	\$350
8 or more	\$800	\$400

The above bonus or relocation allowance payments are subject to the following limitations and criteria:

(1) Payments are calculated on the basis of the number of rooms required by the tenant based on family composition, and into which the tenant moves.

(2) Two or more families occupying one apartment and being relocated shall each be entitled to the benefits contained herein upon their permanently relocating off-site to separate standard accommodations.

(3) Payments under subdivision (r) herein are not payable and available to displaced persons unless the person moves after title to the property occupied vests in the City of New York.

(4) The actual amount of the bonus or relocation allowance payment provided in this subdivision (r) to be paid to displaced persons shall be reduced by any amounts paid or credited to that displaced person for a Dislocation Allowance (subdivision (j)), a Replacement Housing Payment for Homeowners of this section, and/or a Replacement Housing Payment for Tenants and Certain Others (subdivision (n) of this section).

(5) Bonus payment is limited to \$100 where the tenant is institutionalized.

(6) For the purpose of this section, Public Housing is defined as all housing is provided in the "Definitions" herein and to all types of equivalent housing including, Rent Supplement and Capital Grant Assistance.

(s) *Finder fee payments.* Finders fee payment are to be paid to owners, agents or brokers who have listed with the Relocation Agency standard apartment into which relocatee have moved. The schedule is as follows:

No. of Rooms	Payment
1 to 3	\$150
4	\$300
5	\$400

6	\$500
7	\$600
8 or more	\$700

Finders fee for furnished room in a rooming house – \$50 per room.

(t) *Settlement costs.*

(1) *General.* The Department of Housing Preservation and Development as soon as practical after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is earlier, shall reimburse the owner to the extent the head of the Relocation Agency deems fair and reasonable for expenses such owner necessarily incurred, if not paid through some other source for:

- (i) Recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the City of New York; and
- (ii) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and
- (iii) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting of title in the City of New York, or the effective date of possession of such real property by the City of New York, whichever is earlier.

(2) *Documentation in support of a claim.* If real property is acquired by condemnation, a claim for payment under paragraph 1 of this subdivision shall be submitted to the Relocation Agency and supported by such documentation as may be required by the head of the Relocation Agency. If the real property is acquired by purchase, payment shall be made at settlement of the acquisition and accounted for in the settlement statement, on the basis of such documentation as may be required by the Relocation Agency.

(3) *Time for filing settlement cost claims.* Each such claim shall be submitted to the relocation agency within a period of 6 months after either the acquisition of the property or the effective date of these rules and regulations, whichever is later.

(u) *Time for filing claims.* All relocation payment claims of eligible tenants must be submitted to the Relocation Agency within a period of six months from the date of the permanent move from the site or six months from the effective date of these regulations, whichever is later, except where provided otherwise herein:

(v) *Relocation assistance and advisory services.*

(1) The head of the Relocation Agency shall provide relocation assistance for displaced persons and shall offer services which should include:

- (i) Determine the need, if any, of displaced persons for relocation assistance.
- (ii) Provide current and continuing information on the availability, prices and rentals of comparable decent, safe and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses.
- (iii) Assist a person displaced from his business in obtaining and becoming established in a suitable replacement location.
- (iv) Supply information concerning Federal, State and City housing program disaster loan programs and other Federal, State or City programs offering assistance to displaced persons.

(v) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(vi) The Commissioner of the Department of Housing Preservation and Development shall coordinate all relocation activities with project work, and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.

(2) If the Commissioner of the Department of Housing Preservation and Development determine that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program.

(3) The head of the Relocation Agency shall make every effort to pay promptly any displaced person who makes application for payments authorized by these regulations after a move, or in hardship cases, advance payments may be authorized.