2018 AASHTO Committee on Right of Way, Utilities, and Outdoor Advertising Control

AND THE

National Alliance of Highway Beautification Agencies Conference

Sunday, April 22–Thursday, April 26
Sheraton Inner Harbor Hotel
Baltimore, Maryland
Relocation Challenges
Mack Hatcher Parkway Extension
(Local Agency Project)
State Route 397 – Mack Hatcher Parkway

Project Length: 3.627 miles

Structures: 0.526 mile bridge

ROW Acquisition:

- 51 tracts on original project
- 30 S-tracts
- 8 loss of access/uneconomic remainder

Relocations: 9 Residential Relocations
May 1\textsuperscript{st} \& 2\textsuperscript{nd}, 2010

Record Setting Rainfall:

Saturday May 1\textsuperscript{st} – 6.32 inches (3\textsuperscript{rd} highest)
Sunday May 2\textsuperscript{nd} – 7.25 inches (highest)

2-day rainfall more than twice previous record and greater than the record for the entire month of May.

Cumberland River crested at 12 feet above flood stage
1,000 Year Flood

$120 Million in Public Infrastructure Damage
11,000 Properties Damaged
10,000 People Displaced
21 Deaths in Tennessee
$2 Billion in private property damage
31% of the State designated Major Disaster Area
Rebel Meadows

10 homes to acquire (9 occupied)

9 suffered flood damage of varying degrees

8 Families (22 people) were displaced

All were owner occupants
Concerns

Oversite

Timing

Determining Value

Constraining Costs

Relocation Benefits
Valuation/Acquisition:

Tracts to be appraised in pre-flood condition

Offer to acquire will be reduced by any insurance proceeds

Avoid additional appraisal costs

Assure Just Compensation/Avoid duplication of payment.
Relocation:

- Waiver of occupancy requirement as required in 49 CFR Part 24.403
- Early issuance of Notice of Relocation Eligibility/Earliest Vacate date
- Move costs to temporary housing and to permanent replacement housing (self move)
- No provision for storage of personal property
Relocation:

Reimbursement for temporary housing when not covered by insurance.

- must be decent, safe, and sanitary
- until comparable housing has been made available
- and the vacate notice has expired

Replacement housing payments calculated as normal
Miscellaneous:

Scheduling: assignments and priorities were shuffled to focus on impacted tracts

Additional efforts were made to obtain legal access to property to allow for removal of improvements.

Coordinate all payments with insurer to prevent duplication of payments.
Successes:

All displacees were compensated for temporary housing

Began closing tracts within 2 months

Relocation tracts were all closed within 6 months

Permanent replacement housing was obtained by all displacees within 7 months
Failures, Struggles, & Lessons Learned:

Documentation, Documentation, Documentation

Coordination

Couldn’t see the forest for the trees
Questions?
Did Your Partial Acquisition Just Cause a Displacement?

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Where to Begin

Definition of a displaced person

§24.2(a)(9)(i) - abbreviated

Any person who moves from the real property or moves personal property from the real property:

• As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property for a project.

• Except as provided in §24.2(a)(9)(ii)
The Exception

§24.2(a)(9)(ii) *Persons not displaced*

(F) A person whom the Agency determines is not displaced as the direct result of a partial acquisition.
And the Rules

• Uniform Act regulations leave decision at the discretion of acquiring agency
• No additional regulations or guidance to direct the determination
• Many partial acquisitions are straight forward – fairly simple to determine if it results in displacement or not
How Does Agency Decide If . . .

A person **is not** displaced as a direct result of a partial acquisition?
How Does Agency Decide If...

A person is displaced as a direct result of a partial acquisition?
However, not all situations are clear-cut.
How Does Agency Decide If . . .

A person **is or is not** displaced as a direct result of a partial acquisition?
Some Items/Factors to Consider

• Reduction of parking
• Type of business (walk-in clientele, length of average visit, transactions off-site, etc.)
• Ability to obtain operating permits in after situation
• Appraiser’s opinion of after situation
• Impairment or reduction in access
• Elevation of new roadway
• Local, state or federal code requirements
Partial Acquisition of Residential Property – Are Occupants Displaced?

- Acquisition includes front porch
- Cost to cure will replace porch and entrance on side of house
- Does occupancy as owner or tenant matter?
Some Items/Factors to Consider

- Design safety standards
- Severance of building
- Impairment or reduction of access
- Viable living unit in after situation (septic or water system taken)
- Appraiser’s opinion of after situation
- Local, state or federal code requirements
Keep in Mind

• Agency makes determination regarding displacement

• Affected person can appeal agency’s decision

• When agency determines there is a displacement, the person is eligible for relocation advisory services and payments
Keep in Mind (cont.)

• Agency delivers required relocation notices

• Decision then shifts to occupant

• Person not required to move and may decide to remain on site
Best Practices

• Provide some type of notice of potential displacement or option to relocate

• Specify a time limit for moving from the site and filing all claims (can extend for good cause)

• Identify a process that guides your decision-making
Best Practices (cont.)

• Determine in advance if relocation activities will encroach on project construction limits and identify any effect on ROW clearance/certification
Questions?