

TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON

ADMINISTRATIVE RULES FOR RELOCATION APPEALS

A. General

Federal and state laws require the Tri-County Metropolitan Transportation District of Oregon (TriMet) to establish a procedure that will ensure that individuals and other legal entities are afforded an opportunity to have TriMet's determination as to any "displaced person's" eligibility for relocation payment, or the amount of relocation payment, reviewed by TriMet in federally financially assisted project. TriMet (TMC) Chapter 8 authorizes the TriMet General Manager to adopt, amend, or repeal Administrative Rules for Relocation Appeals.

The eligibility of a displaced person and the amount of relocation assistance will be determined in accordance with the rules established under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act), ORS 35.500 to 35.530, and the Right of Way Manual of the State of Oregon, Department of Transportation (Chapter 6, Relocation).

B. Definitions

1. Displaced Person. Consistent with ORS 35.500 and 49 CFR § 24.2(a)(9),
 - (i) General. The term "displaced person" means any person who moves from the real property or moves his or her personal property from the real property (including a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act) as a direct result of either:
 - a. A written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project; or
 - b. A written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person applies only for purposes of obtaining relocation assistance advisory services and moving expenses.
 - (ii) Persons Not Displaced. The following is a nonexclusive listing of persons who do not qualify as displaced persons under this rule:
 - a. A person who moves before the initiation of negotiations, unless TriMet determines that the person was displaced as a direct result of the program or project;
 - b. A person who initially enters into occupancy of the property after the date of its acquisition for the project;
 - c. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

- d. A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by TriMet in accordance with any guidelines established by the Federal agency funding the project;
 - e. A person whom TriMet determines is not displaced as a direct result of a partial acquisition;
 - f. A person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced for a project. Such notice shall not be issued unless the person has not moved and TriMet agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility; or
 - g. An owner-occupant who voluntarily conveys his or her property after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, TriMet will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to this rule;
 - h. Any person who retains the right to use an occupancy of the real property for life following its acquisition by TriMet; or
 - i. A person who is determined to be in unlawful occupancy prior to the initiation of negotiations, or a person who has been evicted for cause.
2. Notice of Benefits. The term “Notice of Benefits” means a notice received by the displaced person from TriMet, its agents or representatives, setting forth the right and amount of benefits to be received pursuant to ORS 35.500 to 35.530, and/or the Uniform Act.

The Notice of Benefits shall indicate that any person aggrieved by TriMet’s determination shall have the right of appeal that determination in accordance with these rules.

3. Person. The term “Person” means an individual, partnership, company, association, corporation or any other legal entity, including any receiver, trustee, assignee or similar representative.

C. Policy

Any person who is aggrieved by TriMet’s determination as to such person’s eligibility for relocation payments, or to the amount of relocation payments, may appeal that determination in accordance with these procedures. It is TriMet’s policy that:

1. Each applicant shall have the opportunity for oral presentation;
2. Each appeal will be decided promptly and the applicant informed of the decision in writing; and
3. Each appeal decision will include a statement of the reasons upon which it is based.

D. Hearings Officer

TriMet's Director, Procurement and Contracts, or such other TriMet official as may be designated by the General Manager, shall serve as the Hearings Officer under these Rules.

E. Powers and Duties

The Hearings Officer shall have the following powers and duties:

1. Hear and determine appeals pursuant to these Rules; and
2. Exercise such other powers and perform such other duties as may be necessary to achieve the purposes of these Rules.

F. Procedure for Appeals

1. Any person determined to be ineligible to receive a specific relocation assistance benefit must file an appeal within 90 days after notification of ineligibility by TriMet, its agents, or representatives.

Any person disputing the amount of a specific relocation assistance benefit must file an appeal within 90 days after TriMet, its agents, or representatives have provided notification of the amount of a specific relocation benefit.

2. The request for an appeal hearing shall be in writing and shall be mailed to the following person at TriMet:

General Counsel
TriMet
4012 S.E. 17th Avenue
Portland, Oregon 97202

ATTN: Relocation Hearings Officer

3. Hearings will be granted on all requests that are postmarked no later than midnight of the 90th day following the mailing date of the Notice of Benefit. The hearing shall be in substantial compliance with ORS Chapter 183.
4. When a displaced person files a Request for a Hearing with TriMet, an informal conference with the displaced person will be scheduled with a TriMet representative designated by the Hearings Officer. At the informal conference, the displaced person shall be permitted to make an oral presentation and to supply TriMet with any information the person deems relevant. This conference shall be held within 30 days after receipt of the Hearing Request.
5. Within 10 days after the informal conference, the displaced person shall be notified of the results of the conference in writing. The written results shall include a statement of the reasons upon which the decision is based. Should the displaced person not agree with the results of the informal conference, a date for a Formal Hearing with the Hearings Officer shall be set within 20 days after the displaced person informs TriMet (in writing, as specified above) as to the reasons why the results of the informal conference are not acceptable, and what results are desired.

6. The Hearings Officer shall set a time and place for the Formal Hearing and shall promptly notify the person requesting the hearing as to the time and place for the Formal Hearing. Notice may be by any means reasonably calculated to give actual notice. Notice may also be given to such other persons as the Hearings Officer may determine to be interested persons.
7. The person requesting the Formal Hearing and TriMet staff may make argument, submit testimony, cross examine witnesses, and submit rebuttal evidence on the pertinent issues. Any party may, but need not be, represented by legal counsel.
8. All Formal Hearings shall be recorded in a manner that will allow for written transcription to be made, and the Hearings Officer shall cause TriMet to retain all materials submitted at the Formal Hearing for a period of three years.
9. Failure of the person requesting the Formal Hearing to appear at the Formal Hearing shall constitute a waiver of the right to a Formal Hearing.
10. Within 15 days after the date of the Formal Hearing, or any continuance thereof, the Hearings Officer shall issue a Final Order determining the question and mail a copy thereof to the person(s) requesting the Formal Hearing. The Final Order shall include a statement of the reasons upon which the Final Order is based.

G. Reconsideration: Judicial Review

1. The Hearings Officer may reconsider a Final Order upon the filing of a petition for reconsideration within 15 days after issuance of the Final Order, or may deny that petition. The petition shall state the manner in which the Hearings Officer misunderstood the facts or misapplied the law. The person requesting reconsideration may make an oral presentation at any subsequent hearing, if the Hearings Officer determines that a subsequent hearing is necessary. If an Amended Order is issued, it shall include a statement of the reasons upon which the Amended Order is based.
2. Review of the Final Order or Amended Order of the Hearings Officer shall be taken solely and exclusively in the manner set forth for judicial review in ORS 183.480.
3. These Rules for Relocation Appeals are operative on the Effective Date set forth below and supercede, replace, and render void all previous Administrative Rules for Relocation Appeals.