

DOCUMENT RESUME

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Conveyance of Replacement Housing to Displaced Homeowners.
B-148044. July 18, 1977. 8 pp. + 2 enclosures (4 pp.).

Decision re: Department of the Army: Corps of Engineers; by
Elmer B. Staats, Comptroller General.

Issue Area: Domestic Housing and Community Development (2100).
Contact: Office of the General Counsel: Special Studies and
Analysis.

Budget Function: Community and Regional Development (450).
Authority: (P.L. 91-646; 84 Stat. 1894; 42 U.S.C. 4601 et
seq.). Federal Aid Highway Act of 1968. 42 U.S.C. 4626, sec.
206 (a). 42 U.S.C. 4623, sec. 203(a) (1). 42 U.S.C. 4624,
sec. 204. H. Rept. 91-1656.

The Office of the Chief of Engineers, Department of the
Army, requested a decision on whether homeowners displaced by
the Government can be given replacement housing in disregard of
the maximum housing payment under Public Law 91-646. The act
limits direct assistance to \$15,000; agencies may not exceed
this, but must foster continued home ownership where possible.
However, rental housing may be considered for comparable
replacement housing. Since agencies interpret the statutory
language differently, congressional action is needed to clarify
the disputed points. (Author/DJM)

*Master Lease, etc.
Molins and CAO*

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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-148044

DATE: July 18, 1977

MATTER OF: Conveyances of Replacement Housing to Displaced Homeowners

- DIGEST:**
1. In instances where homeowners displaced by Government action are financially unable to purchase comparable decent, safe and sanitary replacement housing, rental housing may be considered appropriate replacement housing for purposes of section 206 of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. No. 91-646.
 2. Agencies may not provide direct assistance in excess of \$15,000 maximum available under section 203 of the Act to enable displaced homeowners to purchase replacement housing provided under section 206.
 3. Since agencies differ considerably in their interpretation of the relevant statutory provisions, we recommend congressional action to clarify the points in dispute.

The Office of the Chief of Engineers, Department of the Army has requested that we determine whether replacement housing made available to a displaced homeowner pursuant to section 206(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. No. 91-646, approved January 2, 1971, 84 Stat. 1894, 42 U. S. C. § 4601 et seq. (1970), may be conveyed unencumbered in fee regardless of its cost and without regard to the maximum supplemental housing payment available to displaced homeowners under section 203 of the Act.

Section 206(-), 42 U. S. C. § 4626, provides:

"(a) If a Federal project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Federal agency determines that such housing cannot otherwise be made available he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project."

Section 203(a)(1), 42 U. S. C. § 4623, authorizes the payment to eligible displaced homeowners of an amount not to exceed \$15,000, in addition

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to the amount paid by the Government for an acquired dwelling, in order to assist them in acquiring a comparable decent, safe, and sanitary replacement dwelling.

The question arises in the context of the Corps of Engineers' Dickey-Lincoln School Lakes Project in Aroostook County, Maine. The project will displace some 160 permanent resident homeowners in two communities in the county, Allagash and St. Francis. The Corps of Engineers has determined that some of those homeowners, whose present dwelling are of low value, will have insufficient funds to relocate into suitable replacement housing, even if they were to receive the maximum payment authorized under section 203. Furthermore, some particularly disadvantaged homeowners will be unable to obtain mortgages or additional financing because of their low income status.

The Corps of Engineers is of the opinion that while there is no limit to the amount the acquiring agency may spend under section 206 to make decent, safe, and sanitary replacement housing available to displaced homeowners, the amount of direct assistance which may be provided these persons for the purchase of the dwelling is limited to \$15,000 by section 203. Thus as a practical matter, the displaced homeowner can only purchase the housing made available under section 206 if he has sufficient additional resources, over and above the amount paid for his old dwelling and the \$15,000 assistance payment provided under section 203, to meet the selling price. In the event he is without sufficient resources to purchase this housing, the Corps of Engineers suggests the homeowner may rent the housing and be eligible for the assistance authorized under section 204 of the Act, 42 U.S.C. § 4624. The Corps of Engineers argues that to interpret section 206 as guaranteeing continued ownership status under all circumstances would render the maximum monetary limitation of section 203 meaningless.

Other agencies interpret section 206 in a somewhat broader fashion. The Department of Housing and Urban Development (HUD) takes the position that the existence of rental housing may be considered in determining whether comparable replacement housing is available to displaced homeowners for purposes of section 206. However, once the agency has made a determination that a project cannot proceed to actual construction because comparable replacement housing is not available to displaced homeowners, HUD feels the authority conferred by section 206 allows the agency to provide direct assistance in excess of \$15,000 if necessary to provide comparable decent, safe, and sanitary replacement housing.

The Federal Highway Administration (FHA) reads section 206 even more expansively. It believes that the Act requires the preservation of ownership

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interests for displaced homeowners. Consequently rental housing may not be considered in determining whether comparable replacement housing is available to displaced homeowners, nor may agencies require displaced homeowners to move into rental housing. The FHA also takes the position that agencies may exceed the \$15,000 maximum direct assistance available under section 203 in providing comparable replacement housing to displaced homeowners under section 206. Moreover, it believes that the \$15,000 maximum may be exceeded without regard to the financial need of the individual homeowner, although agencies must minimize the cost of making comparable decent, safe, and sanitary replacement housing available.

Thus, considerable disagreement exists between agencies as to whether rental housing may be considered comparable replacement housing under the Act for displaced homeowners and whether the \$15,000 maximum of section 203 may be exceeded in making comparable replacement sale housing available under section 206. Both the language of the Act itself and its legislative history provides some support for each of the positions noted above, but no conclusive resolution to either question.

One of the major purposes of this Act was to mitigate as much as possible the disruptive and adverse effects of forced Government dislocation. Thus section 201 of the Act states:

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

In this regard, the Act's legislative history expresses a particularly strong concern for the plight of low income families forced to relocate their homes. This concern was expressed by Senator Muskie, one of the earliest proponents of uniform relocation assistance legislation:

"There are more than 50 Federal programs which result in condemnation of land and which, quite literally, bulldoze hundreds of thousands of people from their homes and businesses each year. Many are low-income families. They are the elderly. They are small farmers and small businessmen. In almost every case, they are forced to leave an area in which they have spent their entire lives, and in which they have made their economic well-being. Little has been done to assist their movement or help replace their losses.

* * * * *

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"This bill is needed in order to minimize these effects, and to eliminate the vast inconsistencies that exist among Federal and federally assisted programs with respect to relocation assistance and land acquisition." 116 Cong. Rec. S20463 (daily ed., December 17, 1970).

The Act and its legislative history also suggests a generalized congressional intent to encourage homeownership for persons displaced by Government action. For example, section 204 of the Act, which provides assistance to displaced tenants, authorizes payments of up to \$4,000 for a period not to exceed 4 years for rental assistance. Alternatively, the section authorizes up to \$4,000 to displaced tenants to make down payments on a suitable replacement dwelling. H. Rep. No. 91-1656, 91st Cong., 2d Sess., p. 12 (1970) explains that the latter provision is designed to encourage homeownership.

Similarly, H. Rep. No. 91-1656, *supra*, pp. 8-9 notes that the \$15,000 benefit available under section 203 represents an increase from the \$5,000 previously available under section 506(a) of the Federal-Aid Highway Act of 1968, and it explains that the change was intended to increase the opportunity for continued homeownership by displaced homeowners:

"The additional payment, not to exceed \$5,000, authorized by that Act [Federal-Aid Highway Act of 1968] as a supplement to the traditional eminent domain concept, represents a substantial advance in the field of relocation legislation * * *.

"However, it is evident that this does not provide the means for solving the more difficult relocation problems, especially in large heavily populated urban areas, as well as in rural areas, where an adequate supply of such housing is not available and cannot be developed to sell at prices, and at terms, including monthly debt service costs, which displaced persons can afford. In these instances, even if the full \$5,000 supplement were made available to such a person the total amount available would not be adequate to stimulate the development of the necessary additional housing, and may contribute to increased prices for whatever limited housing is available. Consequently, in some cases the objective of the 1968 Act has not been met, and important projects continue to be delayed or stopped.

"This section therefore authorizes a supplemental payment to any person displaced for a Federal project (section 210 makes the same payments available to Federal financially assisted projects), not to exceed \$15,000 * * *."

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The report on page 9 further describes the \$15,000 payment as--

"* * * An amount to bridge the gap, if any, between the acquisition payment for a dwelling under the eminent domain 'market value' standard, and the actual reasonable cost which a displaced home owner must pay for a comparable dwelling which is decent, safe and sanitary, and adequate to accommodate him, in an area not generally less desirable with regard to public utilities and public and commercial facilities and services, reasonably accessible to places of employment, and available in the private market, within standards established by the head of the Federal agency having authority over the program or project. Replacement housing satisfying these requirements must be available to the home owner, before displacement, at terms that he can reasonably afford and that do not worsen his economic condition. In other words, the displaced person should not have to spend more for monthly payments of principal and interest on a mortgage for the comparable replacement dwelling."
(Emphasis supplied.)

This desire was also expressed by Representative Edmunson, during House consideration of the Act:

"The bill is a very complex bill, basically intended to assure that no family or individual now owning their own home should be left without a home owned by them as a result of Federal acquisitions through any lack of fairness or equity in the acquisition procedures. It is also intended to assure that no tenant of any home is left in a worsened condition as a result of Federal acquisition policies, and to give to tenants who are displaced by Federal acquisition or by federally aided acquisitions an opportunity to acquire a home with Federal assistance in that operation * * *," 116 Cong. Rec. H11220 (daily ed., December 7, 1970).

Thus the legislative history of the Act reveals a congressional preference for continued homeownership for displaced homeowners and a special concern for the poor. However, nothing in the legislative history specifically rejects the use of rental housing as replacement housing for displaced homeowners under section 206, in the event sale housing within the financial means of displaced homeowners is unavailable. In fact, section 206(a) explicitly states that its benefits are available if comparable sale or rental housing is not available. It could be argued, as the FHA contends, that since section 206 is applicable to both displaced homeowners and displaced tenants, the phrase "sale or rental housing" was intended to address the availability of housing for both

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groups rather than to define the scope of replacement housing considered available for displaced homeowners. A similar situation exists with respect to section 206(b), which prohibits displacement of persons unless replacement housing is available in accordance with section 205(c)(3). Section 205 (c)(3) does not specifically define the phrase "replacement housing." It refers to dwellings "at rents or prices within the financial means of the families and individuals displaced." (Emphasis added.) However, it is not clear whether the phrase "rents or prices" is intended to authorize consideration of both sale and rental housing as appropriate replacement housing for displaced homeowners under section 206(b). As with section 206(a), both section 206(b) and section 205(c)(3) are applicable to displaced tenants as well as displaced homeowners. Thus the FHA argues that the use of the broad phrase "rents or prices" may have been intended to apply to replacement housing for each of the two groups, respectively, rather than to indicate that rental housing is appropriate replacement housing for displaced homeowners. We recognize that there is some ambiguity in both the Act and its legislative history on this point. Nevertheless, in view of the overall purposes of the Act, we are reluctant to rule out the practical alternative of offering rental housing when homeownership is not feasible in the absence of a clear indication that this was the congressional intent.

With regard to the question of whether the maximum assistance available to displaced persons under sections 203 and 204 limits the amount of assistance available for housing provided under section 206(a), the context of much of the above-quoted legislative history suggests that Congress enacted sections 203 and 204 with the expectation that in most instances, the assistance provided therein would substantially satisfy its special concern for low income displaced persons. The legislative history also discloses that Congress was aware that in some instances the \$15,000 maximum assistance of section 203 might not be sufficient to compensate homeowners for the difference between the amount received for their old dwellings and the cost of comparable replacement sale housing. Thus during the floor debates on the Act, Representative Cohelan noted:

"One of the things we must recognize is that under the traditional concepts of eminent domain in the value paid on a piece of condemned property is equal to its market value. Very often a property that is sound and adequate is often undervalued due to its location in a semi-industrial zoned area--for instance, in such cases a house may have a legitimate market value of \$7,000 to \$10,000. This, of course, is far less than what would be needed to purchase a home of comparable size and convenience in another area of the city. Under the bill being considered today, section 203 provides additional payments to cover such circumstances. The authorized supplemental payment will not exceed \$15,000 under this measure. While the \$15,000 supplemental will not bridge the gap between the eminent domain

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market value standard and the actual reasonable cost which a displaced homeowner must pay for a comparable dwelling it goes far in that direction. (Emphasis added.)

Thus, Congress was aware that in certain instances, the \$15,000 allowed under section 203 would not completely compensate homeowners for the difference between the eminent domain value of their original houses and the cost of purchasing comparable decent, safe, and sanitary replacement houses. However, it did not choose to provide open-ended assistance to displaced homeowners who would otherwise be unable financially to purchase comparable decent, safe, and sanitary replacement dwellings. Rather, it established a firm limit of \$15,000 on direct assistance and there is no indication that assistance under section 206(a) was to be regarded as an exception.


We recognize that the apparent broad scope of section 206, and the restriction of section 203 appear to be contradictory and the applicability of section 203 to section 206 is a matter of legitimate disagreement. Nevertheless, we consider the position of the Corps of Engineers, that direct assistance in excess of \$15,000 may not be provided to displaced homeowners to enable them to purchase replacement housing made available under section 206(a), to be preferable. This position gives full effect to the specific limitation of section 203, while the contrary position creates an exception to the limitation of section 203 for conveyances of replacement housing provided under section 206. The latter position enables displaced homeowners residing in an area where no reasonably priced housing exists to obtain direct assistance in excess of the \$15,000 allowed under section 203, while direct assistance to displaced homeowners is limited to \$15,000 where appropriate replacement housing does exist. There are manifest inequities in such a position. Therefore, in the absence of some indication in the legislative history that Congress intended to create exception of this sort with regard to section 203, we do not believe such an exception should be inferred.

Our conclusions on both questions are not intended to endorse the use of rental housing as replacement housing in instances where sale housing can be conveyed to displaced homeowners without exceeding the maximum direct assistance allowed under section 203. On the contrary, the Act encourages continued homeownership where possible. Nor do we intend to preclude administrative policies which may provide greater opportunities for displaced homeowners to purchase replacement housing, as Congress mandated imaginative application of the Act to provide equitable and satisfactory conditions for displaced persons. H. Rep. No. 91-1656, *supra*, at page 3. For example, we would not object to an agency decision to accept a trust instrument for that portion of the purchase price of replacement housing in excess of the combined eminent domain value of a homeowner's original dwelling and the maximum direct assistance available under section 203 of the Act.

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Finally, we recognize that our interpretation of the Act and our conclusions based on that interpretation may remain the subject of considerable disagreement by the various agencies concerned.

Consequently, we recommend congressional action to clarify the statutory provisions in dispute. We are currently working on a report to the Congress which discusses areas in which, we believe, changes are needed in the Act. This report, which will include a recommendation for clarifying the issues raised in this decision, will be issued in the next few months.


Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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JUL 18 1977

The Honorable Abraham A. Ribicoff
Chairman, Committee on Governmental
Affairs
United States Senate

Dear Mr. Chairman:

Enclosed is a copy of our decision of today in the matter of conveyances of replacement housing to displaced homeowners, B-148044. The particular problem dealt with therein concerns the relationship of the last resort housing provision (section 206) to the replacement housing payment provision (section 203) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and whether that Act requires that all homeowners displaced from their homes for Federal or federally assisted projects be guaranteed their status as homeowners. While we have rendered our decision on this point, we are aware, as discussed more fully in the decision, that other agencies have interpreted these sections differently and it seems to us that congressional clarification would be quite useful.

At the same time, since the enactment of this Act on January 2, 1971, we have issued several reports on the administrative implementation thereof and, at the request of other agencies, Members of Congress, and claimants under the Act, we have rendered more than 15 legal decisions interpreting it. In view of these efforts and the numerous informal inquiries we have received concerning the proper interpretation of this Act, the Committee may wish to consider an overall evaluation of this program with a view towards making any necessary or desirable changes in the Act.

We are currently in the process of assembling copies of all our reports and decisions on the Act with a view towards submitting them to your Committee, and its counterpart in the Senate, for its use in recommending to the Congress any clarifying legislation it feels may be desirable. With that packet of materials, we will summarize any suggestions we may have for legislative action.

On the other hand, we believe that the agencies which must administer the statute, are in the best position to identify the problem areas and to

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make recommendations for legislative changes. Accordingly, if it decides to consider amending the Act, we suggest the Committee solicit the views of the Secretary of Defense, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Administrator of General Services, and the Architect of the Capitol. These are the agencies whose views we normally request when considering a relocation problem. The Committee may, of course, wish to solicit the views of the heads of other Federal agencies and of the various State governments to whom this Act also applies when persons are displaced by federally assisted projects.

We will be happy to provide such further assistance to the Committee as requested.

Sincerely yours,

SIGNED ELMER B. STAATS

Comptroller General
of the United States

Enclosure



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-148044

JUL 18 1977

The Honorable Jack Brooks
Chairman, Committee on Government
Operations
House of Representatives

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Sincerely yours,

SIGNED ELMER B. STAATS

Comptroller General
of the United States

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