



Kentucky NSP and URA

Course Objectives



- ✓ Overview of the URA requirements
- ✓ NSP Tenants Rights
- ✓ Section 104(d)
- ✓ Review the implication for the acquisition of property for NSP
- ✓ Review State of Kentucky NSP program requirements and processes
- ✓ Timelines for compliance steps
- ✓ Required documentation

When Is The URA Triggered?



- ✓ Uniform Relocation Act triggered when real property is acquired or persons displaced as a direct result of acquisition, demolition, and rehabilitation for a Federally funded project
- ✓ Applies to government agencies, private organizations and others

Purchasers



- ✓ URA covers purchases by:
 - Grantee
 - Nonprofits with federal assistance
 - For-profits with federal assistance
 - Agent or consultant acting on grantee behalf
 - Homebuyers with federal down payment assistance

Types of Acquisitions



- ✓ URA sets out criteria for transactions subject to Subpart B
 - In general, transactions where there is the threat of eminent domain are subject to Subpart B
 - More stringent requirements in these instances
- ✓ Acquisitions are generally known as voluntary and involuntary
- ✓ While owners are not eligible for relocation assistance when the transaction is not subject to Subpart B, tenants are eligible
 - Tenant relocation eligibility at agreement to purchase
 - Grantees can not ask recipients to waive their relocation benefits

NSP Properties



- Purchases will be voluntary
- Notices to be provided to seller – either lender or private individual
- Notice includes a statement of fair market value
- Occupancy status documents
- Lender held properties will require additional documentation

Types of Voluntary Acquisitions



- ✓ Three Different Types:
 - Grantee has eminent domain powers but won't use
 - Grantee doesn't have eminent domain powers
 - Purchases from government agency where buyer does not have eminent domain powers over that agency

Voluntary Form



- ✓ Disclosure Grantee will not use its eminent domain powers if sale cannot be negotiated

OR

- ✓ Buyer does not have the power of eminent domain

OR

Grantees power of eminent domain does not have power over the owner of the property (used in cases where the property is held by a another unit of government)

Timing of Notice



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- ✓ Notice is to be provided prior to the completion of a sales contract or option
 - ✓ Documentation needed to show seller received notice – could be signature or registered mail
 - ✓ If contract or option is already in place, entity must allow owner out of sales contract if so inclined- notice could be issued up until the closing

Options for Establishing Value



- ✓ Lender held properties can utilize a listed value
- ✓ Language needs to reference the discount requirements and the tie to the value as determined by appraisal
- ✓ Knowledgeable staff person could establish estimate

NSP Tenant Protections



- ✓ Statute includes noticing requirements for “bona fide” tenants in occupancy when unit acquired by initial successor in interest through foreclosure (usually lender)
- ✓ Effective for acquisitions by successor in interest (lender) after 2/17/09

“Bona Fide” Tenant



- Not former mortgagor
- Lease is arms length transaction
- Lease requires rent that is not substantially less than fair market rent for property



NSP Tenant Protections (cont)

- ✓ **NSP**: Lender must provide 90 day notice to vacate to “bona fide” tenant occupants
 - NSP funds cannot be used in any property unless lender followed notice rule
 - OR
 - Grantee assumes NSP tenant protection obligations
 - May trigger relocation assistance to displaced persons under URA

NSP Tenant Protections (cont)



- ✓ **NSP**: Grantee must document lender compliance
 - If tenant in property, must have 90 day notice
 - If not occupied, lender must certify either that property was not occupied by “bona fide” tenant at time of foreclosure or that tenant received 90 day notice
 - If tenant has Section 8 assistance, lender must agree to continue lease & HAP contract

Compliance Steps



- ✓ If lender property, determine date lender took title
- ✓ If prior to 2/17/2009 no further issue
- ✓ If after – determine if unit was occupied at the time of transfer
- Statement from lender
- No utility service prior to transfer
- Other evidence as approved by DLG

Project Timeline



- ✓ Identify possible property
- ✓ Complete ER, evaluate occupancy history, determine feasibility for NSP
- ✓ Decision to proceed – issue Voluntary notice, order appraisal
- ✓ Submit voluntary acquisition, environmental review, documentation of property eligibility for DLG review
- ✓ Once due diligence is completed and reviewed - proceed to purchase offer – determine final offer based upon appraisal
- ✓ Sales contracts set up in DRGR as obligation of funds