

## GLOSSARY

**Access.** The right of ingress and egress from a property abutting a highway.

**Access Control.** A limitation of the right and use of access either by law or agreement. The control can be a complete restriction of access or a limitation of access to a specific location.

**Administrative Settlement.** Any settlement made, or authorized to be made by the Right of Way Section, which is in excess of the Sections approved estimate of just compensation.

**Agency.** See "State Agency".

**Airspace.** That space located above, at, or below the highway's established gradeline, lying within the approved right of way limits. In certain situations, airspace may be occupied for non-highway purposes.

**Base Monthly Rent.** The base monthly rent for the displacement dwelling is the lesser of:

1. The average monthly cost for rental and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Department (for an owner-occupant use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent at the displacement dwelling, use the fair market rent unless it would result in a hardship because of the person's income or other circumstances.); or
2. Thirty percent of the displaced person's average gross monthly income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs. The base monthly rental shall be established solely on the criteria in #1 for people with income exceeding the survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. (HUD Low income limitations can be found at:

<http://www.fhwa.dot.gov/realestate/index.htm>); or

3. The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

**Business.** Any lawful activity, except a farm operation, that is conducted:

1. Primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or
2. Primarily for the sale of services to the public; or
3. Solely for the purpose of these regulations, conducted primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
4. By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

**Comparable Replacement Dwelling.** A dwelling which is:

1. Decent, safe, and sanitary as described further in this glossary;
2. Functionally equivalent to the displacement dwelling. The term "functionally equivalent" means that it performs the same function and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Right of Way Agent may consider reasonable trade-offs for specific features when the replacement unit is "equal to or better than" the displacement dwelling.
3. Adequate in size to accommodate the occupants;

4. In an area not subject to unreasonable adverse environmental conditions;
5. In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;
6. On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See Sections 6.684, Benefit Calculations, and 6.790, Carve-Out Values)
7. Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance;
8. Within the financial means of the displaced person:
  - a. A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in section 6.680, all increased mortgage interest costs as described in section 6.715 and all incidental expenses as described in section 6.725, plus any additional amount required to be paid under section 6.880, Replacement Housing of Last Resort.
  - b. A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for replacement dwelling do not exceed the person's base monthly rental for the displaced dwelling as described in section 6.740.
  - c. For a displaced person who is not eligible to receive a replacement housing payment

because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if the Oregon Department of Transportation pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling (See 6.502). Such rental assistance must be paid under section 6.880, Replacement Housing of Last Resort.

9. For a person receiving governmental housing assistance before displacement, a dwelling that may reflect similar governmental housing assistance. In such cases, any requirements of the governmental housing assistance program relating to the size of the replacement dwelling shall apply.

**Condemnation.** A legal process in which private property is acquired by a governmental or quasi-governmental agency for public purposes through the exercise of the power of eminent domain, wherein the property owner is paid just compensation for the property.

**Contribute Materially.** The term "contribute materially" means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the Appraisal/Relocation Supervisor determines to be more equitable, a business or farm operation:

1. Had average annual gross receipts of at least \$5,000; or
2. Had average annual net earnings of at least \$1,000; or
3. Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources.
4. If the application of the above criteria creates an inequity or hardship in any given case, the Appraisal/Relocation Supervisor may approve the use of other criteria as determined appropriate.

**Date of Displacement.** The date of displacement shall be the date a displaced person moves from the acquired property.

**Decent, Safe, and Sanitary Dwelling.** A dwelling which meets local housing and occupancy codes. However, any of the following standards which are not met by the local code shall apply, unless waived for good cause by the Federal Agency funding the project. The dwelling shall:

1. Be structurally sound; weather tight, and in good repair.
2. Contain a safe electrical wiring system adequate for lighting and other electrical devices.
3. Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person.
4. Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced persons
5. There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to the appropriate sources of water and to a sewerage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully useable sink, properly connected to potable hot and cold water and to a sewerage drainage system, and adequate space and utility connections for a stove and refrigerator.
6. Contains unobstructed egress to safe, open space at ground level
7. For a displaced person with a disability, be free of barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

#### **Displaced Person.**

1. **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. This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements as described in sections 6.675 and 6.738.

- (i) As a direct result of 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.
- (ii) As a direct result of 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 under this paragraph applies only for purposes of obtaining relocation assistance advisory services under section 6.355, and moving expenses under sections 6.530 through 6.550, sections 6.555 through 6.600, and sections 6.635 through 6.650.

2. **Persons not displaced.** The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

- (i) A person who moves before initiation of negotiations, unless the Appraisal/Relocation Supervisor determines that the person was displaced as a direct result of the program or project; or
- (ii) A person who initially enters into occupancy of the property after the date of its acquisition for the project; or
- (iii) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;
- (iv) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Appraisal/Relocation Supervisor in accordance with any guidelines established by the Federal agency funding the project; or
- (v) A person whom the Appraisal/Relocation Supervisor determines is not displaced as a direct result of a partial acquisition; or
- (vi) A person who, after receiving a notice of relocation eligibility (described in section 6.325), is notified in writing that she or he will not be displaced for a project. Such notice shall not be issued unless the person has not moved and the Appraisal/Relocation Supervisor 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

- (vii) 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, the Oregon Department of Transportation will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part; or
- (viii) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Oregon Department of Transportation; or
- (ix) 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, as provided in section 6.460.

**Dwelling.** The place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

**Excess Right of Way.** Property acquired for a project which has become unnecessary due to plan changes; or, property purchased outside of the right of way limits as part of a settlement or as an uneconomic remnant.

**Farm Operation.** Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

**Federal Financial Assistance.** The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with

the purchase and occupancy of a residence by that individual.

**Federal Regulations.** In respect to right of way acquisition and relocation policies, the term, "federal regulations", usually refers to Title 49, Code of Federal Regulations, Part 24 (49CFR24), and 23 CFR Part 710.

**Initiation of Negotiations.** The delivery of the initial written offer by the Oregon Department of Transportation to the owner or the owner's representative to purchase real property for the amount determined to be just compensation, unless applicable Federal program regulations specify a different action to serve this purpose. However, if the Department of Transportation issues a notice of intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the "initiation of negotiations" means the date the person moves from the property.

**Just Compensation.** An amount paid to a property owner for property acquired for public purposes which is not less than the market value of the property acquired, including damages or benefits to the remaining property.

**Legal Settlement.** Any settlement made by the State's Attorney General's office, including stipulated settlements approved by the courts.

**Mortgage.** The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

**Nonprofit Organization.** An organization that is incorporated under the applicable laws of the State of Oregon as a nonprofit organization and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code [26 U.S.C. 501].

**Notice of Intent to Acquire.** Establishes eligibility for relocation benefits prior to the initiation of negotiations. (See Section 6.312).

**OSHD.** Oregon State Highway Division

**Outdoor Advertising Sign.** A sign which advertises:

1. Goods, products or services which are not sold, manufactured or distributed on or from the premises on which the sign is located; or
2. Facilities not located on the premises on which the sign is located.

**Owner of Displacement Dwelling.** A displaced person is considered to have met the requirement to own a displacement dwelling if the person holds any of the following interests in real property acquired for a project:

1. Fee title, a life estate, a 99-year lease, or a lease, including any options for extension, with at least 50 years to run from the date of acquisition; or
2. An interest in a cooperative housing project which includes the right to occupy a dwelling; or
3. A contract to purchase any of the interests or estates described in paragraphs 1 or 2 above, or
4. Any other interest, including a partial interest, which in the Right of Way Manager's judgment warrants consideration as ownership.

**Person.** Any individual, family, partnership, corporation, or association.

**Programming.** A set of activities required to commit funds and establish authority to proceed with various phases of project development.

**Salvage Value.** The probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

**Sign.** Any sign, display, message, emblem, device, figure, painting, drawing, placard, poster, billboard or other thing that is designed, used or intended for advertising purposes or to inform or attract the attention of the public.

1. The term includes the sign structure, display surface and all other component parts of a sign.

2. When dimensions of a sign are specified, the term includes panels and frames, including both sides of a sign of specified dimensions or area.

**Small Business.** A business having not more than 500 employees working at the site being acquired or displaced by the program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of section 6.602.

**State.** The term "State" refers to the Oregon Department of Transportation or, if otherwise noted, the acquiring agency.

**Surplus Property.** Excess right of way which has been deemed surplus to the needs of the Oregon Department of Transportation and may be disposed of.

**Tenant.** A person who has the temporary use and occupancy of real property owned by another.

**Throughway.** A highway or street especially designed for through traffic, over, from, or to which owners or occupants of abutting land or other persons have no easement of access, light, air, or view, by reason of the fact that their property abuts upon the throughway or for any other reason. ORS 374.010

**Uneconomic remnant.** The term "uneconomic remnant" means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the acquiring agency has determined has little or no value or utility to the owner.

**Uniform Act.** The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894;42 U.S.C.4601 et Seq., Pub. L 91-646), and amendments thereto, including the Uniform Relocation Act Amendments of 1987 Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (1987 Amendments), Pub/ L. 100-17,101 Stat. 246-256.

**Unlawful occupancy.** A person is considered to be in unlawful occupancy if the person has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations or is determined by the Agency to be a squatter who is occupying the real property without the permission of the owner and

otherwise has no legal right to occupy the property under State Law. A displacing agency may, at its discretion, consider such a squatter to be in lawful occupancy.

**Utility Costs.** The term "utility costs" means expenses for heat, lights, water and sewer.