

MARCH 2013

DEPARTMENT OF MUNICIPAL AFFAIRS
GOVERNMENT OF NEWFOUNDLAND AND LABRADOR

COMMUNITY RELOCATION POLICY

The Department of Municipal Affairs will only consider relocation assistance requests that are community-initiated and community-driven. The Department will not initiate any actions to encourage relocation assistance requests from communities.

The Minister of Municipal Affairs may approve community-initiated, community-driven relocation requests that meet all four of the following criteria:

- a. The Community initiates contact with the Department concerning the possibility of relocation assistance;
- b. The total cost of relocation assistance plus residual essential services for Permanent Residents who may choose to remain in the community does not exceed the cost to Government to deliver services to the Community for a twenty-year period;
- c. A vote on relocation demonstrates that ninety per cent or more of the voting aged Permanent Residents wish to relocate; and
- d. Ninety per cent or more of Permanent Residential Property Owners subsequently sign Government's conditional offers to purchase.

The level of financial and other assistance provided for relocation will be limited to that stated in this policy.

If a Community relocation request is approved, no Permanent Resident who wishes to remain in the Community will be required to relocate.

Permanent Residents opting to remain in the Community after all other residents have relocated will:

- a. Be provided with alternate public services at service levels which Government deems appropriate for the number of persons remaining in the Community.
- b. Retain the option of accepting the supports available under the Community Relocation Policy for one year subsequent to the date that the Minister approves relocation assistance.

After all Permanent Residents have vacated a Community, the Minister of Municipal Affairs will declare the Community to be an evacuated Community in accordance with the *Evacuated Communities Act*.

1. DEFINITIONS

- 1.a. Commercial Property Owner:** An individual or company that owns property within the Community and currently operates a commercial enterprise on that property or that owns a Rental Property in the Community.
- 1.b. Community:** Includes municipalities, local service districts, and / or unincorporated areas.
- 1.c. Non-Resident Residential Property Owner:** An individual who does not fall within the definition of a Permanent Resident but who owns habitable residential property in the Community requesting relocation. This will normally include persons who maintain seasonal homes in the Community.

- 1.d. Permanent Resident:** Permanent residency is established if, in each of the two twelve - month periods immediately preceding the Relocation Request Date, an individual fulfills the requirements listed in (a), (b) and (c) below:
- (a) The individual resided in the Community requesting relocation for at least 183 days in each of the two twelve - month periods. Absences from the Community for the following reasons will be accepted as residing in the Community and will count toward calculation of the 183 days:
 - i. The individual was temporarily absent from the community to attend grade school or post-secondary school.
 - ii. The individual was temporarily absent for medical reasons substantiated by a doctor's note satisfactory to the Minister or to assist a close relative who was temporarily absent for medical reasons.
 - iii. The individual or his / her spouse worked outside the Community and regularly returned to the Community between periods of outside employment;
 - (b) The individual did not establish permanent residency in another Community; and
 - (c) Proof of (a) and (b) must be satisfactory to the Department.
- 1.e. Relocation Request Date:** The date on which the Department deems it has received the request to consider the Community's eligibility for relocation assistance.
- 1.f. Rental Property:** Habitable residential property which was rented as of the Relocation Request Date or which, though vacant on that date, had previously been rented and had been vacant for no more than six months immediately prior to that date.
- 1.g. Permanent Residential Property Owner:** An individual who meets the criteria for a Permanent Resident and who also resides in and owns, either individually or jointly, habitable residential property in the Community requesting relocation.

2. STEPS IN THE EVALUATION OF COMMUNITY RELOCATION REQUESTS

After the Department of Municipal Affairs receives a request for relocation assistance and determines the Relocation Request Date, consideration of that request will proceed according to the following steps:

- a. The Department will determine the residency status of persons in the Community (i.e., Permanent Resident or Non-Resident Residential Property Owner) and give written notification of the determination made in that regard.
- b. As indicated in paragraph 3 below, individuals have a right to appeal the determination of residency status.
- c. Based on the determination of residency status, the Department will complete an analysis of the total cost of relocation assistance compared to the total savings over a twenty year period that would result from the withdrawal of Provincial Government services to the Community. If the estimated costs exceed the estimated savings, Government's consideration of relocation assistance will stop unless there are significant health or life-safety considerations involved in the relocation request.
- d. The Department will conduct a vote involving voting aged Permanent Residents. If the vote does not confirm that at least ninety percent of the eligible voters want to relocate, Government's consideration of the relocation request will stop.
- e. If the vote indicates ninety percent or more of the individuals eligible to participate in the community vote support relocation, the Department will request Government approval of:
 - i. the relocation of the community;
 - ii. sufficient funds to pay relocation assistance; and
 - iii. an Order in Council, pursuant to section 4.1 of the *Public Utilities Act* (the Act) exempting utilities from the application of Section 38 of the Act for that community.

- f. After receiving the approvals in Item (e), the Minister of Municipal Affairs will make conditional offers to purchase habitable residential properties. These conditional offers to purchase will be made to all Permanent Residential Property Owners. The conditional offers to purchase will include a clause making each offer conditional on at least ninety percent of Permanent Residential Property Owners signing written acceptance of the offers to purchase as drafted by the Minister. The Department of Municipal Affairs will pay the cost of a solicitor selected by the Community to assist Permanent Residential Property Owners in their review of the conditional offers to purchase and any other legal documentation involved if the relocation proceeds.
- g. The Minister will approve the relocation assistance request if at least ninety percent of the Permanent Residential Property Owners in the community sign acceptance to the offers to purchase as drafted by the Minister.
- h. The Department and all relocating property owners (including Permanent Residential Property Owners and Commercial Property Owners) will execute legal documents transferring title to the Crown in return for the relocation assistance detailed in the Department's offer of assistance. Relocation assistance for Permanent Residents of voting age who are not Permanent Residential Property Owners will be processed at the same time.

3. APPEAL OF RESIDENCY STATUS DETERMINATION

The Department's determination of residency status impacts on eligibility to vote in the Community vote and on the determination of the level of relocation assistance payable.

An individual may appeal the Department's determination of residency status (i.e., Permanent Resident or Non-Resident Residential Property Owner). An appeal may be based upon either the interpretation of facts by the Department related to residency or upon circumstances not envisioned by this policy which may warrant an exception to the residency criteria.

An appeal must be made in writing to the Minister of Municipal Affairs within 30 calendar days following receipt of written notification of the Department's decision on residency status. The appeal request must include all documentation and must detail all arguments in support of the appeal.

Within 15 calendar days of receiving an appeal of residency status, the Minister shall appoint an independent reviewer to consider the appeal and make a recommendation to the Minister. The reviewer may contact the person(s) who filed the appeal to request additional information but is not required to do so. The reviewer will be required to file a written report on the appeal within 30 calendar days of being appointed. Having considered the reviewer's recommendation, the Minister will make a final determination of residency status.

4. COMMUNITY-INITIATED, COMMUNITY-DRIVEN REQUEST FOR RELOCATION

The Department of Municipal Affairs may provide information or briefings on this policy at the request of Community residents. However, the formal assessment of a Community's eligibility under this policy will only begin after Government receives clear indication that it is responding to a community-initiated, community-driven request for relocation assistance. Evidence of a community-initiated, community-driven request may be, for example, a written request from a Municipality or Local Service District, a petition from Community residents, or other indications acceptable to the Minister.

5. COMMUNITY VOTE

While an initial request will start contacts between a Community and the Department of Municipal Affairs

concerning possible relocation assistance, the Department will assess the will of the Community through a vote on the question of relocation.

Only voting-aged Permanent Residents are eligible to vote on relocation. Joint property owners will each have one vote.

Each identifiable individual entitled to vote will be provided with an individual ballot which she/he will mail to the Department of Municipal Affairs in a pre-addressed, postage-paid envelope.

The Department of Municipal Affairs will only release the aggregate results of the vote and will not release the specifics of how any identifiable individual voted.

6. FINANCIAL ASSISTANCE FOR RELOCATION

No resident will be required to relocate, but residents who do not relocate will not receive relocation assistance.

Relocation assistance is not intended to compensate individuals or businesses for loss of employment, income potential, or any other costs beyond those specifically mentioned in this policy.

Relocation assistance will be paid directly to Property Owners and also to Permanent Residents of voting age who are not Permanent Residential Property Owners.

Where a couple who has separated or divorced each have a property interest in a residential property or commercial property in the community, no relocation assistance will be provided unless proof of property interest is provided satisfactory to the Department. All parties with a property interest must sign and execute legal documents transferring freehold title to the Crown. In these cases, the relocation assistance will be divided proportionally in accordance with each person's proportional share in the property being transferred to the Crown.

Should a Community meet all eligibility requirements for relocation assistance, the Minister shall offer, in exchange for unencumbered legal title to land and structures and consent to the discontinuation of all municipal and provincial services to each resident, the following financial assistance to relocate:

6.a. Permanent Residential Property Owners

The amount of financial assistance payable to Permanent Residential Property Owners will be determined by the number of Permanent Residents living in the household in accordance with the following table:

# of Permanent Residential Property Owners and their minor dependents per household	Total Household Relocation Assistance
1	\$ 250,000
2	\$ 260,000
3 or more	\$ 270,000

6.b. Permanent Residents of Voting Age Who Are Not Permanent Residential Property Owners

The amount of financial assistance payable to each Permanent Resident of voting age who is not a Permanent Residential Property Owner will be \$10,000.

6.c. Commercial Property Owners

The amount of financial assistance payable to Commercial Property Owners will be two times the assessed

value of the commercial property as determined by the Municipal Assessment Agency. If the Municipal Assessment Agency has not assessed the property within the twelve months immediately preceding the Relocation Request Date, the Agency will complete a new assessment of the property.

7. OTHER ASSISTANCE FOR RELOCATION

To help Permanent Residential Property Owners and Commercial Property Owners make informed legal decisions, the Department of Municipal Affairs will pay legal fees related to consideration of the Department's written offer detailing relocation assistance and transfer of legal title to their property to the Crown. The Department will contract for this service with a legal firm to be chosen by the Community's Permanent Residential Property Owners. A Permanent Residential Property Owner or a Commercial Property Owner may use the services of a different legal firm of their choosing provided the individual(s) pay this expense themselves.

On request, the Department will also assist Permanent Residential Property Owners with the prior purchase of a property in another community by taking an interim mortgage on the property purchased. The maximum value of an interim mortgage will be 80% of the relocation assistance they will receive. The Department will release the interim mortgage after the property in the relocating Community is vacated and transferred to the Crown. The Department will recover the mortgage funds from the relocation assistance payment due to the person relocating.

8. LEGAL TITLE TO PROPERTY

The Crown will acquire unencumbered legal title to habitable residential structures and commercial properties for which relocation assistance is paid. The transfer of title will also include sufficient land for the beneficial use of the structure and any outbuildings located on that land.

The Department will not consider provision of relocation assistance for any properties other than habitable residential properties and commercial properties.

9. OCCUPYING A VACATED HOME

Former owners of residential property may request a five (5) year License to Occupy from the Department of Environment and Conservation, with all standard terms and conditions, to occupy vacated homes on a seasonal basis.

If a Community has also been declared an Evacuated Community under the *Evacuated Communities Act*, the individual must also request a Permit to Occupy from the Minister of Municipal Affairs.

Licenses to Occupy and Permits to Occupy will be renewed at the discretion of the Ministers.

10. COST TO GOVERNMENT TO PROVIDE SERVICES TO THE COMMUNITY

In evaluating a request for community relocation, the Minister of Municipal Affairs will consider the cost to Government to provide services to the Community over a twenty-year period. These services include, but are not limited to, ferry service, electricity, roads, schools, hospitals/health centres, future required infrastructure upgrades, municipal operating grants, municipal debt, and travel of Government staff. These costs will be determined in consultation with the respective departments / agencies that provide the services.

In calculating the overall cost of relocation assistance, in addition to financial assistance paid to members of the community, the Minister will consider the cost of residual essential services for Permanent Residents who choose to remain in the Community, decommissioning costs for Government services to the Community, and future costs or liabilities the Province will assume when it acquires legal title to properties in the Community. This may include, for example, potential removal / remediation costs related to deteriorating structures, residential oil tanks, etc.

The Department of Municipal Affairs will consult with all Government departments, NL Hydro and the Community's municipal leaders to ensure that the analysis of costs and benefits of relocation includes:

- a comprehensive listing of Government services provided to the Community;
- a profile of the Permanent Residents and Commercial Property Owners within the Community;
- an assessment of the indirect impacts of removing Government services, such as hydro lines and generators or transportation systems, on adjacent businesses or communities.

11. DISPOSITION OF GOVERNMENT OWNED PROPERTY

The Department of Municipal Affairs will inform the Department of Transportation and Works of government owned properties and properties not under a License to Occupy or Permit to Occupy that are in the relocated Community. In instances where Licenses to Occupy and Permits to Occupy expire and are not renewed, Municipal Affairs will inform Transportation and Works to include these properties as part of their inventory. Transportation and Works will take appropriate action to secure such properties to minimize risk to government, address any potential environmental concerns and implement disposal strategies as the need arises.

12. POLICY RESTRICTION

Individuals can only access relocation financial assistance once in a lifetime, effective from the date of this Policy.