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PART 303
PAYMENTS TO AN OWNER OR TENANT OF RESIDENTIAL PROPERTY
OF COMMERCIAL PROPERTY UPON THEIR APPLICATION FOR
ALLOWANCE OF MOVING EXPENSES IN VACATING PROPERTY
ACQUIRED BY THE STATE UNIVERSITY OF NEW YORK

Sec.

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§ 303.1 Purpose.

These rules and regulations are in compliance with subdivisions 12-b, 12-c, and 12-d of section 307 of article 7 of the Education Law and are intended to serve as a guide for the making of payments to eligible persons for moving expenses as well as for any additional incidental and supplemental relocation payments upon their displacement and relocation from real property acquired pursuant to such law.

§ 303.2 Definitions.

For the purposes of this Part, the following terms shall mean:

- (a) Advance payment in a hardship case. A payment determined by the Trustees to be the reasonable and necessary moving expenses of an eligible person or the amount of the supplemental relocation payment deemed necessary to purchase or rent decent, safe and sanitary replacement housing and made prior to the actual relocation where the trustees have determined that the affected owner or tenant would suffer serious financial, social or personal hardship without such advance payment.
- (b) Average annual net earnings. The average of the net profit arising from the operation of the business concern (including a farm operation) on which income tax was paid as evidenced by the filed Federal or State income tax returns which represent the two calendar years of operation immediately preceding the acquisition.
- (c) Business concern. A corporation, association, partnership, individual or other private entity, engaged in a business or professional activity or nonprofit activity requiring the use of fixtures, equipment, stock in trade, or other tangible personal property for the carrying on of the business or profession or nonprofit activity on the premises.
- (d) Condominium. For the purpose of this Part, a condominium or cooperative apartment shall be treated as a single family residence.
- (e) Counted rooms. Counted rooms shall be that space in a building or structure containing a substantial and usual quantity of household furniture and equipment and personal property. They shall include such space as basements, cellars, recreation rooms, living rooms, libraries, studios, dining rooms, kitchens, laundry rooms (when containing mechanical equipment such as washers and dryers), enclosed sun porches (when they contain furniture, household equipment and personal property comparable to a room), bedrooms, attics (when they contain substantial storage of household equipment and furniture and personal property), also garages, outbuildings and playhouses (when they

contain storage of household or garden equipment, furniture and personal property). Portable structures such as playhouses, outbuildings, or swimming pools which were not considered as real property in the appraisal or negotiations of the claim will be considered as one room each. Foyers and alcoves will be counted as one-half rooms when they contain furniture and household equipment. Combination living rooms-dining rooms and kitchen dinettes shall be considered one and one-half counted rooms. Vestibules, bathrooms and powder rooms shall not be considered counted rooms.

(f) Eligible person. Any individual, family, business concern, (including the operation of a farm) and nonprofit organization to be displaced by the acquisition and use of the property by the State.

(g) Family. Two or more persons who are living together in the same quarters.

(h) Incidental expenses. Those expenses incurred by an owner of any property acquired by the trustees, including any recording fees, transfer taxes or other similar necessary expenses that result from such acquisition, and also any penalty costs resulting from the pre-payment of a mortgage, which in the determination of the trustees was made in good faith and recorded prior to any material knowledge of the impending acquisition.

(i) Individual. A person who is not a member of a family as defined herein.

(j) Mobile home. For the purposes of this Part, a mobile home shall be defined as a residential unit utilized as a permanent dwelling place in the same manner as a conventionally constructed residence and of such size that it would not ordinarily be mobilized by being towed behind a standard passenger vehicle.

(k) Moving expenses. The cost of dismantling, disconnecting, crating, loading, insuring, temporary storage not in excess of one year, transporting for a distance of up to 50 miles, reinstalling of personal property, exclusive of the cost of any additions, improvements, alterations or other physical changes in or to any structure in connection with effecting such reinstallation, and necessary, temporary lodging and transportation of eligible persons.

(l) Operation of a farm. The operation of a parcel of land (or parcels operated as a single unit) which is used for the production of one or more agricultural commodities for sale and home use and which customarily produces or is capable of producing such commodities in sufficient quantity to contribute materially to the operator's support, including the operation of stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, ranges and greenhouses or other similar structures used primarily for raising agricultural or horticultural commodities.

(m) Substantial loss of patronage. A loss of business patronage sustained when the bulk of customers or users are located in nearby proximity to the business concern and it is not feasible that the business concern can be relocated within the area comprising the existing market.

(n) Supplemental relocation payment. That amount up to \$5,000 determined by the trustees to be the difference between the fair market value of a residential dwelling under the market conditions existing at the time of the acquisition or immediately thereafter and the cost of a decent, safe and sanitary replacement dwelling of a comparable nature or, in the case of a rented residential unit, that amount up to \$1,500 determined by the trustees to be the difference between the contract or economic rent of the appropriated property, whichever is lesser, and the amount necessary to enable the eligible person to rent or lease an adequate, decent, safe and sanitary replacement residential unit for two years or that amount up to \$1,500 determined by the trustees to be the amount necessary to make a down payment on an adequate, decent, safe and sanitary residential dwelling pursuant to conventional-mortgage financing requirements.

(o) A decent, safe, and sanitary replacement dwelling. Replacement housing actually purchased by a displaced claimant that in the opinion of the trustees is adequate and habitable for residential purposes.

§ 303.3 General provisions.

Application for payment of moving expenses and for any incidental expenses and supplemental relocation payments shall be made to the trustees of the State University of New York acting by and through the office of university land acquisition, hereinafter referred to as "the trustees," upon forms prescribed by said office and shall be accompanied by such information and evidence as said office may require and payment of such will be made to eligible persons under the circumstances and to the extent set forth below.

(a) General provisions applicable to both residential and commercial relocations.

(1) When property appropriation maps have been filed in the Department of State and the occupant of the property has been notified of such pending acquisition by the State, the eligible persons are authorized to

proceed with the relocation.

(2) Moving expenses shall not include the cost of moving any fixtures or equipment considered part of the realty from the acquired property nor will reimbursement be made for any cost of construction or improvement to the new location or for any remodeling, redecorating or reinforcing of the new structure to accommodate the eligible person or his personal property.

(3) In case of a partial taking by the State, removal from the area being acquired to a remainder area shall be considered a relocation eligible for the collection of moving expenses if removal of personal property of an eligible person is necessary.

(4) Moving expenses shall not include any indirect losses or any losses due to negligence.

(5) Where an eligible individual or family occupies bona fide living quarters on the same premises as a business concern (including the operation of a farm), they may be considered as a separate eligible person in determining the amount of payment for residential moving expenses.

(6) After an eligible person has vacated the property, no moving expense payments will thereafter be made to any party with respect to the subsequent occupancy of the same property.

(7) In addition to residential or commercial moving expenses, as herein provided, any owner of any property acquired by the trustees shall be reimbursed for incidental expenses as defined in this Part.

(8) In a case where advance payment of moving expenses or supplemental relocation payments are requested on the basis of hardship, the claimant must submit in advance a written application setting forth the full extent and circumstances of the hardship. A written determination will then be made by the trustees. If the trustees determine that a hardship exists, an advance payment of reasonable, necessary moving expenses or supplemental relocation payments will be made. The trustees may rely upon bids from reputable movers when making an advance payment of moving expenses and upon a signed contract for the purchase of a replacement property or a signed lease or other acceptable firm commitment for a rental unit when determining the good faith of an eligible person in making advance supplemental relocation payments.

(9) If a claimant is not satisfied with the trustees determination of his eligibility for the moving expense or relocation payment claimed, he may request a conference with the director of the office of land acquisition and submit whatever evidence he wishes in support of his position. A written determination of the final decision will then be directed to the claimant with a full explanation of the basis of the determination.

(b) General provisions applicable only to commercial moves.

(1) The moving expenses payment in the case of an owner or tenant of a business concern (including the operation of a farm) shall be the amount of their actual reasonable and necessary moving expenses plus a contingency allowance of five percent of that amount as well as reimbursement for any incidental expenses resulting from the acquisition.

(i) Any moving expense payment, including an advance payment based upon hardship, for actual reasonable and necessary moving expenses shall be within the limits of bids from at least one reputable mover to be furnished by the business concern or farm operation, and when the trustees deem it advisable, upon inventories which the trustees shall cause to be taken on or about the vesting date and immediately preceding the relocation.

(2) In lieu of actual reasonable and necessary moving expenses, as set forth in section 303.5 of this Part, an owner or tenant of a business concern (including a farm operation) who discontinues or relocates, may elect to receive a fixed relocation payment of \$5,000 or the amount of his average annual net earnings, whichever is the lesser, subject to the following conditions:

(i) A business concern must show, to the satisfaction of the trustees, that a substantial loss of existing patronage as defined in this Part would occur upon dislocation and that it is not part of a chain of even one other similar business not being acquired by the State or Federal government.

(ii) A farm operator, to be eligible, must show to the satisfaction of the trustees that the relocation or

discontinuance of the farm operation was necessitated by the acquisition.

(c) General provisions applicable only to residential moves. The relocation payment in the case of an individual or family occupying residential property shall be the amount of their actual reasonable and necessary moving expenses or a one room-count, lump-sum payment as well as any additional supplemental relocation payments, provided in sections 303.6, 303.3(a)(7), and 303.3(c)(6) of this Part.

(1) Payment for moving expenses may be made to any eligible individual or family on the basis of actual reasonable and necessary moving expenses as defined in section 303.2(k).

(i) Such payments must be supported by acceptable, detailed, receipted bills or such other evidence of expenses incurred as is acceptable to the trustees.

(2) In lieu of proving actual reasonable and necessary moving expenses, such eligible individual or family may elect to accept a moving expense allowance of a lump-sum amount made in accordance with the number of counted rooms occupied by such individual or family as set forth in the schedule of payments in section 303.4, herein, plus a dislocation allowance of \$100.

(3) The eligible individual or family must notify the trustees in writing at least three weeks before the actual move of a selection of payment on the basis of actual reasonable and necessary moving expenses or the fixed, room-count, lump-sum dislocation allowance.

(4) In case of failure to notify the trustees as provided above, it will be assumed that the eligible individual or family waives the right of selection and will be paid a lump-sum amount based on the counted-room schedule as set forth in section 303.4, plus the dislocation allowance of \$100.

(5) Where more than one individual or family occupy the same residential quarters and move to separate locations, each such individual or family may qualify for moving expenses, incidental expenses and supplemental relocation payments as provided in this Part.

(6) In those cases where a multiple dwelling is acquired, a finder's fee payment may be made to an eligible owner or tenant, when in the discretion of the trustees, such fees are determined to be a usual, customary and necessary expense for relocating in the locality involved. The finder's fee shall be reimbursed only when relocation is made within three months of the State's written request to vacate. Payment shall be made upon the basis of an acceptable, detailed, receipted bill from an owner, broker, or recognized real estate agent within the limits of the following schedule:

Number of Rooms From
Which Displayed Amount

1 to 3 \$150

4 300

5 400

6 500

7 600

8 or more 700

Furnished rooming house 50 (per room)

(d) General provisions applicable only to mobile home moves.

(1) In the case of a mobile home on an individual lot or in a typical mobile home park, where such mobile home is attached to service lines such as water, gas, electric and sewage and occupies space on a weekly, monthly or term lease basis, the owner of such mobile home, when required to remove the mobile home to clear the site of

a project, is eligible for payment to move his mobile home, equipment and appurtenances from the premises. Such payment will be made only upon the basis of detailed, receipted bills or such other evidence of expenses incurred deemed acceptable to the trustees.

(2) Providing an agreement of adjustment, purchase or partial payment is made with the owner of a mobile home which has been acquired by the State as real property and the mobile home is returned to the owner under the agreement as part of the consideration in the claim, no allowance for moving expenses will be made to the owner upon the removal of the entire mobile home including all personal property from the premises unless it is necessary to remove substantially all of their personal effects, household equipment and furniture from the mobile home before it is moved, in which case actual necessary moving expenses may be allowed if substantiated by detailed, receipted bills or by such other evidence as may be acceptable to the trustees. Such owner-occupant will be eligible for supplemental relocation payments.

(3) In the event that a mobile home is acquired as part of the realty and compensated as such, and such owner-occupant or tenant relocates from such mobile home, he shall be eligible to receive compensation for actual reasonable and necessary moving expenses based upon receipted bills acceptable to the trustees or in accordance with a room-count, lump-sum payment as set forth in this Part.

(4) An owner-occupant or tenant of a mobile home shall be eligible to receive supplemental relocation payments in the same manner as the owner-occupant or tenant of a conventional residential dwelling as set forth in section 303.6 of this Part insofar as the payment shall be based upon the amount necessary to enable said owner-occupant or tenant to purchase or lease a decent, safe and sanitary mobile home facility and home site.

(5) When in the discretion of the trustees it is determined that a sufficient portion of a mobile home park is taken to justify the operator of such park moving his business or going out of business and the operator does, in fact, move or go out of business, the owner-occupants and tenants of the mobile home dwellings, not within the actual taking, who are forced to move will be eligible to receive supplemental relocation payments as though their dwellings were within the actual taking.

§ 303.4 Fixed residential room-count allowance and fixed moving expenses for individuals and families including residents of furnished living units and mobile homes.

(a) When in lieu of proving actual reasonable and necessary moving expenses as provided in section 303.3(c), herein, an eligible individual or family elects to receive the \$100 dislocation allowance plus a room-count reimbursement as set forth in section 303.3(c)(3), such payment will be determined on the basis of the following schedule in accordance with the number of counted rooms from which the family or individual moves. Such payment shall cover all items and incidentals of expense necessary to the vacating of the premises acquired or being acquired by the State except the reasonable cost of ambulance transportation for 50 miles, necessary because of illness, age or disability for which payment will be made based upon detailed receipts acceptable to the trustees.

Number of Counted Rooms	Amount
1--1 1/2	\$50
2--2 1/2	75
3--3 1/2	100
4--4 1/2	125
5--5 1/2	150
6--6 1/2	175
7--7 1/2	200
8--8 1/2	225
9--9 1/2	250
10--10 1/2	275
11--11 1/2	300

12--12 1/2	325
13--13 1/2	350
14--14 1/2	375
15 or more	400

(b) Tenants in furnished rooms, furnished apartments and mobile homes, when the principal household furniture and equipment is owned by the operator of such a facility and when such tenant furnishes and uses in such facilities a nominal amount of his own household equipment, under such circumstances an individual or family, upon proper application and verification of the claim, will be paid \$150 upon vacating the premises.

§ 303.5 Actual moving expenses for business concerns.

Payment for actual reasonable and necessary moving expenses for business concerns (including the operation of a farm) will be made based upon receipted bills from recognized movers after approval of bids submitted and inventories taken pursuant to section 303.3(b)(1) (a) of this Part. In the case of an owner or tenant performing the moving himself, payment would, in the discretion of the trustees, be based on the actual cost of hiring equipment and personnel at prevailing rates in the community for that type of equipment and personnel, or upon bids from two recognized movers and timely inventories which the trustees shall cause to be made. All books and records kept by the owner or tenant shall be subject to review and audit by a State representative during reasonable business hours, all of which shall be documented in forms agreeable to the trustees. Whenever moving is performed by a licensed mover operating under regulatory authority, the amount paid as reimbursement for actual moving expenses shall not be in excess of the tariffs filed by such mover with either the Interstate Commerce Commission or the State Public Service Commission, as the case may be.

§ 303.6 Supplemental relocation payments to residential owners and tenants.

(a) Supplemental relocation payments, as set forth herein, shall be based upon market studies and data obtained by the office of university land acquisition of available housing in the general area of the acquisition. In the event that the trustees determine that there are no comparable decent, safe and sanitary homes on the market in the general area of the appropriated property, the trustees may make supplemental relocation payments based upon the cost-to-cure (make decent, safe and sanitary) the acquired residential unit or upon whatever other basis they deem appropriate under the particular circumstances involved. In the discretion of the trustees, an advance payment may also be made to an eligible residential tenant or owner where a hardship situation is deemed to exist pursuant to section 303.3 (a)(8). The amount and manner of such payment is to be determined by the trustees according to the particular circumstances of each situation.

(b) A supplemental relocation payment of up to \$5,000 as defined in this Part may be made to owners of residential property acquired by the trustees, subject to the following conditions:

- (1) The residence contained no more than three residential units;
- (2) The residence was owned and occupied at least one year as the owner's permanent home or legal residence prior to the date of the first money offer made by the trustees to the owner, or the service on the owner of a written request to vacate, whichever is earlier;
- (3) The owner must supply proof of his purchase and of his occupation of a decent, safe, sanitary replacement dwelling as defined herein within one year from the date he is formally requested to vacate by the trustees or 90 days after title has vested in the State of New York, whichever occurs later;
- (4) If the residential dwelling and home site are a part of a substantially larger parcel of the same property, the appraised value of said dwelling and necessary home site shall be separated from the compensation for the total appropriated property in calculating the supplemental relocation payment.
- (5) An owner eligible for the \$5,000 supplemental relocation payment who elects to rent rather than purchase a replacement residence and receives a tenant-owner supplemental relocation payment of up to \$1,500 and then elects to purchase a residence within the time limit provided herein may receive the owner-supplemental-relocation payment up to \$5,000 less any prior supplemental relocation payment based on rental differential.

(c) A supplemental relocation payment of up to \$1,500 as defined in this Part shall be made to displaced owners or tenants of residential property subject to the following conditions:

(1) The tenant or owner occupied the residential unit acquired by the trustees for at least 90 days prior to the first money offer made by the trustees to the owner or tenant of a written request of notice to vacate is served upon him, whichever occurs later.

(2) In those cases where an owner of a residence is eligible for and elects to receive the tenant-owner supplemental relocation payment of up to \$1,500, as set forth herein, such payment shall be based on 12 percent of the compensation paid for the owner's appropriated property and the amount necessary to enable said owner to rent or lease an adequate, decent, safe and sanitary residential unit for two years.

(3) Payment will be made upon proof acceptable to the trustees of the owner- occupant's or tenant's relocation to a decent, safe and sanitary replacement dwelling as defined herein.