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Appeals Policy Manual

State of North Carolina

Revision History

Version	Revision Description	Release Date
1.0	Initial policy creation.	11/01/2017
2.0	Removal of Level III appeals; clarification of timelines; clarification of applicant extension requests and procedures; clarification of appeal readiness for review.	02/12/2020
3.0	Addition of Section 3. Uniform Relocation Act Appeals; addition of definition of types of appeals.	04/08/2021
4.0	Reorganized and added types of appeals for clarity. Revised timeframe for appeal determinations when additional tasks are required such as re-inspection or recalculation of award/offer.	11/16/2021
5.0	Streamlined the appeals process to a single-tiered process by removing Level II Appeals. Revised documentation requirements for appeals. Replaced Appeals Committee with an NCORR designated Appeals Team. Addition to Section 4 related to reasonable accommodation grievances.	08/01/2022

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1.0 Definitions and Acronyms

Appeal: A formalized written request by an applicant asking for a reversal or revision of a program's determination that affects their eligibility and/or amount of assistance they receive from the program

Applicant: Any individual who submits an application for assistance to the Rebuild NC programs

CDBG-DR: Community Development Block Grant-Disaster Recovery

CDBG-MIT: Community Development Block Grant-Mitigation

[CDBG-DR or CDBG-MIT] Action Plans: The planning document required by HUD that describes the State of North Carolina's strategy for storm recovery including information on programs and the allocation of CDBG-DR and CDBG-MIT funding. The opportunity for citizen review and input on the proposed plan and associated amendments is part of the required plan and amendment development process

HOGA: Homeowner Grant Agreement

HUD: U.S. Department of Housing and Urban Development

Limited English Proficiency (LEP): A designation for persons who are unable to communicate effectively in English because their primary language is not English, and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person benefits from an interpreter who translates to and from the person's primary language. An LEP person may also need documents written in English translated into his or her primary language so that person can understand important documents related to health and human services

NCORR: North Carolina Office of Recovery and Resiliency

Offer to Purchase and Contract: Formal final offer to purchase storm damaged property provided to an eligible applicant on NC Form 2-T

ReBuild NC: CDBG-DR- and CDBG-MIT-funded programs administered by the North Carolina Office of Recovery and Resiliency (NCORR) to assist residents recovering from Hurricanes Matthew and Florence.

Tenant: A person who has the temporary use and occupancy of real property owned by another as defined [49 CFR § 24.2\(26\)](#) or in applicable program guidelines

URA: *The Uniform Relocation and Real Property Acquisition Policies Act of 1970*, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et. seq.). See NCORR URA Policy. Applies to all acquisitions of real property or displacements of persons resulting from federal or federally-assisted program or projects. URA's objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) acquisition or multifamily damaged/occupied activities that require the relocation of the tenants.

2.0 Introduction

The following appeals policy applies to all ReBuild NC programs and all Community Development Block Grant – Disaster Recovery (CDBG-DR) or CDBG – Mitigation (CDBG-MIT) activities carried out by the North Carolina Office of Recovery and Resiliency (NCORR), its subrecipients, and/or agents. This policy applies to any appeal of a ReBuild NC programmatic or URA decision concerning applicant or tenant eligibility, award/benefit determinations, or involuntary withdrawal from a program, except in cases of potential fraud, recapture, or revocation of assistance, as determined by NCORR. While this policy applies to all ReBuild NC programs, each program may have additional guidelines. Additional guidelines are outlined in each program’s corresponding program policy manual, Homeowner Grant Agreement, Offer to Purchase and Contract, and/or other legally binding documents executed by ReBuild NC program applicants and/or tenants if such policies substantially differ from those contained herein. This policy is effective from the date adopted.

An **appeal** is defined as a formalized written request by an applicant or tenant, as applicable, asking for a reversal or revision of a program determination that affects their eligibility and/or assistance they may receive from the ReBuild NC program. This policy refers to **applicants** of a ReBuild NC program and includes those persons actively applying to or participating in any ReBuild NC program or individuals empowered to act on an applicant’s behalf. It also applies to persons who may be relocated involuntarily, either temporarily or permanently, due to the activities of a federally funded ReBuild NC program; such persons are referred to here as **tenants**.

There are two types of appeals:

- **Programmatic Appeals:** Any appeal involving an applicant to a ReBuild NC program.
- **URA Appeals:** Any appeal regarding relocation services stipulated by the U.S. Department of Housing and Urban Development (HUD) regulations/policy, and/or the Uniform Relocation Act (URA).

NCORR is committed to providing a fair and complete review of all appeals. In the review of all appeals, NCORR shall consider pertinent justification and materials submitted by the applicant or tenant, and all other available information to ensure a fair and complete review of an appeal.

3.0 Appeals

3.1 OVERVIEW OF THE APPEAL POLICY AND PROCESS

Applicants and tenants may submit a written appeal related to any determination made by a ReBuild NC program that affects their eligibility or assistance they may receive, except in cases of potential fraud, recapture, or revocation of assistance, as determined by NCORR. Appeals may only be submitted prior to the execution of a Homeowner Grant Agreement, Offer to Purchase and Contract, and other legally binding documents with a ReBuild NC program, unless otherwise allowed by federal regulatory obligations, such as 49 CFR 24.10(b) in the case of URA Appeals. Appeal determinations shall be consistent with the policies and procedures contained within the relevant HUD-approved ReBuild NC program Action Plans, federal regulations, state and local codes and ordinances, local guidelines, executed legally binding documents, and ReBuild NC program policies, as interpreted by NCORR. NCORR does not have the authority to approve an appeal of statutory requirements or regulations that govern Community Development Block Grant-Disaster Recovery (CDBG-DR) funds, Community Development Block Grant

– Mitigation (CDBG-MIT) funds, relocation activities covered under the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (URA), 49 CFR Part 24, as amended, and HUD’s Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition, or other federal, state, or local requirement. Therefore, any request that seeks to appeal these regulations will not be considered. An appeal submitted based on federal, state, or local regulations will automatically receive a No Satisfactory Basis for Appeal letter informing the applicant or tenant that the program does not have authority nor jurisdiction to overturn a federally regulated matter. Additionally, appeals based on federal regulations will be administratively closed upon sending the No Satisfactory Basis for Appeal letter.

The appeals process is composed of a thorough review of all relevant materials, while a consultation with the applicant will also be offered to obtain any relevant information. After all materials are reviewed, the appeal will receive a determination by NCORR.

If at the conclusion of the appeals process the tenant or applicant is not satisfied with the appeal determination, the tenant or applicant may seek a judicial review of NCORR’s determination on their own accord.

3.2 COMMUNICATION OF APPEALS PROCEDURES

3.2.1 Programmatic Appeals: Applicants Advised of Appeal Procedures

Appeals procedures are provided to applicants when they apply to a ReBuild NC program to explain the system for the resolution of concerns or disputes applicants may have with program determinations provided by NCORR. Further, when a determination of eligibility and/or assistance is made, appeals procedures are provided to applicants once more, along with the necessary documents to submit an appeal. The appeals policy and related documents are also available on the program website (<https://www.rebuild.nc.gov/>) for ease of access and review by applicants and their designees at all times.

3.2.2 URA Appeals: Tenants Advised of Appeal Procedures

Appeal procedures are provided to tenants when they receive a General Information Notice (GIN). Further, when a determination of eligibility and/or assistance is made, appeals procedures are afforded to tenants once more along with the other documents to submit an appeal.

3.3 SUBMISSION OF AN APPEAL

3.3.1 All Appeal Requests

All requests for appeals must be submitted to the ReBuild NC program according to the process described in the program’s appeals procedures.

3.3.2 Programmatic Appeals: Timeframes for Appealing a Program Determination

Applicants may appeal a program decision that affects their eligibility or the assistance they may receive within **thirty (30) calendar days** from the date that a written notification of determination was sent.

3.3.3 URA Appeals: Timeframes for Appealing a URA Determination

Tenants may file a written appeal related to any determination made by a ReBuild NC program that affects their eligibility or the assistance they may receive. Tenants submitting an appeal under the URA have sixty (60) calendar days to appeal from the date they received a written notification of determination from a ReBuild NC program regarding URA or relocation service eligibility, benefits, services, program performance, amounts or payments, or determination of the person's claim.

3.3.4 Acknowledging All Appeal Requests

The ReBuild NC program will acknowledge the applicant's or tenant's request for appeal in writing within **fifteen (15) business days** of receipt.

3.4 EXTENSION REQUESTS

3.4.1 Programmatic Appeals: Extension Requests

Applicants may request an extension beyond the thirty (30) calendar day time period for submitting an appeal by submitting a written request for an extension. Requests for extensions should be submitted within thirty (30) calendar days from the date that a written notification of determination was sent. An extension request is limited to thirty (30) additional calendar days, however, requests for extension beyond thirty days may be considered on a case-by-case basis. Applicants can request a reasonable extension for their appeal two (2) times.

3.4.2 URA Appeals: Extension Requests

Tenants may request an extension of thirty (30) additional calendar days by submitting a written request for an extension within sixty (60) calendar days of the receipt of the determination letter. An extension request is limited to thirty (30) additional calendar days, however, requests for extension beyond thirty days may be considered on a case-by-case basis. For appeals regarding relocation eligibility or benefits, no more than two (2) extensions will be offered.

3.4.3 Extension Approvals (All Appeals)

If the program determines that an appeal extension request is justified, the program will approve the request. The program will inform the applicant or tenant of the program's decision to grant or deny the extension.

3.5 URA APPEALS

3.5.1 Conformance with Regulations

The ReBuild NC program will conduct the URA appeals process in accordance with federal regulations at 49 CFR §24.10.

3.5.2 Legal Representation

Tenants requesting an appeal have the right to be represented by legal counsel or other representation in connection with his or her appeal, but solely at the tenant's own expense.

3.5.3 Communication Barriers

For tenants with potential communication barriers, including limited English proficiency, or who otherwise require reasonable accommodation in preparing an appeal, the ReBuild NC program shall provide such assistance directly or through an appropriate third party at no cost to the tenant.

3.5.4 Access to Records

Tenants appealing a URA decision are allowed to review and copy materials that are relevant to the appeal during normal business hours with a prior appointment, except for those that may be considered confidential. At NCORR discretion, NCORR may impose reasonable conditions on the inspection of such records and materials, consistent with applicable laws.

3.5.5 Notification of Determination and Judicial Review

Tenants will be notified in writing of the appeal decision which includes an explanation of the basis upon which the decision was made. If an appeal request is denied in part or in full, the tenant will be informed in writing that they may seek judicial review of ReBuild NC's determination.

3.5.6 Right to Appeal

Tenants' acceptance of an amount offered to them by the program does not limit their right to appeal the program determination regarding the amount of relocation assistance.

3.6 TIMEFRAMES FOR APPEAL REVIEW AND DETERMINATION

3.6.1 Appeal Readiness for Appeals Review (All Appeals)

In order for an appeal to be considered, necessary documentation must be available for review. If additional documentation is needed, the ReBuild NC program will contact the applicant or tenant. The necessary documentation must be submitted to the ReBuild NC program to allow sufficient time for a complete review. If time permits a Request for Information (RFI) may be submitted by the program to the applicant or tenant to request additional information needed for the program to make the appeal determination.

3.6.2 Timeframe and Notification of Appeal Determinations (All Appeals)

The Appeals Team will aim to generally provide a determination on an appeal within thirty (30) to sixty (60) calendar days from when the appeal is complete and ready for review. The time to reach appeal readiness will vary as more complex appeals can require the performance of major program tasks including but not limited to re-verification of duplication of benefits, review of eligibility or benefit documentation and determinations, re-inspection, re-appraisal, and/or re-calculation of the award, offer, or benefit amount(s). In addition, an appeal determination can take longer than sixty (60) calendar days from appeal readiness if an appeal review is tabled to obtain further information, perform further analysis, or consult third party organizations. Appeals that involve the revision of major programmatic tasks or require more information may require up to one hundred twenty (120) calendar days from appeal submission to appeal determination. In these cases, the program will inform the party exercising their appeal rights of the progress made and if any additional information is needed or required for a determination.

Once made, the written determination is sent to the applicant or tenant. Once an appeal determination is made, the ReBuild NC program will proceed with implementation according to the determination appeal. All determinations will provide a final determination for applicants and any remaining next steps available for tenants.

3.7 VOLUNTARY WITHDRAWAL OF THE APPEAL

Applicants and tenants have the option to voluntarily withdraw their appeal request at any time prior to a final appeal determination being sent. The applicant or tenant must submit their request for appeal withdrawal in writing.

3.8 APPEAL ADMINISTRATION

3.8.1 Tracking Appeals (All Appeals)

The ReBuild NC program will track appeals in the NCORR system of record. Program staff will monitor appeal progress, appeal decisions, and the impact of appeal determinations on program policies.

3.8.2 System of Record Documentation (All Appeals)

The ReBuild NC program will upload all documentation, supporting materials, and correspondence regarding the appeal(s) and determination(s) into the applicant's or tenant's file in NCORR's system of record.

3.8.3 Consistency and Monitoring (All Appeals)

The ReBuild NC program is responsible for monitoring response timeframes and the content of the responses to ensure consistency across ReBuild NC programs. ReBuild NC will review its appeals processes and practices to ensure compliance with the action plan(s), regulatory requirements, program policies, and legally binding program documents.

4.0 Appeals Team

4.1 APPEALS TEAM (ALL APPEALS)

The NCORR Appeals Team is composed of authorized NCORR staff designated to review all submitted appeals. The Appeals Team will consider all appeals unless the issue that is being appealed is specifically defined under current program-specific policy, the issue that is being appealed is based on federal, state, or local regulation, or an applicant or tenant has submitted an appeal prior to receiving a formal determination.

The Appeals Team shall review all relevant appeal documentation for consideration in advance of a determination. The Appeals Team may only assess written statements and documents provided to support the appeal. Appeals Team members shall not have been directly involved in the action appealed. Program subject matter experts may serve as advisors if needed.

Once a determination has been made, the decision is documented and entered into the system of record. A written appeal determination is sent to the applicant or tenant as set forth in section 3.6.2 on previous page. Program staff will then take further appropriate action to implement the determination if needed.

4.1.2 URA Appeals: Additional Information

The assigned Appeals Team members conducting the review of URA appeals shall be authorized designees of the the Director of NCORR. The designated Appeals Team members shall not have been directly involved in the action appealed. The tenant will be notified in writing of the appeal decision including an explanation of the basis upon which the decision was made. If at the conclusion of the appeals process the tenant is not satisfied with the appeal determination, then the tenant may seek a judicial review of the determination on their own accord.

4.1.3 Reasonable Accommodation Grievances/Appeals: Additional Information

Grievances related to a reasonable accommodation request or decision are managed separately from this Policy, and follow the process outlined in the NCORR Reasonable Accommodation Policy and Reasonable Accommodation Standard Operating Procedures. Reasonable accommodation or reasonable modification requests or grievances that are included in an applicant's programmatic appeal that are subject to this Policy shall be routed to or coordinated with the FHEO Officer or otherwise identified designee.