

Office of the Attorney General  
State of North Dakota

Opinion No. 83-41

Date Issued: November 4, 1983

Requested by: Senator Hal Christensen

--QUESTION PRESENTED--

Whether persons required to relocate their residence, personal property, or business because of the acquisition of real property by a school district are entitled to benefits under Chapter 54-01.1 of the North Dakota Century Code (the Model Relocation Assistance Act).

--ATTORNEY GENERAL'S OPINION--

It is my opinion that persons required to relocate their residence, personal property, or business because of the acquisition of real property by a school district are entitled to benefits under Chapter 54-01.1, N.D.C.C. (the Model Relocation Assistance Act).

--ANALYSIS--

The purpose of Chapter 54-01.1 of the North Dakota Century Code (the Model Relocation Assistance Act) is expressed in Section 54-01.1-01, N.D.C.C., the pertinent part providing:

54-01.1-01. DECLARATION OF POLICY. The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced by the acquisition of real property by state and local land acquisition programs, . . .

The parties to whom the act is applicable are defined in Section 54-01.1-02, N.D.C.C. An 'agency' is defined as:

54-01.1-02. DEFINITIONS. As used in this chapter:

1. 'Agency' means any department, agency, or instrumentality of the state or of a political subdivision of the state; or any department, agency, or instrumentality of two or more political subdivisions of the state.

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A 'displaced person' is defined as:

3. 'Displaced person' means any person who, on or after July 1, 1973, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by an agency; and solely for the purposes of subsections 1 and 2 of section 54-01.1-03 and section 54-01.1-06, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

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A school district is recognized as a political subdivision in Sections 15 and 16 of Article X of the North Dakota Constitution. Such recognition was adopted by the North Dakota Supreme Court in Baldwin v. Board of Education, 33 N.W.2d 973 (N.D. 1948).

As a school district satisfies the definition of agency as found in Section 54-01.1-02, N.D.C.C., it is obligated to provide relocation assistance mandated by Chapter 54-01.1, N.D.C.C., to those persons displaced due to the acquisition of real property by the school district. Such relocation assistance includes reasonable relocation payments to displaced persons and businesses and the acquisition of replacement housing.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the questions presented are decided by the courts.

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