INDEX OF BUREAU OF RELOCATION DECISIONS BY CHRISTINE MCCLAVE

DATE	PARTIES	ISSUES	OUTCOME
3 December l987	Silver Slipper Lounge v. Chinese Economic Development Council	Tenants (Silver Slipper Lounge) in a building which was in an urban renewal area and purchased with some public funds were promised relocation benefits in anticipation of the building purchaser being granted M. G. L. c. 121A status, which clearly would have triggered the obligation to provide relocation benefits. At the urging of the building purchaser the Bureau of Relocation approved a relocation plan. After tenants were moved from the building, the purchaser determined not to pursue c. 121A status, and thereafter denied the displaced business's claim for actual direct loss of property (ADLP)(*see*, M.G.L. c.79A §7). Is the displaced business entitled to relocation benefits?	The business was entitled to relocation benefits because the benefits had been promised in anticipation of the purchaser being granted c.121A status, and, even if that were not the case, public funds were used for redevelopment of the building, and the use of public funds also triggered relocation obligations.
31 July 1989	Silver Slipper Lounge v. Chinese Economic Development Council	Is a business displaced from a building that was partially funded with public funds entitled to the full range of relocation benefits pursuant to M.G.L. c. 79A §7, or only the reasonable costs of moving as set out in M.G.L. c. 79A §14.	The business is entitled to the full range of benefits, not just actual, reasonable moving expenses. [This case was appealed to Superior Court, and eventually to the Supreme Judicial Court where it was determined that the Silver Slipper was not entitled to the full range of benefits available under M.G.L. c. 79A §7, but only to actual reasonable moving expenses under M.G.L. c. 79A §14. See, *Boylston Development Group v. 22 Boylston Street Corp.*, 412 Mass. 531, 591 NE2d 157 (1992)].

2 October l990	Francis J. Linehan v. Mass. Dept. of Public Works	Is Claimant entitled to an "in lieu of moving expenses" payment of $20,000 when average annual net earnings of the two tax years immediately prior to the year of the move do not support the payment, but other tax years may support such a payment? If not, what type of relocation payment is owed?	The business is not entitled to a $20,000 "in lieu of moving expenses payment." However, it is entitled to actual, reasonable moving expenses (M.G.L. c. 79A §7) and a business reestablishment payment (49 CFR 24.304(a)).
20 December 1991	Bank of New England v. Lawrence Redevelopment Authority (LRA)	A portion of Bank's relocation claim disallowed because the LRA said the property in dispute became part of the realty, and relocation benefits are paid only for personal property. Property in dispute was sprinkler system, suspended ceiling, heating system, computer room, etc. Should the property be considered real or personal?	Bureau of Relocation did not reach the question of whether the property was real or personal because it determined that the bank waived its right to claim the property was personal when it left the property at the old location and accepted payment from the LRA
24 April 1992	Ruggiero's Market v. Boston Public Facilities Department	When a business is performing a self-move, should the "low bid" used to determine the amount to which the displacee is entitled, include contractors overhead and profit? Can a parking lot located next to the displaced business be considered a separate "business" eligible for "in lieu of" payment?	The state regulations provide that the relocation payment for a self-move shall not exceed the estimated cost of accomplishing the move with a commercial mover. A commercial mover would include overhead and profit in its estimate, therefore the business is entitled to an amount that does not exceed the commercial estimate, including overhead and profit. A parking lot can be considered a separate business for purposes of relocation compensation, if the evidence supports the conclusion, as it did in this case, that it was a separate business entity.
16 May 1996	House of Bianchi v. Mass. Highway Dept.	Are "linkage" payments, building permit payments, architectural and engineering fees	Linkage payments are a relocation expense under 49 CFR 24.303(a)(14) as an "other

		reimbursable as a relocation cost? If a business (in this case bridal gown manufacturing) has two dependent sites very close to each other (one which makes bows, the other used the bows to assemble the gowns), can the displaced business be reimbursed for moving the second site, when the first site is taken by eminent domain and forced to move?	moving related expense." The record in this case showed that the two facilities were closely integrated and the definition of "displaced person" allows for reimbursement of actual moving costs when property is moved as a result of other property being taken by eminent domain.
20 June l996	Marr Oil Heat Co. v. Worcester Redevelopment Authority	Are the oil storage tanks (both above and below ground), the pumps, valves, meters, connecting lines, and other equipment located on certain property in Worcester to be considered real property of the landowner or personal property of a tenant for the purposes of a relocation claim?	Claimant was a tenant on the property, and was lawfully entitled to move the storage tanks, pipes, valves, etc. There was no evidence that the displacing agency paid for the equipment as part of the real property. Therefore it was personal property and the claimant was entitled to be compensated for it.
11 February 1999	Frank Bush Used Computers v. Town of Stoneham	When a business operates at two locations and one of the locations is taken by eminent domain can the business be compensated for moving the second location?	Definition of "displaced person" provides that a person (or business) has moved as a direct result of the acquisition. Business owner had always intended second location to be temporary, so moving the second site was not a direct result of the acquisition, and the business owner was not entitled to be compensated for moving the second business.
7 April 2000	Prime Value Mart v. Worcester Redevelopment Authority	When a business property is taken by eminent domain and the business elects to cease operations and liquidate retail goods held for sale, can the business be compensated for an ADLP claim? What cost-of-sale expenses are "ordinary" and "reasonable" in ADLP claims?	Displacing agency was not aware of the sale, so there was no opportunity to verify listing of inventory, obtain estimates of Fair Market Value or obtain estimates of cost to move. In addition, business could not reliably establish the actual cost of the inventory. As a result there was no way to determine if the business

			experienced a loss in the sale of its inventory and the claim was denied.
30 March 2001	Salvation Army v. Springfield Redevelopment Authority	Should certain plumbing fixtures, such as sinks, toilets, urinals, bathtubs and shower stalls be considered real property or personal property?	Evidence showed that real estate appraiser included the fixtures when determining the value of the real property. Therefore, the items were realty.
21 May 2001	Recreational Amusement and Mass. Turnpike Authority	In order to narrow the issues to be determined at hearing, the parties asked for an interpretation of the definition of personal property as it appears in M.G.L. c. 79A §1, which provides: "In the case of an owner of real property, the determination as to whether an item of property is personal or real shall depend upon how it is identified in the acquisition appraisals and the closing or settlement statement with respect to the real property acquisitions; provided, that no item of property which is compensable under state and local law to the owner of real property in the real property acquisition may be treated as tangible personal property in computing actual direct losses of tangible personal property."	Items identified in the real estate appraisal as part of the real property shall be considered realty. Items identified as personalty in the appraisal shall be considered personalty. Items not identified in the real estate appraisal shall be the subject of a hearing.
3 August 2001	Lago Realty Trust v. Town of Wakefield	What is the meaning of "fair market value for continued use" (49 CFR 24.303(a)(10)(i)) when a business ceased operations for financial reasons four months prior to the eminent domain taking and filed an ADLP claim?	When there is no business activity in the 4 months prior to the taking it is not appropriate to attribute a "continued use" value to the property. The property should be valued using a "market value" standard.
8 January 2002	Watman and McCormack v. Town of Peabody	What constitutes a "comparable" unit (760 CMR 27.04(3)) when the tenants were permitted to live for free in exchange for providing services to the	It was appropriate for the taking agency to use a housing of last resort standard (49 CFR 24.404), under which the tenants received a

		owner?	sufficient lump sum payment for them to purchase houses.
8 October 2002	Universal Polymer Technologies v. Town of Lynn	Is a business entitled to receive payment for relocation expenses in excess of an agreed upon amount for a self-move (760 CMR 27.05(5)) without documentation?	Items for which reimbursement was sought were compared to the bid documents to determine what was included in the negotiated self-move amount. Claimant was awarded an additional $15,000 for items that were not covered by the bid documents.
16 December 2004	McDermott v. Lowell HA – Julian Steele	Tenants who were being displaced from a public housing development were given rent differential payments for one year and told to return at the end of the year so that the displacing agency could re-determine whether further rent differential payments were owed. Do the federal regulations concerning replacement housing payments (49 CFR 24.401-404) apply to projects under 79A and 760 CMR 27.00? If a tenant is entitled to a rent differential payment, at what point is the amount of the payment determined?	There have always been differences between state and federal relocation statutes and regulations, but they should be viewed as pieces of a whole relocation scheme. State regulations provide that replacement housing payments should be calculated in accordance with 49 CFR 24.401-404. Therefore, the benefit should be calculated in accordance with federal regulations up to a maximum of $4000, the amount set out in the state statute. The benefit vests immediately in accordance with 49 CFR 24.402(3). It cannot be re-calculated at a later date.
18 February 2005	Recreational Amusements v. Mass. Turnpike	Should items used in amusement business such as lighting fixtures, batting cages, netting, rides, etc. be considered real or personal for purposes of an ADLP claim?	ADLP claimants can only be paid for personal property. Although the Bureau of Relocation's previous decision provided that the parties should first look to the appraisal to determine whether items should be classified as real or personal, in this case the items in question were either not identified at all in the appraisal or identified as "real" but valued at zero. Therefore, it was necessary to look to the

			common law for guidance. Under common law principles, the items should be considered personal, and the property owner should be compensated for their loss.
2 March 2005	Mystic Plating v. Mystic Valley Dev. Commission	When determining the "fair market value for continued use" (49 CFR 24.303(a)(10)(i)) of items that were used in an older business and are now the subject of an ADLP claim, should the cost of installation be depreciated? Should the claim be limited to earnings of the business? Should a claimant be awarded interest?	DHCD issued a guideline on this subject and determined that it would not be fair to the business to depreciate the cost of installation. Generally, ADLP claims are limited to the earnings of the business, but in this case the displacing agency tried to construct the business earnings three years after the business had closed using very limited financial information. Because earnings could not accurately be determined, the claim was not limited. M.G.L. c. 79A makes no mention of interest or the authority of the Bureau of Relocation to award interest. In the absence of statutory authority, there is no basis on which the Bureau of Relocation can award interest.
22 August 2006	Duro Industries v. City of Fall River	Are engineering services provided by a business's own employees a reimbursable expense? Should two pieces of machinery be considered as a capital expense, which is not reimbursable, or should the machinery be identified as substitute equipment, which is an eligible relocation expense pursuant to 49 CFR §24.301(g)(16)? When considering an ADLP claim, if no buyer	In order for any expense to be reimbursable, there must be some basis on which an agency can determine whether the expenses are actual, reasonable and necessary. Such a determination was not possible in this case because Duro estimated the amount of time each employee spent on move-related activities, and Duro cannot be compensated for

		can be found for a piece of machinery should the property be valued at zero?	this item. The machinery in question was substantially the same as that owned and used by Duro at the displacement site, so it should be considered substitute property pursuant to 49 CFR §24.301(g)(16). There is nothing in the regulations (49 CFR 24.301 (g) (14)) to indicate that if the property cannot be sold it should be valued at zero. The appraised value is the appropriate "fair market value in place as is for continued use."
27 Sept. 2006	Recreational Amusements v. Mass. Turnpike	Should electrical components connected to amusements that were previously found to be personal property, be included as a reimbursable expense?	The items in question are eligible relocation expenses if they served individual rides or amusements. Electrical components that served the property in general are not eligible relocation expenses.
11 June 2008	Character's Pub v. Gardner Redevelopment Authority(GRA)	Is Character's Pub entitled to relocation benefits as a result of being located in a building purchased by the GRA? If so, how are the benefits calculated?	GRA is a public entity using public funds, so Character's Pub is entitled to the full range of relocation assistance and benefits.
12 May 2009	Algonquin Gas v. Massachusetts Bay Transportation Authority (MBTA)	Utility entered into a License Agreement with the Executive Office of Transportation and Construction (EOTC) which allowed Algonquin Gas to lay and maintain a natural gas pipeline in the right of way owned by EOTC. The agreement provided that Algonquin would be responsible for moving its pipeline if requested. The property on which the right of way was located was	If the Agreement of the parties was truly a license, and if the license was terminated by the 1996 eminent domain taking (as argued by Algonquin), then after 1996 Algonquin was either trespassing on the property (in which case it would not be entitled to relocation benefits because only legal occupants of the property can be reimbursed for relocation

		subsequently taken by eminent domain by the MBTA. Algonquin was not notified of the taking and was not aware that it occurred until later. MBTA requested that Algonquin remove its pipeline so that construction of a commuter rail could begin. The question for review in this case: Is a utility (gas pipeline) located in a public right of way entitled to recover relocation costs if asked to move its pipeline?	expenses) or the common law governed the situation (in which case Algonquin would not be entitled to relocation benefits). If the Agreement was more than a license and survived the 1996 taking, then the Agreement governs, and under the terms of the Agreement Algonquin must bear the cost of relocating the pipe line. Either way, Algonquin is not entitled to relocation expenses.
2 October 2009	Krutiak Construction v. Mass. Highway Dept.	When an appraiser is determining the "fair market value for continued use," (49 CFR 24.303(a)(10)(i)) is it appropriate for the appraiser to revise the appraisal after an auction sale, using auction prices as an indication of "fair market value"?	It is not appropriate to use auction prices as an indication of "fair market value" because: a) A business forced to relocate is not a willing seller, b) Auction prices do not take into consideration the "continued use" value, and 3) Auctions are unpredictable so using auction prices would not be "fair" to business.
23 August 2012	Krutiak Construction v. Mass. Highway Dept.	What is the "fair market value" (49 CFR 24.303(a)(10)(i)) of the property Krutiak sold at auction?	The appraiser used by MassHighway was not qualified and his appraisal used inappropriate methods (see Krutiak Construction v. Mass. Highway Dept., 2009 decision). Therefore, the only basis for determining the fair market value of the property is the appraisal submitted by Krutiak's appraiser.
27 July 2015	Brainard and Long v. Mass. Dept of Transportation	Was the property chosen by the Massachusetts Department of Transportation (MDOT) as "comparable replacement housing" actually "comparable" to the property of the Claimants, which was taken by eminent domain?	No, the property was not comparable because the lot was less than half the size of the displacement dwelling, it was located on an exposed corner of Trapelo Road, and had almost no back yard, therefore not providing the privacy Claimants indicated from the start was of paramount importance to them.

			Another property considered but rejected by MDOT was more comparable, and Claimants were entitled to an additional amount of money.
9 September 2022	Brockton Furniture v. Brockton Redevelopment Authority	1. Whether Brockton Furniture's move from 93 Centre Street was a self-move. 2. Whether the Brockton Redevelopment Authority provided appropriate relocation assistance to Brockton Furniture. 3. Whether Brockton Furniture is owed additional payments for eligible expenses incurred as a result of its move	1. Brockton Furniture conducted a self-move. 2. Brockton Furniture did not receive the full range of relocation benefits outlined in the statute and regulations. 3. Brockton Furniture is entitled to its full relocation claim and is therefore owed an additional $130,633.95 by the Authority
1 September 2023	Christopher Ross, DMD, PC v. City of Lowell	Whether Dr. Ross was sufficiently compensated when he was forced to move his dental practice from property that was taken by eminent domain by the City of Lowell in order to expand Lowell High School.	Dr. Ross's move was determined to be a self-move. It was also determined that he was entitled to an additional $15,560.

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