

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF RICHFIELD
HOUSING AND REDEVELOPMENT AUTHORITY

In the Matter of the Kenneth Wren
Residential Relocation Claim

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

The above-entitled matter came on for hearing before Administrative Law Judge George A. Beck, serving as a hearing officer for the Richfield Housing and Redevelopment Authority at 9:30 a.m. on October 27, 2003 at the Richfield City Hall. The parties submitted post-hearing memoranda, the last of which was received on November 19, 2003, on which date the record in this matter closed.

The claimant, Kenneth Wren was represented by Jon Morphew, Esq. of the firm of Schnitker and Assoc., P.A., 2300 Central Avenue NE, Minneapolis, MN 55418. The Richfield Housing and Redevelopment Authority ("HRA") was represented by Robert J.V. Vose, Esq., Kennedy and Graven, 200 South Sixth Street, Suite 470, Minneapolis, MN 55402. Intervenor Lyndale Gateway LLC was represented by David A. Davenport, Esq., of the firm of Winthrop and Weinstine, P.A., 225 South Sixth Street, Suite 3500, Minneapolis, MN 55402-4629.

This order is the final administrative decision.^[1] Judicial review of this decision may be had by writ of certiorari to the Minnesota Court of Appeals.

STATEMENT OF ISSUE

Is the claimant eligible for relocation benefits from the Richfield HRA under the Minnesota Uniform Relocation Act and the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970?

The Administrative Law Judge concludes that the Claimant is eligible for relocation benefits from the Richfield HRA.

Based upon all of the proceedings in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The 7600 block of Lyndale Avenue South in Richfield was first identified for redevelopment in 1985. The City adopted a citywide redevelopment plan in 1993. A study in 1996 then led to the HRA taking requests for proposals for redevelopment of the 7600 block of Lyndale.^[2]

2. On January 19, 1999, the HRA approved a contract with CSM Properties, Inc. for the redevelopment of the 7600 block of Lyndale Avenue South. The area included the east and west sides of Lyndale Avenue between 76th and 77th Streets and extended back to the east side of Aldrich Avenue and the west side of Garfield Avenue. The initial plan contemplated construction of a hotel, a senior housing complex, an office building and another building housing a mix of retail and office uses. The property owners were first notified of the contract in a letter dated January 22, 1999.^[3]

3. On April 9, 1999 the City sent a letter to the commercial property owners in the redevelopment district advising them that CSM and the HRA were still in the process of determining the costs and benefits of redevelopment but notifying them that if a business moves due to the sale of property for redevelopment purposes, it may be eligible to receive relocation payments as prescribed by federal law. The letter stated that a relocation benefit would only be available to businesses that receive an official notice stating that the property is being acquired and the tenants must vacate.^[4]

4. The City also sent a similar letter to homeowners or tenants in the area on April 9, 1999, but the letter did not mention relocation benefits.^[5] This letter and approximately 20 subsequent letters from the City invited the homeowners to call John Stark, the City's Community Development Manager, if they had questions.

5. On April 23, 1999 the City sent a letter to all property owners and tenants advising them that the HRA had approved a concept plan submitted by CSM on April 19, 1999. The plan included a 150 unit senior apartment complex and office space on the east side of Lyndale Avenue and a hardware store, drug store and additional retail and office space on the west side of Lyndale Avenue.^[6]

6. CSM began negotiations with the property owners between Lyndale and Garfield during the summer of 1999. Negotiations outside of that area (including the property later purchased by the claimant) were deferred until later.^[7]

7. Claimant Kenneth Wren purchased a home at 7627 Aldrich Avenue South in Richfield in November of 1999. The house was constructed in 1946, had two bedrooms and two baths, and approximately 1200 square feet. The purchase price was \$116,900. This was the first house that Mr. Wren had owned. Approximately one and one-half months after moving into the house Mr. Wren learned through a mailing from the City and a meeting that he was in a redevelopment district.^[8]

8. On November 15, 1999 the City hand delivered a letter to residents of the west side of Lyndale and the east side of Aldrich advising them of a tree survey that was to be completed, as a step in the redevelopment process.^[9]

9. In January of 2000, property owners were notified that the redevelopment would occur in three phases. Phase 3 included the west side of Lyndale Avenue and the east side of Aldrich Avenue, including claimant's home.^[10]

10. On February 29, 2000 the City advised property owners and tenants that the HRA and the Richfield City Council had approved the final plan for the "mainstreet gateway commercial development" (Phase 3), which included the west side of Lyndale Avenue and the east side of Aldrich Avenue.^[11]

11. In January of 2001 CSM requested an extension for acquisition of property in the Lyndale Gateway area.^[12] In May 2001 the HRA terminated the redevelopment contract with CSM.^[13]

12. In late 2001 the City identified the Cornerstone Group as a potential developer for the final phase (Phase 3) of the project, namely the west side of Lyndale and the east side of Aldrich Avenue between 76th and 77th Streets.^[14]

13. Ken Brooks, a commercial real estate broker who had earlier worked with CSM, sent a memo to the Phase 3 property owners on April 15, 2002. In the letter he proposed that he would represent the property owners with the idea that the properties were for sale only as a group. He suggested that this would be a solution to the problem of the developer being uncertain as to what the aggregate sale price would be and whether the land could be assembled without the use of the power of eminent domain.^[15]

14. The Cornerstone Group proceeded to refine its proposal for the area.^[16] The City sent a letter to property owners on June 12, 2002 that advised residents of a meeting on June 17 at which the Cornerstone Group would present its modified site plan. The letter stated, in part:

The HRA staff now believes that many of the issues have been identified and addressed. At this point in time, the biggest "unknown" is the price that the Cornerstone Group will have to pay for the development property. Based on average acquisition costs in other redevelopment projects in Richfield, The Cornerstone Group's budget includes a sufficient amount for property purchases. If, on the other hand, property owner's expectations for compensation far exceeds typical real estate prices, then this (or any other) project may not be feasible.^[17]

15. In July of 2002 the Cornerstone Group retained Ken Brooks to assist them in negotiations with property owners.^[18] Mr. Brooks sent a letter to Mr. Wren dated July 1, 2002 in which he advised Mr. Wren that he had been retained by the

Cornerstone Group to study the redevelopment potential of his neighborhood. The letter disclosed that Mr. Brooks was a buyer's agent working for the buyer/developer.^[19]

16. In July of 2002, the Cornerstone Group created a distinct corporate entity, Lyndale Gateway LLC, to develop Phase 3.^[20]

17. The HRA approved a contract with Lyndale Gateway LLC, the redeveloper, on August 5, 2002.^[21] It called for the City to establish a Tax Increment Financing (TIF) district to facilitate the financing of public development and redevelopment costs in order to redevelop the project area by a combination of public and private activity.^[22] The contract with Lyndale Gateway required it to prepare a concept plan.^[23] Section 3.1 of the contract states as follows:

Section 3.1. Statement of Intent. It is the intention of the parties that the tracts of land which comprise the Redevelopment Property are to be acquired through a combination of direct acquisitions by the Redeveloper and acquisitions by the HRA followed by conveyances to the Redeveloper. Unless specifically provided otherwise in this Agreement, the Redeveloper shall be responsible for all acquisition costs and the cost of relocation benefits and assistance provided to any party displaced as a result of the development. It is further the intention of the parties that, whenever possible, direct acquisition by the redeveloper is preferred. It is further the understanding of the parties that in the acquisition of the Redevelopment Property and related activities the HRA's obligation shall only be to proceed in good faith and to utilize its best efforts.^[24]

18. The contract also provides that if Lyndale Gateway was unable to acquire all of the properties in the project area by December 15, 2002, it could request the HRA to condemn those not acquired and then the HRA would convey them to Lyndale Gateway.^[25]

19. The HRA later agreed to provide a total of approximately \$8.2 million in tax increment financing to Lyndale Gateway LLC, for redevelopment costs.^[26]

20. The City sent Mr. Wren a letter dated September 6, 2002 advising him that he would be contacted by an engineering company that would conduct an evaluation of the physical condition of his home as one of the steps in creating a tax increment financing district for the redevelopment. The letter advised Mr. Wren that the evaluation would not influence any potential negotiations with future purchasers of his property.^[27]

21. Mr. Brooks mailed a purchase agreement dated September 9, 2002, to Mr. Wren for the sale of his house to Lyndale Gateway LLC. The purchase agreement called for a payment of \$170,000 with a closing on or before June 1, 2003.^[28] Mr. Brooks then met with Mr. Wren and Mr. Wren negotiated a purchase price of \$180,000.

Mr. Wren then signed the agreement on September 24, 2002.^[29] Mr. Brooks explained to Mr. Wren that he could represent both Lyndale Gateway LLC and Mr. Wren in the transaction.^[30]

22. Paragraph No. 7 of the Addendum to the purchase agreement states as follows:

7. RESPONSIBILITY FOR RELOCATION BENEFITS

Seller acknowledges that this is a voluntary and arm's length transaction between Buyer and Seller, and that the purchase price has been established through negotiation and represents the total amount that will be due and payable to Seller by reason of this transaction. Seller specifically acknowledges and agrees that neither Buyer nor the City of Richfield shall have any obligation to pay or provide to Seller, any relocation assistance, services, payments or benefits. Additionally, Seller expressly waives any claim to relocation assistance, services, benefits or payments... .

23. Mr. Brooks and Mr. Wren discussed paragraph No. 7 of the Addendum and Mr. Brooks explained that the paragraph meant that Mr. Wren was waiving his right to any relocation benefits.^[31] Mr. Brooks did not explain what relocation benefits were or how much they might be or why a waiver was necessary.^[32] There was no discussion of the possibility of condemnation of the property.

24. Lyndale Gateway LLC acquired Mr. Wren's property and several other properties by private negotiation. The closing on Mr. Wren's house occurred on June 5, 2003 and he moved from the premises on the same day.

25. By a letter dated December 10, 2002 the Cornerstone Group asked the HRA to undertake condemnation of ten properties in the Phase 3 area including eight on Lyndale Avenue South and two on Aldrich Avenue South.^[33]

26. By December 18, 2002 the City reported to residents that Lyndale Gateway LLC had signed purchase agreements with all seven of the residential property owners as well as many of the commercial property owners, that the HRA and the City Council had approved the TIF district, as well as a financing plan. The letter to residents also stated that at its December 16, 2002 meeting, the HRA approved the use of condemnation for the remaining commercial properties that had not accepted purchase offers from the developer.^[34]

27. On February 27, 2003 the City wrote to the property owners advising them that the City was providing additional funding of \$1.1 million to the developer, due to a shortfall in the financing necessary to complete the project.^[35]

28. The HRA did proceed to condemn several commercial properties in the redevelopment area when negotiations between the developer and the commercial property owners failed.^[36]

29. It is the HRA's policy to not provide relocation benefits to property owners unless the property is acquired by eminent domain.^[37]

30. There were no oral communications between the City or HRA staff and Mr. Wren concerning the purchase of his property. Specifically Mr. Wren was not advised by the City or HRA staff that his property would be acquired by eminent domain if he did not agree to sell to Lyndale Gateway LLC.^[38] Neither the City nor the HRA ever held title to Mr. Wren's property. Mr. Wren did not receive any notice or information from the City, the HRA, or Lyndale Gateway LLC about relocation benefits.^[39]

31. The redevelopment plan states that the HRA may acquire property by condemnation for a redeveloper as necessary to implement the plan.^[40] The HRA has never acquired a single family home through condemnation.^[41]

32. The contract with Lyndale Gateway LLC requires it to reimburse the HRA for relocation benefits paid to eligible persons. Upon approval of the condemnation petition by Hennepin County District Court, the HRA hired Conworth, Inc. to notify eligible persons of their qualification for relocation benefits.^[42]

33. By a complaint dated September 24, 2003 Lyndale Gateway LLC initiated an action in Hennepin County District Court seeking a permanent injunction against Mr. Wren prohibiting him from seeking any further relocation assistance services payments or benefits of any kind related to the real estate that Lyndale Gateway purchased from Mr. Wren.^[43] Mr. Wren filed an answer dated October 13, 2003 asking the Court to determine that the waiver of relocation benefits obtained by Lyndale Gateway from Mr. Wren was not valid and recognizing Mr. Wren's right to pursue his claim for relocation assistance or benefits.^[44]

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge has jurisdiction to hear and decide this matter.^[45]

2. The Claimant received timely and appropriate notice of the hearing.

3. Minn. Stat. § 117.52, subd. 1 provides that:

In all acquisitions undertaken by any acquiring authority ... the acquiring authority, as a cost of acquisition, shall provide all relocation assistance, services, payments and benefits required by the Uniform Property Acquisition Policies Act of 1970, as amended ... and those regulations adopted pursuant thereto, ...

4. Minn. Stat. § 117.50, subd. 4 provides that:

“Acquisition” includes:

- (a) acquisition by eminent domain
- (b) acquisition by negotiation
- (c) programs of area wide systematic housing code enforcement; and
- (d) demolition.

5. That the Richfield HRA did undertake acquisition of Mr. Wren’s property.

6. Federal law provides that a homeowner that qualifies as a displaced person is entitled to payment by the displacing agency for actual reasonable moving and related expenses.^[46]

7. Minn. Stat. § 117.50, subd. 3 (2002) provided that a “displaced person” is:

any person who moves from real property, ... as a result of acquisition undertaken by an acquiring authority... .

8. Under 42 USC § 4601(6)(A) a “displaced person” is “any person who moves from real property...as a direct result of...the acquisition of such real property in whole or in part for a program or project... .

9. That the 2002 Minnesota definition of displaced person does not require direct agency causation for a displacement while the federal definition does.^[47]

10. Minn. Stat. § 117.50, subd. 3 (2003 Supp), effective August 1, 2003, provides that a displaced person is:

any person who, notwithstanding the lack of federal financial participation, meets the definition of a displaced person under United States Code, Title 42, Sections 4601 to 4655, and regulations adopted under those sections.

11. That Kenneth Wren is a displaced person within the 2002 Minnesota definition.

12. The requirements for notice to a displaced person are set out in 49 CFR § 24.203 which provides in part as follows:

- (a) General information notice. As soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the displacing agency’s relocation program which does at least the following:

(1) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(2) Informs the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filling payment claims, and other necessary assistance to help the person successfully relocate.

(3) Informs the person that he or she will not be required to move without at least 90 days' advance written notice (see paragraph (c) of this section), and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available.

(4) Informs the person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined in Sec. 24.208(i).

(5) Describes the person's right to appeal the Agency's determination as to a person's application for assistance for which a person may be eligible under this part.

(b) Notice of relocation eligibility. Eligibility for relocation assistance shall begin on the date of initiation of negotiations (defined in Sec. 24.2) for the occupied property. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

13. That the letters sent to Mr. Wren by the City, the HRA, and Lyndale Gateway LLC did not comply with the federal notice requirements.

14. Minn. Stat. § 117.521, subd. 1 provides, in part, that a property owner:

may waive any relocation assistance, services, payments and benefits, for which eligible under this chapter by signing a waiver agreement specifically describing the type and amounts of relocation assistance, services, payments and benefits for which eligible, separately listing those being waived, and stating that the agreement is voluntary and not made under any threat of acquisition by eminent domain by the acquiring authority. Prior to execution of the waiver agreement, the acquiring authority shall explain the contents thereof to the owner-occupant.

The statute also provides that the burden of proof is upon the acquiring authority to show that the agreement was entered into voluntarily.

15. That the waiver contained in the purchase agreement between Kenneth Wren and Lyndale Gateway LLC did not comply with the state statute.

16. The purpose of the federal relocation assistance program is, in part, to insure that persons displaced as a direct result of federally assisted projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.^[48]

17. The claimant has the burden of proof to demonstrate entitlement to benefits.

18. That the claimant has established his eligibility for benefits.

Based upon the foregoing Conclusions of Law, the Administrative Law Judge makes the following:

ORDER

IT IS HEREBY ORDERED: Kenneth Wren is eligible to receive relocation benefits from the Richfield HRA under the Minnesota Uniform Relocation Act.

Dated this 11th day of December 2003.

S/ George A. Beck

GEORGE A. BECK
Administrative Law Judge

Reported: Taped.
One Tape. Transcript Prepared.

MEMORANDUM

This case presents the question of whether, based upon the specific facts of this case, a homeowner who sells his home to a private developer engaged in a redevelopment project initiated by a municipal Housing and Redevelopment Authority may be eligible for housing relocation benefits under Minnesota and Federal law.

The Richfield HRA solicited proposals from developers in order to redevelop the 7600 block of Lyndale Avenue South. The HRA is a public authority with the power of eminent domain. The HRA entered into an agreement with the developer, Lyndale Gateway, that contemplated both direct acquisitions of property by Lyndale Gateway, as well as acquisitions by the HRA using its power of eminent domain, if necessary.^[49] The HRA also created a tax increment financing district that eventually provided

approximately \$8.2 million in financing to Lyndale Gateway to support the redevelopment costs.

Kenneth Wren, a homeowner in the redevelopment district, entered into a purchase agreement with Lyndale Gateway on September 9, 2002 in which he agreed to sell his house for \$180,000 and waived any right to relocation benefits. The sale closed on June 5, 2003 and Mr. Wren moved to a new location. Although he agreed to waive relocation benefits in his purchase agreement, he now argues that he is entitled to benefits under Minnesota law. His testimony at the hearing indicated that he did not understand exactly what he was waiving and, based upon the information he received prior to signing the purchase agreement, thought that he was required to sell his house.

The Minnesota Uniform Relocation Act (“MURA”)^[50] provides that: “In all acquisitions *undertaken* by any acquiring authority,” the acquiring authority shall provide relocation benefits. “Acquisition” includes acquisition by eminent domain or by negotiation. The Respondent and the objector point out that Mr. Wren’s property was acquired by *Lyndale Gateway*, through negotiation, and not by the HRA. They note that there was no direct contact between the HRA and Mr. Wren in regard to the sale of his property. Neither did the HRA make any threat or suggestion to Mr. Wren that it would use its power of eminent domain if he did not sell his property to Lyndale Gateway.

The object of any interpretation of a statute is to determine the legislative intent.^[51] In this case the legislature did not simply provide that any authority acquiring property had to provide relocation assistance. Rather, it allowed relocation benefits where an acquisition was “undertaken” by an acquiring authority. Some meaning must be attached to this word. The question is whether, based upon the specific facts of this public-private redevelopment effort, it is fair to conclude that the acquisition of Mr. Wren’s house in this redevelopment district was undertaken by the Richfield HRA.

The record does demonstrate a substantial involvement by the HRA in the redevelopment. Redevelopment of the area in question has been discussed for a number of years by the City. It identified the Lyndale Ave. redevelopment area and solicited proposals from developers. When one developer was not performing satisfactorily, the City replaced it with another. A lengthy series of letters or notices from the City kept homeowners and business owners advised of the status of the redevelopment. Some twenty of the letters advised the recipients to contact City staff if they had any questions concerning the redevelopment. Recipients might justifiably have concluded that this project had the City’s strong support and blessing and that the City was in control of the project.

The City also specifically encouraged homeowners to negotiate with Lyndale Gateway and suggested in one letter that if the expectations for compensation were too high then the project might not proceed.^[52] The HRA specifically promised, in contract, to use its power of eminent domain if Lyndale Gateway was unable to negotiate private agreements with homeowners. And the HRA did proceed to condemn some commercial properties in order to complete the project. And perhaps most significantly, the City created a TIF district that provided in excess of \$8 million of financing without

which the project would not have proceeded. Thus, although the purchase of Mr. Wren's property was directly accomplished by Lyndale Gateway, the record demonstrates a significant element of involvement and control by the HRA in this redevelopment effort.

The statute does not define the word "undertaken." A recent dictionary definition defines it as: (1) To take upon oneself; decide or agree to do. (2) To pledge or commit oneself. (3) To set about; begin.^[53] These definitions do not suggest that the legislature intended that the public authority would actually have to acquire the land in question in order to be responsible for relocation benefits. A public authority might well take the acquisition of property "upon itself" or "commit itself" to an acquisition or "begin" such a project involving acquisition without actually itself ultimately acquiring the real property necessary to complete the project. This interpretation is supported generally by the analysis of the James Brothers court which declined to construe MURA to mirror the Federal Act.^[54] The control exercised by the HRA justifies a conclusion that it undertook acquisition of the claimant's property.

A claimant must also satisfy the statutory definition of a "displaced person" in order to be entitled to relocation benefits. The 2002 Minnesota definition provides that a "displaced person" is any person who moves from real property as a result of acquisition undertaken by an acquiring authority. The definition does not require direct acquisition by the public authority. This definition was amended by the Minnesota Legislature in 2003 and now provides that the definition is the same as that under Federal law. The HRA argues that the new definition requires direct acquisition by the public authority before benefits are available. The Respondent also suggests that the recent amendment merely clarifies the prior definition. The amendment does not apply to this case, since it was effective August 1, 2003. And rather than requiring *direct acquisition* by a public authority, the federal definition adopted by Minnesota in 2003, provides that a displaced person is one who moves as a *direct result* of an acquisition. There is no suggestion in this case that Mr. Wren moved for any other reason than the redevelopment project. The 2003 legislature made no change to the "undertaken" language in the statute,^[55] which leaves its intent in amending the statute somewhat in doubt.

The Respondent argues that the Minnesota Supreme Court, in Gilliland v. Port Authority of St. Paul,^[56] held that a claimant must show that the public authority set about processing, controlling or gaining power over disposal of the property in question. In that case the Port Authority briefly held title to a hotel in order to enable the owner to receive bond sale proceeds to renovate the hotel. In a 5-4 decision the court held that relocation benefits were not available where the governmental action causing displacement is *solely* the financing of a private rehabilitation project.^[57] The dissent thought the transaction demonstrated a degree of official involvement and economic subsidy sufficient to constitute an acquisition leading to relocation benefits. For the reasons set out above, the instant case presents a much more compelling case for official involvement since the HRA's role went beyond financing to include development of a plan, recruitment of a developer, interaction with property owners and a promise to use its power of eminent domain.

Conclusions number 11 and 13 set out the statutory requirements for notice to a displaced person and for a waiver of relocation payments by a property owner. In this case those requirements were not met either by the City or Lyndale Gateway. The requirements are relevant to this case, however, in that they evince a legislative intent to allow a property owner to make an informed decision. The law provides that a homeowner can waive benefits, however it also requires that he or she understand precisely what type and amounts of relocation assistance, services, payments and benefits would be available. The Minnesota legislature was very specific in setting out the requirements of a waiver of relocation assistance rights.^[58] Informed consent is precisely what is missing in this case. While Mr. Wren signed a waiver of his right to benefits, he lacked information as to the nature and scope of exactly what he was waiving.

The City's announced policy is to not provide relocation benefits to property owners unless the property is acquired by eminent domain. Nonetheless, it did advise commercial property owners on April 9, 1999 that they might be eligible to receive relocation benefits upon receiving an official notice stating that the property is being acquired. This notice, which did not mention eminent domain, was not sent to residential homeowners.

The claimant argues alternatively that even if the HRA did not undertake acquisition of the property there was an agency relationship between the HRA and Lyndale which would bring Lyndale within the requirements of the MURA. It suggests that Lyndale acted on behalf of the HRA, that the HRA had the right to control Lyndale's actions and that therefore the HRA is bound by the actions of Lyndale Gateway. However, since this case is decided by statutory interpretation, it is unnecessary to consider the agency argument. But, the legislature is of course free to modify the common law of agency if it chooses to do so.

The claimant argues in its post hearing submission that his waiver of relocation benefits in the purchase agreement he signed with Lyndale Gateway was not valid. The waiver language did not meet the requirements of Minn. Stat. § 117.521, subd. 1. However, whether or not it is valid is between Lyndale Gateway and the claimant and is a matter outside the jurisdiction of this forum. Lyndale Gateway has commenced an action in district court seeking a determination in this regard. The HRA was not a direct party to the waiver.

The claimant has established in this case that he moved as a result of the HRA's efforts to redevelop the area where he owned a home. While the HRA did not deal directly with Mr. Wren in negotiating the purchase of his property, it did communicate to him, through a series of letters, the City's involvement in the redevelopment effort, described and provided the financial participation by the City for the project, and encouraged his negotiation with the redeveloper. The City and Lyndale Gateway's concern about their responsibility for relocation benefits is evidenced by the provision in the purchase agreement that required Mr. Wren to waive any benefits. No such provision would have been thought to be necessary if benefits were clearly not available.

The claimant reasonably testified that he believed that he had to sell due to the redevelopment even though the City did not explicitly advise him that his property could be acquired by eminent domain. The information he received from the City was sufficient to support his belief and allow him to reasonably conclude that the City was in control of the project. The purpose of the relocation assistance program is at least in part to ensure that persons displaced are treated fairly so that they will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.^[59] Where an HRA selects a private developer to engage in direct negotiations with property owners it should not be relieved of the requirements of the statute where it remains the moving force behind redevelopment, that is, where it “undertakes” the acquisition of property for redevelopment. To do so would frustrate the beneficial purpose, including the specific notice requirements, set out in MURA and the federal law.

G.A.B.

^[1] *In Re Application for Relocation Benefits of James Brothers Furniture, Inc.*, 642 N.W. 2d 91, 97 (Minn. Ct. App. 2002) rev. denied (Minn. June 18, 2002).

^[2] Ex. 31.

^[3] Ex. 5.

^[4] Ex. 8.

^[5] Ex. 9.

^[6] Ex. 10.

^[7] Ex. 11, 12.

^[8] T. 13, 32.

^[9] Ex. 13.

^[10] Ex. 14.

^[11] Ex. 15.

^[12] Ex. 16.

^[13] Ex. 17.

^[14] Ex. 19.

^[15] Ex. 33.

^[16] Ex. 20, 21.

^[17] Ex. 21.

^[18] Ex. 22.

^[19] Lyndale Gateway Ex. A.

^[20] Ex. 23.

^[21] Ex. A, Ex. 3.

^[22] Ex. 3, p. 1.

^[23] Ex. 3, p. 7. The current plan calls for 92 loft condominiums, 14 townhomes, parking, and neighborhood-oriented retail space.

^[24] Ex. 3, p. 8.

^[25] Ex. 3, p. 8-9, 14.

^[26] T. 50-51; Ex. 4, p. 1.

^[27] Ex. 24.

^[28] Ex. C.

^[29] T. 69.

^[30] T. 23.

^[31] T. 18.

- [32] T. 18-19.
- [33] Ex. 30.
- [34] Ex. 25.
- [35] Ex. 27.
- [36] Ex. 26.
- [37] Ex. C, p. 5, T. p. 56.
- [38] T. 21, 26-27.
- [39] T. 14, 20.
- [40] T. 48, 61; Ex. 3, p. 8, 9, 14, Ex. 4, p. 4.
- [41] T. 57.
- [42] Ex. C, p. 5.
- [43] Ex. 1.
- [44] Lyndale Gateway Ex. B.
- [45] 49 CFR § 24.10; Minn. Stat. § 117.52; James Brothers, supra, 642 N.W. 2d at 103-104.
- [46] 42 U.S.C. § 4622.
- [47] James Brothers Furniture, supra, 642 N.W. 2d at 98-99.
- [48] 49 CFR § 24.1(b).
- [49] Finding of Fact No. 17.
- [50] Minn. Stat. § § 117.50-56. Emphasis added.
- [51] Minn. Stat. § 645.16.
- [52] Finding of Fact No. 14.
- [53] American Heritage College Dictionary (4th Ed. 2002).
- [54] James Brothers Furniture, supra, 462 N.W. 2d at 99, see cases cited.
- [55] § 117.52, subd. 1.
- [56] 270 N.W. 2d 743 (Minn. 1978).
- [57] 270 N.W. 2d at 747. Emphasis added.
- [58] Minn. Stat. § 117.521, subd. 1.
- [59] Conclusion No. 15.