

Voluntary Buyouts in Rhode Island:

Property Acquisition and Reclamation of Land in Flood-Prone Areas

Summary of the 2019-2020 statewide discussion, facilitated by the University of Rhode Island (URI) Coastal Institute (CI)

July 2020

Property buyouts, also referred to as land acquisition for easements, is one of many floodplain adaptation strategies that can be implemented to minimize risk of asset losses in flood-prone areas. Structures in flood-prone areas are purchased and demolished, and the site is remediated to serve as open space that accommodates future flood conditions. Purchase of flood-prone properties has been applied in Rhode Island, notably after the March 2010 floods, Tropical Storm Irene (2011), and Superstorm Sandy (2012). The process is complex and takes many steps to complete, relying on federal, state, and municipal coordination with both property owners and tenants of these properties. Establishing a consistent and predictable process in Rhode Island has the potential to leverage federal funds, ensure a timely response to property owners and tenants, prioritize investments, promote efficiency and economies of scale, and limit legal challenges. This summary documents a series of work sessions in 2019-2020 exploring how buyouts have been pursued in Rhode Island and concludes with considerations for how the state might move toward a comprehensive set of guidelines to assist with future voluntary buyout initiatives.

BACKGROUND

Rhode Island is vulnerable to flooding from storm surge and nuisance flooding from extreme high tides to extreme rainfall events, exposing many neighborhoods and business districts in coastal and inland municipalities to potential damage or losses. Recent localized flooding in coastal municipalities from extreme high tides and smaller storm events (i.e., “Nor-easters”), have underscored the need to better understand adaptation strategies to minimize the risk of losses in flood-prone areas from today’s flood risk, as well as the flood risk in the future when considering sea level rise projections for Rhode Island.

Given these climate change trends, URI CI identified three Climate Response Demonstration Sites representing the range of Rhode Island’s coastal landscape types; natural areas, urban ports and coastline, and mixed-use sites. The aim of this initiative is to explore adaptation strategies that will promote the resilience of coastal municipalities and enhance ecosystem sustainability. The demonstration sites draw from adaptation practices being implemented in Rhode Island and other coastal regions and will strive to test, monitor, and demonstrate the resiliency response to adaptation actions. Continued collaboration with state and municipal governments, planners and policymakers, businesses, homeowners, community groups, conservation organizations, academia, and others, will be fundamental to the success of this effort.

Barrington and Warren were selected as the study areas for the “Mixed Use” Climate Response Demonstration Site, based on characteristics that include a broad socioeconomic range of residents, range of residential properties in age and value, commercial areas that exemplify village center “Main Streets” and working waterfronts, historic significance, and valuable ecological landscapes and open space. Working with the planning department in each municipality, areas vulnerable to coastal flooding and potential adaptation/mitigation strategies for those areas were identified. Relevant follow-up discussions addressed infrastructure (transportation network, utilities, sewer lines and pump stations, emergency response routes, etc.), vulnerable populations, historic properties, land use policies, and natural resources, among others.

The first two topic-focused workshops were convened to address the topics of land-use planning and transportation. The goal of the workshops was to initiate the consensus-building process, recognizing that the discussion topics are complex and require more extensive deliberation. Further, workshop findings were

incorporated into the “Resilient Rhody: Municipal Resilience Program” workshops for Barrington and Warren, an initiative of the Rhode Island Infrastructure Bank in partnership with The Nature Conservancy.

The topic of a government-sponsored “buyout” program was a focus of discussion at the land-use workshop, whereby property owners in critical flood-prone areas could voluntarily apply for financial incentives to relocate or retreat to higher elevation areas. Establishing, funding, and implementing such a program in Rhode Island requires engagement, input, and consensus within municipal government as the authority over local land use. It also requires working with multiple state and federal agencies to secure critical funding and assist as appropriate with administration of the program.

Following this land-use workshop, the URI CI initiated a series of work sessions in 2019-2020 to explore buyouts in more depth. Attendees over the four sessions included representatives from: (1) **Federal** - USDA Natural Resources Conservation Service (NRCS), U.S. Army Corps of Engineers (USACE), and Federal Emergency Management Agency (FEMA); (2) **State** – Rhode Island Emergency Management Agency (RIEMA), Rhode Island Infrastructure Bank (RIIB), Rhode Island Office of Housing and Community Development (OHCD), Rhode Island Division of Statewide Planning (RIDSP), Rhode Island Coastal Resources Management Council, and Rhode Island Department of Environmental Management; (3) **Municipal** – towns of Barrington, Johnston, South Kingstown, Warren, Westerly, and the cities of Cranston and East Providence; and (4) **Academic Partners** – Roger Williams University (RWU) Marine Affairs Institute/Rhode Island Sea Grant Legal Program, URI Master’s of Environmental Science and Management (MESM) program, and URI Coastal Institute.

This brief document summarizes the work session deliberations, lessons learned, case studies, and relevant resources consulted during the process of exploring what we know about property buyouts, also known as property acquisition and floodplain easements, both within Rhode Island and in other states administering buyout programs.

COMPONENTS OF A BUYOUT PROGRAM

Property acquisition for floodplain easements is just one of many possible adaptation strategies that can serve to minimize risk of losses in flood-prone areas when considering existing flood risk, as well as future flood risk resulting from rising seas and more intense storm events. Buyouts reduce individual and town property risk by removing assets from high-hazard areas, converting this land to open space that allows for floodplain dynamics without property or people in harm’s way.

Based on the experience of Rhode Island municipalities, the process of property buyouts can last for several years and is complicated. The process can have multiple iterations that can delay payments past the dates when they are needed to keep projects moving forward in a timely manner. Additionally, relocation of tenants from these properties is a very important and complex part of the process. By learning from other places and referencing guidebooks from federal agencies supporting buyouts with grants and funding, the state gains an opportunity to form a baseline and frame a consistent and predictable process for Rhode Island cities and towns.

Case examples reviewed are listed in the next section of this summary, and many programs include the following steps that can be tailored for a Rhode-Island based process to assist municipalities, offering statewide consistency:

1. **Define criteria for buyout area(s) and receiving area(s).** Identify clusters of properties using explicit, objective criteria, related to current and future flood risk, and social equity, likely with post-storm substantial damage and/or repetitive loss claims, which cannot be individually identified due to privacy concerns. Identification and establishment of receiving areas should be commensurate with the scale of buyout areas, to prevent local/regional displacement and loss of local tax base. A cost-benefit analysis

serves as an important decision-support tool in criteria development, and is required by many federal grants.

2. Identify program administrators and funders, and specific funding constraints.

Through this process, funders who support property buyout programs were identified:

- a. FEMA – Hazard Mitigation Grant Program (HMGP), Flood Mitigation Assistance (FMA), Pre-Disaster Mitigation (PDM) Program. (NOTE: RIEMA administers, but does not release funds for grants.)
- b. NRCS - Emergency Watershed Protection Program (EWPP), Watershed Protection and Flood Prevention Program (WFPO).
- c. US Department of Housing and Urban Development / OHCD - Community Development Block Grant (CDBG) program. (NOTE: OHCD administers, but does not release funds for grants.)
- d. USACE – Continuing Authorities Program (CAP) – Feasibility Study Phase and Design/Implementation Phase.
- e. RIIB – Municipal Resilience Program Action Grants
- f. Municipality – Serves as the grant applicant and overall administrative interface with property owners. Funding in support of buyout efforts could come from a stormwater utility, “Rainy Day Fund,” or other source of local funds for tenant relocation and site remediation.

3. Determine compensation for the property owner(s). Compensation for the property owner(s) can be offered at both pre-storm fair market value, or in some cases, the post-storm value based on program administration and federal funding guidelines (Lincoln Institute of Land Policy, 2016; HUD 2013).

- a. **If not owner occupied, determine relocation assistance for tenants.** Relocation assistance is offered through the Uniform Relocation Assistance and Real Property Acquisition Act (URA). The URA is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. (HUD Exchange, “Overview of the URA” - <https://www.hudexchange.info/programs/relocation/overview/#overview-of-the-ura>.)

4. Prequalify appraisal, legal, and title service providers for property acquisition. Prequalifying vendors at the state level streamlines the buyout process and provides economies of scale not available to municipalities.

5. Establish expedited procurement for selecting vendors to demolish structures, decommission utilities, and remediate the site. For example, identifying pre-qualified vendors via master price agreements (MPAs) or a similar tool is a method to streamline the buyout process. Coordination with local utility companies to relocate infrastructure (e.g., power lines, water, sewer, etc.), and assessment of past uses of the site for hazardous substances is required in site remediation and requires municipalities to issue RFPs for contractors to complete this work.

6. Identify and vet buyers, define future use of the property, and develop deed restrictions. Buyers must be able to assume ownership and maintenance responsibilities. Municipal governments, state agencies, and local land trusts may be eligible buyers, depending on the funding source. Common uses of floodplain easements resulting from buyouts include: greenway trails/paths, community gardens, reforested natural areas, stream and floodplain restoration, storm water wetlands and retention, and informal recreational areas. (Charlotte-Mecklenberg Storm Water Services, <https://charlottenc.gov/StormWater/Flooding/Pages/FloodplainBuyoutProgram.aspx>).

7. Develop continuous outreach strategies. Frame communications and messaging targeting property owners and tenants of properties within a defined area where voluntary buyouts are being pursued.

CASE STUDIES

Case studies for this summary were provided by invited speakers to the buyout work sessions, the URI Masters of Environmental Science and Management (MESM) program, and conversations with federal, state, and municipal partners and during work sessions exploring property buyout programs in 2019-2020. The web links below provide varying levels of detail for each program reviewed, and the URI CI is designing a web site that will host a full “clearinghouse” of this information. These resources will be available for future reference as a Rhode Island-specific process or guidebook is considered for flood-prone area adaptation strategies that include buyouts. This list of examples offers a better understanding of how buyouts have been administered and implemented in Rhode Island and in other places outside the state:

STATE	SPONSOR	PROGRAM	WEB LINK
RI	City of Cranston	Perkins Ave	http://www.housingworksri.org/About/News-and-Events/All-News-Events/ArticleId/66/providence-journal-years-after-devastating-flood-some-cranston-homeowners-still-wait-for-government-buyout
RI	Town of Johnston	Belfield Drive	https://www.nrcs.usda.gov/wps/portal/nrcs/detail/ri/newsroom/releases/?cid=NRCSEPRD1465819
RI	Town of Westerly	Multiple: post-2010; post-Irene; post-Sandy	https://seagrant.gso.uri.edu/buyout-programs-leave-homeowners-and-renters-at-a-loss/ (Report will be available at the end of June 2020) https://www.ecori.org/climate-change/2015/10/24/to-meet-rising-waters-homeowners-must-rise-up-or-get-out
NC	Charlotte Mecklenberg County	Floodplain Buyout (Acquisition) Program	https://charlottenc.gov/StormWater/Flooding/Pages/FloodplainBuyoutProgram.aspx
NJ	State of NJ	Blue Acres Buyout Program	https://www.renewjerseystronger.org/homeowners/blue-acres-buyout-program/
NY	City of NY	New York Rising	https://stormrecovery.ny.gov/housing/buyout-acquisition-programs
NY	City of NY	New York Build it Back	https://www1.nyc.gov/content/sandytracker/pages/build-it-back
TX	Harris County	Residential Buyout Program	https://harrisrecovery.org/buyout-program/

THE PATH FORWARD FOR VOLUNTARY BUYOUTS IN RHODE ISLAND

In Rhode Island, there is currently no centralized state office, guidebook or procedures for administering a voluntary buyout program. Grants have come FEMA, the CBDG/Disaster Recovery (CDBG-DR) program, and the NRCS /Rhode Island Conservation District.

A model process offered through the CDBG-DR program could offer a starting point for Rhode Island to move forward with a voluntary buyouts guidebook. From this CDBG-DR guidance offered after Superstorm Sandy, grantees were eligible to use CDBG-DR funds to buy properties, both commercial and residential, in a target area with the intent to demolish the structures and create park amenities, open space, or flood storage/overflow areas. The goal of this program was to help reduce the impact of future disasters while encouraging targeted revitalization efforts and public spaces. The program was typically part of a multi-

pronged approach to community revitalization that included relocation of tenants and businesses in addition to business development activities. It was noted that these programs are especially effective in communities that have endured multiple disasters in the same neighborhood, or sustained severe damage where there is high risk of future hazards/disasters, such as within a Special Flood Hazard Area. For more information: [https://files.hudexchange.info/resources/documents/Disaster Recovery Buyout Program Design Implementation Toolkit.pdf](https://files.hudexchange.info/resources/documents/Disaster_Recovery_Buyout_Program_Design_Implementation_Toolkit.pdf)

A Rhode Island statewide process for property acquisition in flood-prone area easements should be emphasized as voluntary as an option available to municipalities, rather than mandated by state government. Adaptation strategies being considered for Rhode Island's coastal areas have been focused on protection, accommodation, and retreat as general principles. Flood resiliency, coastal mobilization, and strategic retreat are all concepts that can be built into a voluntary buyouts program at the state and municipal scale. These concepts are ripe for further discussion and can feed into a process of developing eligibility criteria and a set of procedures for property acquisition at high risk of damage or loss within Rhode Island flood-prone areas.

The Rhode Island Executive Climate Change Coordinating Council (RI EC4) and individual agencies, such as RIEMA, RI OHCD, RIDSP, and the RIIB all serve as state resources for cities and towns with regard to resiliency planning. At the local level, Hazard Mitigation Plans and Local Comprehensive Plans outline for preparedness, emergency response, and long-range land-use planning goals and objectives for the community. These documents also position municipalities to receive public grant funds to support implementation of actions outlined in these plans by providing a "to-do" list of actions ready to be funded. Other participants that could be included in future discussions, as suggested by stakeholders throughout the work sessions, have included Rhode Island Housing, the Interlocal Risk Management Trust, the Rhode Island League of Cities and Towns, and Rhode Island municipalities considering voluntary buyouts as an adaptation strategy for flood-prone areas.

NEXT STEPS

The following is recommended to continue moving forward with a voluntary buyouts initiative in Rhode Island:

1. **Assemble a state agency steering committee focused on the topic of voluntary buyouts / property acquisition for floodplain easements.** Convene a staff-level working group with the authorization and support of the Rhode Island Governor's Office and the RI EC4 to explore developing guidance and possible pilot programs for voluntary buyouts as an adaptation option to minimize risk of losses in existing and future coastal and riverine floodplains resulting from rising seas and more frequent and intense storm events. Local community representatives with buyouts experience or pilot communities could also serve on the steering committee.
2. **Compile a clearinghouse of lessons learned, model processes, and replicable resources in a central web page.** This web page could be hosted on climatechange.ri.gov and build upon the work completed by the URI CI to date.
3. **Work with the Marine Affairs Institute / Rhode Island Sea Grant Legal Program at RWU as an advisor and resource in future discussions.** The Institute and Program recently completed an equity and displacement study related to property buyout programs, and have been developing resources on legal issues related to floodplain-related adaptation strategies.
4. **Organize a statewide symposium or event on the topic of voluntary buyouts and property acquisition for floodplain easements.** The host of this event could be a state office in partnership with relevant academic institutions mentioned in this summary. This event could serve to leverage the knowledge base in the state, educate municipalities and other stakeholders, share successes and lessons learned from other places, and facilitate discussion in support of a guidebook or resource focused on voluntary buyouts in Rhode Island.

APPENDICES

RHODE ISLAND BUYOUT WORK SESSIONS FACILITATED BY THE URI COASTAL INSTITUTEWORKSESSIONS

KICK-OFF MEETING, November 13, 2018, at Rhode Island Department of Administration. Kick-off meeting.

CASE STUDY REVIEW, December 12, 2018, at URI Coastal Institute, Narragansett Bay Campus. Topic: URI Master's in Environmental Science & Management (MESM) Graduate Student Kelly Mederios' presentation and research on Buyouts and relevant case studies.

CHARLOTTE-MECKLENBERG COUNTY, NC CASE STUDY REVIEW, February 20, 2019, at Rhode Island Emergency Management Agency. Invited speaker, Punchard Consulting/Charlotte-Mecklenberg County, NC Buyouts Program Case Study.

THE ROLE OF FEDERAL AGENCIES, March 5, 2020, at RI Department of Environmental Management Room 300. Topic: The Role of Federal Agencies in Property Acquisition for Floodplain Easements., FEMA, USDA NRCS, USACE

Work Session Goals:

- Provide a forum designed specifically to discuss post-hazard buyouts of properties in Rhode Island.
- Ask Rhode Island cities and towns to share their buyout experiences and the challenges and opportunities.
- Invite experts as needed (legal advice, funding issues, scholarly work, examples of other states).
- Create the foundation for buyouts in the future following hazard events.

Participants: URI Coastal Institute (Facilitator) with representatives from the following:

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| • Rhode Island Emergency Management Agency | • Town of Barrington |
| • Rhode Island Office of Housing and Community Development | • Town of South Kingstown |
| • Rhode Island Coastal Resources Management Council | • Town of Johnston |
| • Rhode Island Infrastructure Bank | • Town of Warren |
| • Marine Affairs Institute, Rhode Island Sea Grant Legal Program | • City of Cranston |
| • URI Master's in Environmental Science & Management (MESM) Program | • City of East Providence |
| | • Punchard Consulting |

MARCH 5, 2020 WORKSESSION – FACILITATED DISCUSSION, GUIDEBOOK (WHITEBOARD NOTES)

A Rhode Island manual/guidebook for voluntary buyouts should consider the following:

1. Target audience(s) – Federal, state, municipalities, individual property owners?
 - Focus Groups: renters; owners; lenders; insurers; Interlocal Risk Management Trust; Rhode Island League of Cities & Towns
 - Ensure RENTERS as a focus – need professionals from the housing sector; focus messaging to populations who actually live in high-risk properties; need communications targeted to renters’ rights; Uniform Relocation Act and how it plays out
 - Municipal autonomy and the role of municipalities in all aspects of transactions
 - Separate issues of residential and commercial buyouts
2. Table of contents:
 - i. Criteria for site selection
 - ii. Role of local land use planning in identifying receiving areas
 - iii. Playbook / checklists
 - iv. Resources needed
 - Pre-disaster insurance information, including NFIP Community Rating System (CRS) benefits of buyouts
 - Financing projects: Where does match funding come from to accept federal monies? Analysis of buyout efforts on municipal tax base?
 - Municipal funding mechanisms: raise taxes; pass a bond referendum
 - Zoning – build out analysis; sending/receiving areas; land use policy change

MARCH 5, 2020 WORKSESSION – FACILITATED DISCUSSION, NEXT STEPS (FLIPCHART)

- Pilot properties – compile lessons learned from Rhode Island - Assemble a tactical group to assess replicable resources from Cranston, Westerly, Warren, etc.
- Pilot process – Include this in Local Comprehensive Plan updates? Conduct a municipal needs assessment
- Grant applications – funding availability, grants cycle, and staff to administer
- Rhode Island League of Cities and Towns & Interlocal Risk Management Trust – coordinate with them for annual meeting session or another gathering
- Tools and examples – compile and offer in a central location (see toolkit from New Hampshire from their USACE Silver Jackets effort)
- Consulting services vs. a state-sponsored staffer or office to manage website & clearinghouse of tools/resources – who is the “For More Information, Contact_____” office/staff position?
- What is the formal ask of state government? Is it a Gubernatorial commitment or other directive? Clearly define what is being done to inform the ask.
- Roger Williams Univ Law School – legal symposia – magnify the messaging of those events out to the cities & towns
- Cost benefit analysis of one-off properties versus multiple properties in a defined spatial area.

RESOURCES

Binder, Sherri B. and A. Greer. 2016. The devil is in the details: Linking home buyout policy, practice, and experience after Hurricane Sandy. *Politics and Governance*, 4(4): 97-106.

<https://www.cogitatiopress.com/politicsandgovernance/article/viewFile/738/738>

Regulations, Environmental. "Anatomy of a Buyout—New York Post-Superstorm Sandy." *Federal Register* 14329 (2013): 14345. https://www.researchgate.net/publication/308518538_Anatomy_of_a_Buyout_Program_-_New_York_Post-Superstorm_Sandy

Case Studies in Floodplain Buyouts: Looking to best practices to drive the conversation in the Houston region, Rice University Kinder Institute for Urban Research

http://www.houstonconsortium.com/graphics/GHFMC_KI_2018_Buyout_Report.pdf

Lovett, J. 2016. Moving to higher ground: protecting and relocating communities in response to climate change. *Vermont Law Review*. Vol 42:025. 59 pages. <http://lawreview.vermontlaw.edu/wp-content/uploads/2018/02/04-Lovett.pdf>

U.S. Climate Resilience ToolKit – Adaptation Toolkit: Sea-Level Rise and Coastal Land Use

<https://toolkit.climate.gov/tool/adaptation-tool-kit-sea-level-rise-and-coastal-land-use>

NY Rising Buyout and Acquisition Program Policy Manual. April, 2015. Version 3.0

https://stormrecovery.ny.gov/sites/default/files/uploads/po_20150415_buyout_and_acquisition_policy_manual_final_v3.pdf

New York City Housing Recovery FAQ page

https://www1.nyc.gov/site/housingrecovery/programs/acquisitions_and_buyouts_faq.page

Cedar Rapids Voluntary Property Acquisition (Buyout) Program

[http://www.cedarrapids.org/discover_cedar_rapids/flood_of_2008/voluntary_property_acquisition_\(buyout\)_program.php](http://www.cedarrapids.org/discover_cedar_rapids/flood_of_2008/voluntary_property_acquisition_(buyout)_program.php)

Wetlands Watch Property Acquisition and Demolition

<http://wetlandswatch.org/property-aquis/>

Quantifying the Success of Buyout Programs: A Staten Island Case Study

<https://www.cakex.org/case-studies/quantifying-success-buyout-programs-staten-island-case-study>

Harris County Buyout Guidelines 2018

<http://harriscountycommunitycorner.org/buyout-guidelines/>

Hurricane Harvey – One Year Timeline

https://www.hcfcd.org/media/2966/hcfcd_harvey-oneyeartimeline_lq.pdf

Story Map Journal – Adaptation Stories: Managed Retreat

Property Buyouts in Gloucester, VA, Northfield, VT, Staten Island, NY

Managed Retreats of Surfers' Point Park, CA, Warwick, RI and Pacifica State Beach, CA

Community Relocation of Isle de Jean Charles, LA

<https://www.arcgis.com/apps/MapJournal/index.html?appid=bea8d4142fcf47bc90078e845e296d64>

Floodplain Buyouts: An Action Guide for Local Governments on How to Maximize Community Benefits, Habitat Connectivity, and Resilience. UNC Institute for the Environment. 2017.

<https://www.eli.org/sites/default/files/eli-pubs/actionguide-web.pdf>

Financing and Incentivizing Floodplain Buyouts: A Guide. UNC Institute for the Environment. 2017. <https://www.eli.org/sites/default/files/eli-pubs/financing-and-incentives-20171221.pdf>

Lower Onion Creek Buyouts – 25 and 100 year project areas – Austin Texas

<http://www.austintexas.gov/page/lower-onion-creek-buyouts-25-and-100-year-project-areas>

East Grand Forks, Minnesota Report. UNC Institute for the Environment

<https://www.eli.org/sites/default/files/eli-pubs/eastgrandforksmn.pdf>

Disaster Recovery Buyout Program Design Implementation Toolkit

https://www.hudexchange.info/resources/documents/Disaster_Recovery_Buyout_Program_Design_Implementation_Toolkit.pdf

Alex Greer & Sherri Brokopp Binder (2017) A Historical Assessment of Home Buyout Policy:

Are We Learning or Just Failing?, Housing Policy Debate, 27:3, 372-392, DOI:

10.1080/10511482.2016.1245209 <https://doi.org/10.1080/10511482.2016.1245209>

Robert Freudenberg, Ellis Calvin, Laura Tolkoﬀ, and Dare Brawley. 2016. Buy-In for Buyouts:

The Case for Managed Retreat from Flood Zones. Lincoln Institute for Land Policy. September 2016

<https://www.lincolninst.edu/publications/policy-focus-reports/buy-in-for-buyouts>

U.S. Department of Housing and Urban Development. 2013. Disaster Recovery Buyout Program Overview, Considerations, and Strategies. Date Published: March 2013

<https://www.hudexchange.info/resource/3186/disaster-recovery-buyout-program-overview/>