IRWA Approves Seven ORC Training Courses for Recertification Credit

By Lisa Barnes, VP, ORC Training, LLC

IRWA’s International Professional Development Committee (IPDC) recently approved four additional instructor-led ORC Training Courses for recertification credit for the IRWA SR/WA designation and the R/W-RAC certification. Three ORC Training courses were similarly approved last year. The IPDC granted this approval after consultation with the IRWA International Relocation Committee. The four new courses available for eight (8) units of recertification credit each are:

**ORC 303 – Special Topics in Replacement Housing**
This course is designed to help agents answer questions, meet technical needs, and broaden the knowledge of those engaged in the relocation of persons as a result of the acquisition of real property for Federal or federally-funded project. The course topics include determining the status of multiple occupants, identifying and addressing illegal aliens, and assessing and calculating incidental expenses.

**ORC 304 – Nonresidential Fixed Payments**
This course provides specific information about the various aspects of nonresidential fixed payments (the “in-lieu-of” payment). Participants will learn about the eligibility criteria for the nonresidential fixed payment, and the factors that help determine the number of businesses with regard to fixed payment eligibility. This course also addresses how to use the average annual net earnings to compute a fixed payment and the fixed payment calculation for a nonprofit organization. Participants apply these concepts in interactive exercises and case study scenarios.

[continued next page]
ORC 306 – Mobile Home Relocation
This course describes the requirements for providing relocation payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements under 49 CFR Part 24. This course concentrates on areas of specific concern for relocating mobile homes such as differentiating between reality and personalty, describing eligible moving and related expenses for mobile homes, and identifying situations when a mobile home cannot be moved. In addition, participants identify various ownership scenarios, and calculate owner vs. tenant replacement housing payments using interactive exercises and case study scenarios.

ORC 308 – Nonresidential Advisory Services and Moving Expenses
This course describes the advisory services requirements for business owner/operators under 49 CFR 24.205(c)(2)(i). It also provides a comprehensive overview of the eligible moving and related expenses outlined in 49 CFR Part 24.301(g). Through the use of interactive exercises and case study scenarios, the participants develop a practical knowledge of the processes and procedures involved in providing relocation assistance to business occupants.

All of these courses expose the participants to the applicable federal regulation and then discuss in simpler terms what the rule or regulation means. The instructor provides examples to demonstrate each concept and participants work on case studies to immediately apply that concept.

ORC Training is honored to have this approval from the International Right of Way Association, and appreciates the confidence it demonstrates in our ability to develop and deliver training for public real estate professionals. IRWA previously approved the following ORC Training Courses for recertification credit:

ORC 302 – Exceptional Replacement Housing Payment Calculations
ORC 305 – Specialized Nonresidential Expenses
ORC 309 - The Business Move Process

Attendance at these courses must occur within a period of no more than five (5) years from the date of original designation/certification approval or five (5) years from the date of the previous recertification.

For more information about these courses, as well as our other instructor-led and web-based courses visit our website at http://orcolan.com/cs/our-courses or download a brochure at http://orcolan.com/cs/sitefiles/onlinepub/orctraining/index.html You may also contact Lisa Barnes at 850.907.0400 or lbarnes@orcolan.com to discuss course pricing and scheduling.
MAP-21/Status of Final Rule

By Bob Merryman, Senior VP

With the President’s signature on July 6, 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21) became law. For many years relocation practitioners have wished for various updates of the existing payment limits. One in particular, the business reestablishment payment, was no longer providing enough money to meet even the needs of a very small business. That payment and others will be changing in the near future. However, like any law, Congress defers to various federal agencies to write implementing rules. In this case, the Federal Highway Administration (FHWA) as the “Lead Agency” for the URA will draft a set of rules, with input from other Federal agencies, implementing all of the requirements of the new law. So when will we see all of these changes?

FHWA and its partner agencies will draft a Notice of Proposed Rulemaking to formally begin the process. While no firm public date is set for this Notice, it can be reasonably inferred based on the October 1, 2014 effective date of the new benefit levels. Therefore, the likely timing of the initial Notice of Proposed Rulemaking should be late summer 2013. Following a comment period, FHWA will issue a Final Rule. The Final Rule is likely to be in the winter of 2013/2014 and will revise the existing 49 CFR Part 24. This will provide sufficient time for States and other Agencies to implement the rule by October 1, 2014.

For the acquisition or relocation agent in the field, you will notice:

- Increased relocation benefits for businesses, homeowners and tenant occupants;
- More flexibility for implementing agencies regarding early acquisition and property interests to be acquired;
- Relocation Streamlining demonstration projects;
- Periodic inflation adjustments to some relocation benefits; and
- Better training of personnel that deal with the Uniform Act.

In summary, the process of revision is underway, and the first concrete result will be the Notice of Proposed Rulemaking. Look for that later this year, say late summer of 2013.

FAA Draft for Comment

By Bob Merryman, Senior VP

The Federal Aviation Administration has released a draft for comment of their FAA Airport Improvement Program Handbook, Order 5100.38D. The Handbook is principally intended for internal FAA use but is available to everyone as a reference. In particular it targets grant funding eligibility. One of the goals of the Handbook is to update and clarify FAA processes. Through the use of references to other publications, it avoids redundancy of discussions. Appendix Q of the Handbook discusses “Land Projects.”

The materials contained in Appendix Q are in summary form, and there are references to the other FAA publications that provide further detail as to the conduct of a land acquisition program. These other publications are FAA Order 5100.37, Land Acquisition and Relocation Assistance for Airport Projects; and Advisory Circular 150/5100-17, Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects. These two documents provide Airport sponsors the detailed information to implement their programs.

One change that an airport sponsor may want to pay particular attention to is a statement that title insurance may be relied on in the formation of the sponsor’s opinion of title (see Appendix Q, Table Q-1). This should facilitate the statement required of sponsors regarding the adequacy of title. The maximum allowable reimbursement per parcel for title insurance is set at $1000 in Table 3-43, Common Allowable Land Cost and Associated Restrictions. This table is located in section 3-73.

Keep in mind that all of these FAA publications will need to be updated due to legislative changes authorized by MAP-21. Most of these changes will go into effect after rule writing is completed in late Fall 2014.

...inspiring confidence in progress
ORC Assists Sewer Districts on Consent Decrees

By Keith Shepherd, VP of Business Development

In 1998 the Environmental Protection Agency (EPA) began to negotiate Consent Decrees with cities that suffer from aging combined sewer systems which cannot properly handle the large amount of storm water runoff which occurs during severe downpours. These cities have combined sewer systems where sanitary sewers (sewage) and storm sewers (storm water) merge at locations called interceptors creating combined sewer overflows (CSOs). Under average weather conditions, the interceptors control the flow of the combined sewers directly to the treatment plants. However, during heavy, wet weather conditions, so much water runs off of impervious surfaces such as pavement and roofs that the interceptors permit the system to overflow as the treatment plants cannot keep up with the demand on a temporary basis. When this occurs, CSOs discharge raw sewage and untreated runoff straight into nearby lakes, rivers and streams which pollute water resources and threaten the public health and environment.

More than 700 cities in the United States have been identified as having this problem. Ohio cities are no exception. The sewers of Cleveland, Ohio discharge nearly 5 billion gallons of untreated sewage into Lake Erie every year and the sewers of Cincinnati discharge 14 billion gallons of wastewater annually into the Mill Creek Stream. In Akron, up to 2 billion gallons of untreated or partially treated sewage annually end up in local waterways from Akron’s combined sewer overflows.

Like many established cities with combined sewer overflows, these Ohio Cities have negotiated federal Consent Decrees which set CSO pollution reduction goals to comply with the requirements of the federal Clean Water Act. Many of the proposed projects involve tunnels and shafts which will be as deep as 200 feet and 18,000 feet long. The tunnels, once completed, will act as an overflow storage container until the combined sewage effluent can be pumped to the treatment plants.

As part of these projects, the various sewer districts will need to acquire land and possibly relocate any displaced families and businesses. As such, ORC has been hired by these Cities to assist the Sewer Districts with their programs.
Eligibility Requirements for a Nonprofit Organization

By Lisa Barnes, VP, ORC Training, LLC

A nonprofit organization is defined at 49 CFR 24.2(a)(19) as “an organization that is incorporated under the applicable laws of a State as a nonprofit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).” If an organization qualifies under this definition and it has personal property to move, then it is entitled to payment of actual, reasonable moving and related expenses, as determined by the agency [See 49 CFR 24.301(a)(1)].

49 CFR 24.301(d) describes the methods that an agency may use to reimburse the nonprofit organization for the costs of the move, i.e., commercial move, self-move or a combination move. The eligible expenses are outlined in 24.301(g)(1) through (7) and (g)(11) through (18).

A nonprofit organization (NPO) may also elect the fixed payment in lieu of moving and related expenses and actual reasonable reestablishment expenses if they have personal property to move. According to 49 CFR 24.305(d), the NPO is eligible for this payment if the agency determines it cannot be relocated without a substantial loss of existing patronage. In the case of a nonprofit, existing patronage equates to membership or clientele, rather than net earnings. The NPO is assumed to meet this test unless the agency demonstrates otherwise, so the burden of proof is on the agency. Remember that the computation of a fixed payment for a nonprofit is based on the average of 2 years annual gross revenues less administrative expenses, and the 2-year period begins prior to the date of acquisition, rather than the date of displacement. Administrative expenses are distinguished as those expenses necessary for administrative support, such as rent, utilities, salaries, and fundraising expenses. Operating expenses are those items that are necessary for carrying out the purposes of the nonprofit, such as mission expenses for a church. These operating expenses would not be included in the amounts deducted from the gross revenues.

ORC is currently recruiting for new team members in the following locations:

- **Senior Manager**: OH
- **Agents – Acquisition/Relocation**: OH, TX, VA, SC, MO
- **Agents – Eminent Domain**: TX
- **Title Agents/Abstractor**: OH
- **Administrative Assistant**: NC
- **Agent Trainees**: OH, MO
- **Certified General Appraisers**: OH
- **Project Manager**: OH, TX

If you want to refer someone for any of the open positions, please encourage them to visit our website “Careers” section or send a resume to recruiter@orcolan.com.
**Announcements**

**John J. Dutch, SR/WA, R/W-URAC, R/W-RAC – Senior Manager for Texas**

John J. Dutch, SR/WA, R/W-URAC, R/W-RAC, has joined O. R. Colan Associates as the Senior Manager for the Texas profit center. John is a graduate of Kansas State University with a Bachelor of Science Degree in Business Administration. John comes to ORC with 26 years of right of way leadership experience. His past accomplishments include the management of the South Carolina design build program for 2700 parcels and relocation of 500 occupants for 33 projects in five years. He has worked on highway programs in Utah, South Carolina, Kansas, Arizona and Colorado prior to joining ORC. His experience also includes utility and transit projects. He will reside in our Houston office and oversee projects throughout the state.

**Rick Weyandt, ASA – Appraisal Manager**

Rick Weyandt, ASA, has joined O. R. Colan Associates as the Appraisal Manager for the Cleveland, Ohio office. He comes to ORC from the Ohio Department of Transportation where he was the Appraisal Program Manager for the Northeast Region and then District 4. Prior to working for ODOT, Rick had his own appraisal company. He is a graduate of Kent State University with a Bachelor of Business in Real Estate and Finance. He is a Certified General Appraiser with the State of Ohio and holds the ASA Designation with the American Society of Appraisers.

**Allen L. Thompson, SR/WA – Senior Project Manager for Pennsylvania**

Allen L. Thompson, SR/WA, has accepted the role of Senior Project Manager for the state of Pennsylvania. Allen is a Pennsylvania Real Estate Broker with over 25 years of experience in the right of way field. Prior to joining ORC, Allen was co-owner of Arrow Land Solutions, a firm that specialized in eminent domain real estate transactions and the management of appraisal, title and related services for PennDOT and other public agency clients. Allen will be tasked with building and managing our Pennsylvania profit center from his office in Altoona, PA.
On the Road with Bob: Blue Crabs or Dungeness Crabs?

By Bob Merryman, Senior VP, O. R. Colan Associates/ ORC Training, LLC

Ted Pluta and I recently instructed a National Highway Institute Business Relocation class in Portland, Oregon. The class was sponsored by the Bonneville Power Administration, but the attendees were from a wide range of agencies. The variety of participants always makes the class fun, although a little more difficult for the instructors since each agency implements the regulations in varying ways. On the other hand, it is always good for the participants to be exposed to a new viewpoint.

During a break in the class session someone mentioned that the local Dungeness crabs were skinny this year! My curiosity was piqued; so what do you do with skinny crabs?

If you are in Oregon, it means that the Dungeness crab season is delayed. The crab season along the Pacific Coast of the United States typically opens about December 1, but this year the crabs were too skinny to harvest. For some reason, and you can hear many explanations, the crabs did not fill out their shells this year. So the fish and wildlife regulators delayed the season a month to permit the crabs to fatten up a bit.

The crabs are named for the City of Dungeness in the State of Washington. This was the site of the first commercial harvesting of the crabs that have become a multi-million dollar industry in California, Oregon, and Washington. The crab harvest is now a regulated event to assure that the crab population is sustainable. The Dungeness crab is the official state crustacean of Oregon.

Luckily Ted and I were in the Portland area in mid-January. The crab was available at several local restaurants, although we were warned that it was not a peak quality year.

We decided to try Dungeness crab cakes at a seafood restaurant near Portland’s Lloyd Center. They were very good, but I would rate them a definite second place to the excellent Maryland blue crab cakes. The flavor of the Dungeness crab does not seem to hold up well when mixed with bread crumbs.

I also found a website that discusses the pros and cons of each of these two crab varieties. Reading a little of the blog indicates that it really depends which crab is your “home” variety. I agree with the conclusion of the blog that they are both good, although I think the blue crab had a few more votes. Baltimore can hold its crab cakes high.

It was also suggested that we try Dungeness crab meat as a cocktail so the taste of the crab is not dominated by the bread crumbs. We decided to try Jake’s, a popular Portland seafood eatery located in the downtown area. Jake’s is often regarded as one of Portland’s better seafood restaurants in terms of offering fresh fare. They did not disappoint us at all. The Dungeness crab cocktail was served on lettuce with just a little cocktail sauce as an accent. It was delicious—sweet and mild. I preferred the Dungeness crab taste more than the blue crabs when served alone.

Perhaps that is the perfect ending: Maryland blue crabs make the best cakes; and Oregon Dungeness crabs make wonderful plain meat cocktails. Each has its place and the taste experience is outstanding.