Determining Relocation Benefits for Multiple Occupants of One Displacement Dwelling

By Lisa Barnes, VP of ORC Training

The following article is from ORC’s internal Knowledge Base, ORC’s proprietary searchable database containing hundreds of technical articles on topics of interest to professionals in the right of way industry. Each article is formatted as a “Topic” and a “Discussion” of that Topic.

The topic of this article is also one of the four subjects in the next course offered through ORC Training’s licensing agreement with IRWA. The name of the course is Special Topics in Replacement Housing and it covers the four following issues:

- Multiple occupants
- Persons not lawfully present in the U. S.
- Fractional or partial ownership interests
- Incidental expenses

**Topic:**

You are displacing a mother and son from their residence. The mother is the only one on the title and the son contributes minimally to the household. Typically we would treat them as one unit with one payment; however, the son states to us that he has no intentions of moving with his mother. Would we make the son
a separate offer or would the son and mother have to decide how the single benefit was divided among the two of them? What other benefits may the son be eligible for? What if he did contribute significantly to the household? What would “significantly” be? What if the child relocated separately, but was under the age of 18? What variations may exist?

**Discussion:**

The mother and son would be treated as one family unit, entitled to one replacement housing payment. The fact that the son expresses a desire to move separately does not affect the Agency’s obligation or responsibility to calculate a separate payment. If the mother wanted to provide her son a portion of the replacement housing payment, then that would be her choice, but the son would have no eligibility for separate relocation benefits. Under 49 CFR 24.403(a)(5) *Multiple occupants of one displacement dwelling*, if two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. In this case, the son may be entitled to a prorated share of the moving expense payments. For example, if they elected a schedule move, they would each be entitled to one-half of the schedule move amount.

**Let’s look at the variations presented in the question.**

What if the son contributes significantly to the household income? Regardless of the son’s contribution, it doesn’t change the family or household unit. This would still be considered one household. Similarly, if a child under the age of 18 decided to relocate separately from the rest of the family unit, it would not create a separate entitlement. Under the regulation cited, the Agency may determine that two or more occupants may maintain separate households in same household, in which case they would have separate entitlements to relocation payments. The FHWA has published a Uniform Act Frequently Asked Question that addresses multiple occupants of one displacement dwelling. This FAQ indicates that generally all occupants should be considered one family for the purposes of payment calculations, and also provides some guidance to make the determination that separate households exist.

**109. §24.403(a)(5). What is the intent of the paragraph regarding multiple occupants of one displacement dwelling?**

In general, all of the occupants of a single dwelling unit should be considered one family for purposes of payment calculations. However, two or more occupants of a dwelling may maintain separate households within that dwelling. If they do, they have separate entitlement to relocation payments. The agency is responsible for determining the number of households in a dwelling based on the use of the dwelling, the relationship of the occupants, and any other information that may be obtained. The payment computation for each household should be based on the part of the dwelling that the
household occupies and the space that is shared with others. An attempt should be made to locate similar comparable DSS living facilities. The record should be sufficiently documented to support the decision reached.

Some factors that an Agency may consider when making the decision that separate households exist are: 1) who pays for household expenses and are those expenses paid for separately; 2) are those living in the acquired dwelling generally held to be a single family unit; 3) is there an area of the residence that could be considered a distinct, separate living unit (e.g., walkout basement with kitchen area); 4) is there separate ingress and egress for occupants. While it would be unusual, it may be possible in the above scenario for the Agency to consider the son as a separate 90 day tenant if it can verify that he is paying a market rent for a sleeping room type situation.

Let’s change the facts somewhat. What if the mother owned the dwelling and the basement was an apartment with a separate kitchen and a separate entrance and the son was paying her rent of $450 per month which included all utilities? Assume they could verify by cancelled checks that he had been paying this rent for the last three years (the rent had increased by 5% last year) and the Agency’s review appraiser confirmed that this was only slightly below market rent. These facts would make a good case for considering the mother and son as separate households. They are paying expenses separately, the basement apartment is a distinct and separate living unit, there is a separate ingress and egress for the son and they are not sharing any part of the dwelling unit.

Note: You should check with the federal agency funding the project if you have questions about handling multiple occupants. Some agencies may have a more liberal interpretation and may be more likely to consider a situation a separate household than some of the scenarios outlined above.

For example, a woman was the fee owner of a property and was renting part of the property to her grandson. The part occupied by her grandson was a separate apartment with separate ingress and egress. The grandson was a professional gambler who also earned income as a landscaper. His income was in cash, sporadic and could not be verified. They provided cash receipts showing that he paid rent of $400 per month, however, the receipts were questionable. Some agencies may have considered the grandmother and grandson to be one household because they were related and because the grandson’s income did not support a rental payment. It may have been difficult, however, to dispute the rental receipts had the grandson appealed the decision. In this case, the funding agency indicated that the grandson should be considered a separate household entitled to a separate rental assistance payment. The agency used economic rent to calculate a payment.

For more information on this topic, the 8-hour course Special Topics in Replacement Housing will be available soon at the IRWA Online University (www.irwauniversity.org). This course will be approved for 8 hours of continuing education credits for IRWA certifications.
Update on ORC Online Training through IRWA

By Bob Merryman, Senior VP, Special Projects

Move over Walt Disney! Want to see the animated introduction to the next ORC/IRWA online course entitled *Special Topics in Replacement Housing*? You can view it on the ORC website by clicking this link:


ORC Training/O. R. Colan Associates is now completing development of the fourth, 8-hour online training course, *Special Topics in Replacement Housing*, through its licensing agreement with the International Right of Way Association (IRWA). These courses deal with appraisal, acquisition and relocation topics. We have used various techniques to make these courses interactive, along with a variety of presentation options to keep the subject matter interesting.

We have all sat through a series of slides for some continuing education requirements. These are usually boring, and after spending several hours, you question whether you have learned anything! Our new ORC/IRWA courses take instruction to a new level with animation and video segments for more expansive explanation of complex topics. The materials also include hands-on practice situations to permit immediate application of the concepts addressed in the training. Using different methods to keep the online student engaged stimulates attention and results in an improved learning experience.

These courses offer subject matter content that is not available in any other online format. And what are the four offerings?

**Special Topics in Replacement Housing Payments**

The subject of replacement housing is broad. So for an 8-hour course, we have narrowed the subject to issues that seemed to lend themselves to the online format. The topics addressed are multiple occupants— one household or separate households; persons not lawfully present in the United States— can we ever pay them anything; fractional or partial ownership interests — what is the replacement housing payment obligation; and lastly, incidental closing costs. This course presents many examples, and demonstrates the range of latitude that exists in the regulations.
Appraisal Concepts for the Negotiator

This course is intended to help negotiators better understand appraisals. If the negotiator has a better understanding of the source of the offer being made, logically, it will be much easier to explain it to a property owner. The initial feedback has been excellent on this course.

Mobile Home Relocation

There seems to be very few relocation chores that are more difficult than handling the relocation of a mobile home park or even a single mobile home. The variety of ownership possibilities of the mobile home and the site are always guaranteed to cause confusion. Couple that with issues such as a mobile home that cannot be moved or one that is not decent, safe, and sanitary and you see the need for the training!

Specialized Nonresidential Payments

Business relocation is another great topic for online training. Many agencies only occasionally encounter it, so the ability to look at some of the more difficult issues likely to be encountered is worthwhile. The focus of the course is on the more complex payments - actual direct loss, substitute personal property, related nonresidential costs, and low value/high bulk. There are lots of examples and opportunities to apply your newly learned skills offered in this course.

For more information or to register for one of these course, visit the IRWA website at this link: www.irwauniversity.org. All four courses are accepted for 8 hours of IRWA continuing education credit. Specialized Nonresidential Payments is now a required course for the R/W-URAC certification and an elective for the R/W-RAC certification.
Recent Wins!

**ORC Utility & Infrastructure selected for Oncor’s New Bethel 345kv Transmission Line project**

ORC Utility & Infrastructure was recently awarded a contract with Oncor Electric Delivery Company LLC (Oncor) for the New Bethel 345kv Transmission Line in Freestone and Anderson Counties, Texas.

Oncor Electric Delivery Company LLC (Oncor) is proposing to construct a new 345kv electric transmission line in East Texas. The proposed transmission line will tap the existing Richland Chambers – Trinidad 345kv transmission line in Freestone County, Texas and travel west from the tap to a future customer in Anderson County, Texas. ORC U&I will be responsible for right of way project management, title/abstract work, easement acquisitions and construction support for 30 parcels for this 13.5 mile project.

**ORC awarded contracts with the City of Greenville, OH and the Ohio Department of Transportation**

ORC was recently awarded the **DAR Sweitzer Street** project, sponsored by the **City of Greenville** (SW Ohio) with oversight by the Ohio Department of Transportation. The project will reconstruct Sweitzer Street from Pine Street to Sycamore Street to provide curb and gutter, sidewalk, curb ramps, signing, and pavement markings. The project itself will replace retaining walls and steps. The project will require the acquisition of 16 warranty deeds and 38 temporary easements with takes involving 45 separate ownerships. All parcels are to be acquired by December 31, 2017.

The **Ohio Department of Transportation** selected ORC for turnkey RW services associated with the **SUM 76-05.62** project. The project will improve the I-76 mainline at the interchange of Wooster Road/East Avenue (SR 619) and State Street, within the cities of Barberton and Akron. The addition of a third lane on I-76 will be constructed in response to current traffic conditions, and to improve spacing standards and safety issues, there are eastbound and westbound connector streets proposed that will link State Street to SR 619. In addition to these changes, improvements to storm drainage, traffic signalization, sidewalks and lighting will also take place. In order to implement this project, acquisitions from approximately 48 parcels will be required including the relocation of an estimated 20 residential relocations and one commercial facility.

**ORC Training Awarded PMOC Contract for California High Speed Rail Project**

Project Management Oversight Contractor (PMOC) services are offered and provided by ORC Training staff throughout the nation. To date these services have primarily been for the Federal Transit Administration (FTA). Recently the PMOC concept was adopted by the Federal Railroad Administration (FRA) and ORC Training was subcontracted to provide oversight work for the FRA related to its funding of High Speed Rail (HSR) in the State of California. The California High Speed Rail Authority (CHSRA) proposed facility
involves a 520 mile HSR system running from Los Angeles to San Francisco up through the Central Valley of the State. Conceptually HSR in California also includes future connections to San Diego and Sacramento.

Phase 1 of the California HSR is a 122 mile segment located in the Central Valley which runs from Bakersfield to Merced requiring the acquisition of 1,300 real estate parcels. CHSRA is utilizing eight real estate contractor services firms to accomplish the real estate acquisition for this segment. FRA is providing $3.48 billion of funding towards the CHSRA’s budgeted total design-build cost of $6.35 billion for Phase 1.

ORC Training Adds New NHI Certified Instructor

By Lisa Barnes, VP of ORC Training

Congratulations to Charles O’Neill, who was recently awarded NHI Instructor Certification. He is approved to instruct all NHI real estate courses. Charlie is a course developer and instructor for ORC Training, a division of O. R. Colan Associates, and provides technical assistance related to right of way acquisition under the Uniform Act. He recently retired from the Federal Highway Administration after 28 years of employment, serving as a Team Leader in the Washington, DC office, and a Division Realty Officer in three states. ORC Training proudly includes four other NHI Certified Instructors: Lisa Barnes, Bob Merryman, Bob Kleinburd and Carol Myers.

O. R. Colan Associates and ORC Training have a long history of developing and delivering real estate training for the National Highway Institute (NHI). NHI offers a certification program to provide, oversee and continuously improve the application of quality for instructor skills and adult instructional techniques. ORC Training takes this responsibility seriously and considers it a privilege to instruct NHI courses.

NHI’s certification process is built upon the following set of competencies:

- Application of Adult Learning Theory
- Communication Skills
- Facilitation Trainer Skills
- Positive Behavior Modeling Skills
- Classroom Management
- Subject Matter Expertise

Instructors must successfully complete a three-step process to achieve certification:

Step 1 – Complete Instructor Development Training

NHI offers a 3.5 day Instructor Development course that provides participants with the knowledge and skills to deliver more effective training. NHI’s 4.5 day instructor development course provides additional knowledge and skills to develop lesson plans, lessons and an instructor guide.
Step 2 – Obtain Approval of Subject Matter Technical Expertise from the Appropriate Program Office at FHWA Headquarters

NHI requires this step to ensure that the instructor can serve as a credible technical facilitator, authority and resource. This approval is required for each course an instructor intends to teach for the first time.

Step 3 – Pass Observation for Certification by a Master Trainer

In this step, an NHI master trainer observes the candidate instructor during the delivery of a regularly scheduled NHI course, and the instructor must present multiple lessons. Throughout the observation, the master trainer provides feedback during scheduled breaks to discuss good performance as well as areas needing improvement. Upon successfully demonstrating the required competencies and skills in an actual teaching situation, the approved instructor candidate is awarded NHI Instructor Certification.

Lisa Barnes, Bob Merryman and Bob Kleinburd have been recognized as NHI Instructors of Excellence multiple times, demonstrating their commitment to the NHI instructor competencies outlined above.

ORC Training developed the following NHI real estate courses and our NHI Instructors deliver these courses nationwide:

- Basic Relocation under the Uniform Act
- Advanced Relocation under the Uniform Act
- Business Relocation under the Uniform Act
- Appraisal for Federal-Aid Highway Programs
- Appraisal Review for Federal-Aid Highway Programs
- Introduction to Federal-Aid Right-of-Way Requirements for Local Public Agencies
- Successful Acquisition under the Uniform Act

Welcome Kyle Geron, M. Sc.

Kyle Geron has joined ORC Utility & Infrastructure Land Services, LLC (ORC U&I) as a Project Manager in our Columbus, Ohio office. Kyle earned a Bachelor of Science in Business Management from the University of Phoenix in Dallas, TX and a Master of Science in Global Energy Management from the University of Colorado’s Denver Business School. He has over seven years of experience in the electric, oil and gas industry. He most recently served as Regional Right of Way Manager for the Susquehanna and Harrisburg Region in Central Pennsylvania for PPL Electric Utilities where he was responsible for over 160 transmission lines and 165 substations.
Many times I have seen the merging of the Missouri River and the Mississippi River just north of St. Louis. The inflow of the Missouri doubles the size of the Mississippi. The confluence area is easily accessible and locally it is called Columbia Bottoms. Seeing the merge from above or even from the river bank, you notice that the muddy Missouri does not mix with the Mississippi for many miles.

Historically related to both rivers are the early explorers Meriwether Lewis and William Clark, who were commissioned by President Thomas Jefferson to explore the newly acquired Louisiana Purchase, and find a practical route to the west. The two began their journey in St. Louis, heading upriver to the confluence of the Missouri River, and then west. After traveling for more than a year and over 2,400 miles, the two explorers found the three forks, or small rivers, which make up the Missouri River. These “headwaters” are located in the present day State of Montana.

I was in Montana teaching the National Highway Institute course Successful Acquisition under the Uniform Act for the Montana Department of Transportation. The session was held in Helena, which is in a valley surrounded by mountains. You quickly notice the altitude (4,000 feet) when you walk up your first flight of stairs.
The origin of the name of the capitol, Helena, seems in dispute. Depending on which story you want to believe, the City is named for either Helena, Arkansas or a township in Minnesota. Regardless, it began as a small mining camp located on Last Chance Gulch.

On the first day of the class session I mentioned that I had seen the source of the Mississippi River at Lake Itasca in Minnesota, and would like to see the origin of the Missouri River. I knew it was not far from Helena. The attendees provided me with maps, driving directions and suggestions for other things to see along the way. So my FHWA co-instructor and I headed out to see what Lewis and Clark had found over 200 years earlier.

The drive was quick and scenic to the Missouri Headwaters State Park. The confluence area is fairly flat, but it is easy to see the three small rivers meeting. Nearby is a bluff of rock used by Lewis and Clark to view the area.

Being a tourist makes me hungry. One of the frequently recommended restaurants in Helena is the Windbag Saloon, located at 19 Last Chance Gulch, in the old part of Helena near where the original mining camp was located. The restaurant building has an interesting history. It is a former bordello that operated until the early 1970’s. The restaurant has memorabilia of the heydays of the bordello and the legal efforts to close it down. Shortly after it closed, the former madam of the establishment, Big Dorothy, passed away.

Today the Windbag Saloon is one of the nicer restaurants in Helena. While it serves prime rib and steaks, we opted for something simple. I had a half pound burger with roasted poblano peppers. The other diner had a bison burger. Both of the plates were very good. The waitress provided additional insight into the former operation, and informed us that Dorothy’s private residence, located upstairs, was occasionally open for tours.

Montana is a great place and worth a visit. The views are huge, and you certainly get a feeling for why it is sometimes called the Big Sky country.