Relocation Assistance for Atypical Owner-Occupant Situations

By Lisa Barnes, Vice President of Training

(This topic is one of four topics covered in the next IRWA online relocation course entitled Special Topics in Replacement Housing. Coming in August!)

We often think of an owner as the person who holds exclusive fee simple title to the property the agency needs to acquire. The federal regulations, however, broadly define the owner of a dwelling to include a person who holds other interests in real property, such as a life estate, a land contract, or a long-term lease. Even a person with a partial ownership interest may qualify as an owner. [See 49 CFR 24.2(a)(20)] How does this definition impact an agency’s relocation program?

For the purposes of relocation assistance, an owner-occupant is anyone with a real property interest who resides in the property as his or her permanent and legal place of abode. That means an occupant of a dwelling who holds one of these other real property interests is eligible for a replacement housing payment. The challenge is then determining how to compute the payment eligibility and providing advisory services so the person can claim the maximum amount. In most cases, these “atypical” owner-occupants may not have the resources available to purchase the comparable replacement dwelling the agency offers, since they will likely receive only a portion of the acquisition proceeds. What is the agency’s obligation to ensure these people remain in an ownership position?

(continued next page)
Partial Interest Owner-Occupants

A partial interest owner-occupant is someone who owns a partial or fractional interest in the real property, usually a percentage of the fee simple estate, and occupies it as a dwelling. Let’s look at a scenario of a partial interest owner-occupant to examine some of the issues an agency will have to address. Say there are three siblings, Chris, Charlie and Mitch, who each inherited a one-third interest from their father when he died two years ago. Mitch was his father’s caregiver and has continued to occupy the house as its sole occupant. There is no mortgage on the house, and Mitch pays the taxes, insurance, maintenance and utilities.

A regional transit agency must acquire the property for a federally-funded project. The agency offers $150,000 for the dwelling and site. Since Mitch is the only owner occupying the property, he is eligible for a replacement housing payment. The agency has located a comparable replacement dwelling priced at $165,000. So now what does the agency need to do?

Computing the Maximum Price Differential Payment for a Partial Interest Owner-Occupant

The partial interest of the owner-occupant does not affect this calculation. The maximum eligibility is computed by subtracting the amount offered for the dwelling and site from the cost of the comparable replacement dwelling. In this case, the maximum price differential payment eligibility for Mitch is $15,000 ($165,000 less $150,000).

How Much Must the Partial Owner-Occupant Spend for the Replacement Dwelling

Usually an owner-occupant must purchase a replacement dwelling that costs at least as much as the comparable the agency offers to claim the maximum price differential. However, in the case of a partial interest owner-occupant, the amount is determined by the occupant’s share of the acquisition proceeds plus the computed price differential payment. So how much must our owner-occupant Mitch spend on a replacement dwelling to claim the $15,000 price differential? He has a one-third interest in the property, which is valued at $150,000. He must purchase a replacement dwelling that costs at least $65,000 – his $50,000 share of the acquisition proceeds plus the $15,000 price differential payment. Note the replacement dwelling must be decent, safe and sanitary.

Relocation Problems Associated with Partial Interest Owner-Occupants

The primary problem in working with partial interest owner-occupants is the non-occupant owners do not reinvest their share of the acquisition proceeds in a replacement dwelling. This makes it difficult for the occupant to have the required funds to purchase a replacement dwelling. Although our owner, Mitch, is only required to spend $65,000 to claim the $15,000 price differential, the displacing agency has already determined a comparable replacement dwelling will cost
$165,000. This leaves a $100,000 deficit between what Mitch has available and what he needs. What are the agency’s options to relocate Mitch in this situation?

The Regulation – Appendix A §24.404(b)

“. . . The Agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the Agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.”

While the regulation indicates that the calculation and assistance for a partial interest owner should be the same as that for a full owner, the last sentence does provide flexibility to address the issues associated with situations like the one Mitch is facing.

One solution for Mitch would be to obtain a mortgage for the $100,000 deficit. Although the agency would not typically reimburse incidental expenses incurred with a replacement mortgage when there was not a mortgage on the displacement dwelling, it would be permissible and appropriate to reimburse these expenses for Mitch. Of course, it is possible that Mitch may not be able to obtain financing for the comparable dwelling. In those circumstances, FHWA has provided guidance in the Uniform Act Frequently Asked Questions.

111. Appendix A, §24.404(b). How do you relocate a partial owner-occupant who cannot afford to finance a replacement dwelling? Can a direct loan under the provision of §24.404(c) be provided?

If an agency determines that the relocation of a partial owner-occupant should be as an owner, the agency may provide a direct loan, lien or other financial assistance under §24.404(c) if other financing is not available to the person, in addition to the computed replacement housing payment. A partial owner-occupant who cannot afford to purchase comparable replacement housing may be
relocated as a tenant and provided a rental assistance payment in accordance with §24.402. This guidance gives an agency broad latitude in resolving the relocation of partial interest owner-occupants by opening up the provisions of Housing of Last Resort. Note that these provisions are not mandatory. Keep in mind that when the agency displaced this person, he or she was not a 100% owner. However, whatever methods the agency elects to use to relocate the person as an owner will likely place them in a full ownership position. Some agencies may elect to relocate the partial interest owner who cannot afford to purchase comparable replacement housing as a tenant.

There may be other solutions available for our owner, Mitch. He may be able to find a DS&S replacement dwelling for $65,000, which is the amount he has from his acquisition proceeds and the price differential payment. Another option is that Mitch may be able to purchase a replacement for less than the $165,000 comparable offered by the agency by qualifying for a lower mortgage amount. Like so many situations in relocation, the impact of partial interest owner-occupants and other atypical owner-occupants can be mitigated by talking to the displacees early and providing good advisory services.

The other topics in this latest course offered through ORC Training’s licensing agreement with IRWA include:

- Multiple occupants of a dwelling unit
- Persons not legally present in the U. S.
- Incidental expenses

You will be able to register for the full course at the IRWA Online University.

ORC Employees Share with Victims of the
West Virginia Floods

Last month 44 of West Virginia’s 55 counties were declared federal disaster areas after flooding devastated communities across the state. Twenty-four people died in the flooding and 1,200 homes were lost. ORC offered to match donations made to the American Red Cross for disaster relief for WV flood victims. We are pleased to announce that our employees donated a total of $855 dollars and that ORC did a matching donation of $855 to the American Red Cross. Thank you!
Your right of way training is just a click away.

At IRWA University, specialized training comes to you.

Choose from a number of online courses, including:

✓ Course 411 - Appraisal Concepts for the Negotiator
✓ Course 503 - Mobile Home Relocation
✓ Course 507 - Specialized Nonresidential Payments
✓ Course 508 - Special Topics in Replacement Housing
  *(Coming in August!)*

Please visit irwauniversity.org for more information.
Recent Wins!

ORC Awarded a Fast Track Temporary Relocation Project for NNYBP

The ORC office in Union, New Jersey was awarded a fast track temporary relocation assignment for the “New NY Bridge Project” (NNYBP) as a sub to HNTB of the NNYBP Team. The NNYBP is one of New York State Governor Cuomo’s high profile infrastructure projects to replace New York’s Tappan Zee Bridge with a new span just south of the current structure. Working in tandem with offices in St. Louis, Cleveland and Charlotte, our Union office provided temporary relocation for some private homeowner and tenant residents for 2 days during a period of construction when the noise levels were extremely high. The project was awarded on April 12 and completed July 15 – less than 90 days from notice to proceed.

ORC Utility and Infrastructure selected for AEP’s Indiana and Michigan Telecom Modernization Project

AEP recently awarded ORC Utility and Infrastructure Land Services with the Indiana-Michigan Telecom Modernization Project. The project entails AEP upgrading their Electric System by adding fiber to both distribution and transmission lines for reliability by improving communication between substations. The project includes ORC obtaining County and State Road Permits, Railroad Crossing Permits, settling damages, and identifying easement rights on behalf of AEP. The entirety of the project includes approximately 219 miles of fiber added, 18 Rail Road Permits, 88 State Road Permits, and 540 County Road Permits. The allotted project allows ORC Utility and Infrastructure to showcase their diversity and ability to adapt to project needs.

ORC Training Selected to Develop HUD Uniform Act Training

ORC Training was awarded a subcontract to work with Cloudburst Consulting Group to develop a web-based curriculum for Uniform Act (URA) remote training. The ORC team will serve as subject matter experts for this training, which is based on the URA and its implementing regulations. The training, which incorporates adult learning concepts, will be developed in two phases. The first phase results in the delivery of a training plan to HUD. Several factors are considered in this plan, including learning objectives, target audience, curriculum content, alternative approaches to present and deliver information to target learners, and specific subject matter expertise. The training plan will have course objectives, an outline, proposed modalities and course schedule. The second phase will be the development of the online modules in accordance with the approved training plan. The ORC team includes Lisa Barnes, Robert Merryman, and Joan Morgan, who has more than 40 years of experience in the administration of HUD regulations and management of HUD programs. ORC is excited to be a part of this new training effort for HUD, and have the opportunity expand our capabilities in web-based training.
ORC Welcomes Steven Chastain as Regional Vice President

Steve Chastain has joined ORC’s Charlotte, NC office as the Vice President of the Eastern Region.

Steve is a graduate from Embry-Riddle Aeronautical University in 1986 with a B.S. in professional aeronautics. In 1987 Steve entered the right of way profession upon his discharge from the United States Marine Corps. Since that time he has been involved in the profession across multiple disciplines having worked for municipal government, engineering firms, energy providers and the right of way service industry. He holds the SR/WA designation with the IRWA and is an active member of the American Association of Professional Landmen (AAPL).

He is currently a licensed real estate broker in both Florida and North Carolina. Steve has published numerous articles for the IRWA Magazine and was the recipient of the Mark A. Green award in 2009. Steve is often a frequent speaker at professional roundtables, seminars and conferences.

IRWA Education Conference in Nashville, TN
June 12 – 15, 2016

Ben Zera and other members of IRWA Chapter 13 - Ohio, dressed in costume to promote the theme “Cleveland Rocks” at their IRWA booth in their bid for the 2022 IRWA Education Conference location. Pictured to the left and right of David Bowie (Ben Zera) are Cathy Muth and Lisa Barnes of ORC. Other members of the band in the picture are Richard Nichols of McGill Smith Punshon, Inc. (Barry Gibb), Kristina Breeding of Duke Energy (Joan Jett), Tracy Jones of ORC (not in costume), and Michelle Agostinelli (Stevie Nicks) and Cynthia Schaffer (Cher) of Contract Land Staff.
ORC was represented at the conference (pictured from left to right) by Matt Starling, Steve Chastain, Cathy Muth, Tracy Jones, Lisa Barnes, Ben Zera, Donna Roche and Bob Merryman. Not pictured is Richie McNally.

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2016 AASHTO Subcommittee on Right of Way, Utilities and Outdoor Advertising Control Conference

The 2016 meeting of the American Association of State Highway Transportation Officials (AASHTO) met at the Rosen Center in Orlando, Florida May 1 – 6.

ORC was a Platinum Sponsor and a joint sponsor with Cardno of the annual Welcome Reception for the event. Pictured here at our booth are Tracy Jones, Steve Toth and Cathy Muth.

Cathy was part of a panel led by Matt DeLong, Right of Way Director for Michigan, on the topic of Succession Planning. The panel discussion turned out to be a favorite topic at the AASHTO meeting and there is a plan to continue this conversation at future meetings. Cathy talked about ORC’s Jr. Agent training program and an initiative ORC is doing with IRWA to bring an IRWA certificate program into colleges. The purpose of the IRWA certificate program would be to create awareness in the college population of careers in right of way and would be an important piece of the succession planning solution for our industry. Pictured below are Cathy Muth, John Campbell of TxDOT and Jerry Colburn, representing both OPC and IRWA.
Bonita Springs, FL was the site of the 47th Florida Airports Council (FAC) Annual Conference. In an effort to cultivate an established presence in the sunshine state, O. R. Colan Associates (ORC) presented its full scope of Right of Way and Land Acquisition services to those in attendance. ORC’s booth was showcased by East Regional Vice President, Steve Chastain and Florida Project Manager, Marla Britton.

The conference focused on recent changes in technology, legislation, and air services at Florida airports that are expected to also affect the aviation industry as a whole. The event also offered a chance for attendees to network with industry colleagues and fellow airport experts.

“The conference offered a fantastic opportunity to connect with existing clients as well as new contacts. The setting was beautiful, and the relaxed environment really allowed us to develop relationships on multiple levels,” explains Marla. “We’d like to thank those who stopped by our booth. We’ve long valued our partners in Florida, and it was great to put faces to the names.”

O. R. Colan Associates, LLC, headquartered in Charlotte, NC, has operated nationally since 1969 (47 years) and is recognized as a leader in the field of real estate and right-of-way (ROW) acquisition and related services for public agencies and private clients.

On the Road with Bob – A Taste of Texas

By Bob Merryman, Senior VP, O. R. Colan Associates

Sometimes trips run in a pattern. Lately, I have made several trips to Texas to facilitate classes for the National Highway Institute and the National Transit Institute. The trips have followed a pattern between Austin and San Antonio. It is actually a good pattern since I spent many of my younger years as a “dependent” living in Corpus Christi, Texas on a U.S. Naval Base. I almost feel like a Texan returning home.
Texas has such a wide variety of locales, that picking a favorite is difficult. However, I would venture that Austin ranks high on most lists. Austin seems to be a great compromise - not too hot, not too cold - not too urban, not too rural. Food in Austin is also very diverse, but there is a lot of BBQ. I was checking on BBQ restaurants in the Austin area recently. I solicited information from the hotel and from our TxDOT class attendees. The result was a long list of BBQ joints that people felt were great.

The name most mentioned was Franklin Barbeque and their outstanding beef brisket. It sounded perfect except they only served until they ran out of food, which happens pretty early. The day we chose to go, they had already closed. So we picked the next name on our list, Iron Works BBQ. It was very good, and we managed to try another BBQ restaurant for lunch another day. We quickly figured out that Austin BBQ is great.

There is a funny line in one of the episodes of “The Big Bang Theory” TV show where Sheldon, one of the main characters, discusses how in Texas they “chicken fry beef” and serve it with gravy. It is very true that they do indeed serve such a meal. One of my long-term favorite spots in Austin is Threadgill’s and their

The Alamo, San Antonio, Texas.
“World Famous Chicken Fried Steak.” Of course you cannot just eat chicken fried steak, so this specialty is accompanied by items such as Texas caviar, San Antonio Squash, or your pick of twenty-five other side dish vegetables. And the best part is that there is not a bad one!

One of Threadgill’s claims to fame is that blues-rock singer Janis Joplin worked at the original Threadgills. The restaurant has many pictures featuring her working-years, along with many more pictures of other celebrity customers.

Just a short drive south of Austin is San Antonio, home of the Alamo. The birthplace of Texas is actually a small fort located in the middle of modern downtown San Antonio. The site began as a Catholic mission, but ended up being the location of the famous Battle of the Alamo in 1836. The Texans were defeated by General Santa Anna. While the Texans lost this battle, they quickly won the war for independence. Three famous Texas fighters, Davy Crockett, William Travis, and Jim Bowie, are buried in the nearby church of the Cathedral of San Fernando. The church is a great compliment to a visit to the Alamo.

Regardless of the outcome of the Texas Revolution, the Mexican influence on food is permanent. San Antonio has outstanding and varied Mexican food. In one of the NHI classes, there was discussion of favorite Mexican restaurants, and the name of the Mi Tierra Café and Bakery came up several times. Mi Tierra is a local favorite since it is open 24-hours a day and is located just a few blocks from the Alamo in downtown San Antonio. It is a huge restaurant and also has a Mexican bakery with lots of delicious choices.

As soon as I heard they had excellent mole sauce, I knew I wanted to eat there. Mole (pronounced mol-lay) is a sort of chocolate sauce although it is not sweet and can actually be spicy. It is truly a unique Mexican food taste. I ordered mole chicken enchiladas and they were outstanding.

Now off to take a boat ride along the San Antonio River, part of the famous San Antonio Riverwalk.