

# RELOCATION ASSISTANCE FOR ATYPICAL OWNER-OCCUPANT SITUATIONS

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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?

## 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,

*inspiring confidence in progress...*

## Relocation Problems Associated With Partial Interest Owner-Occupants

- Non-occupant owners do not reinvest sale proceeds in a replacement property
- Owner-occupants do not have funds available to purchase a comparable replacement dwelling



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Slide taken from New IRWA Course 507 – Special Topics in Replacement Housing.

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. ■ ■ ■