



A House Divided



Computing relocation payments isn't always black and white...especially when multiple occupants are involved.

BY LISA BARNES, SR/WA, R/W-RAC

Relocation professionals are often faced with making critical decisions when relocating occupants. Some aspects of a relocation program seem very straightforward, while other areas are more demanding and require a thorough examination.

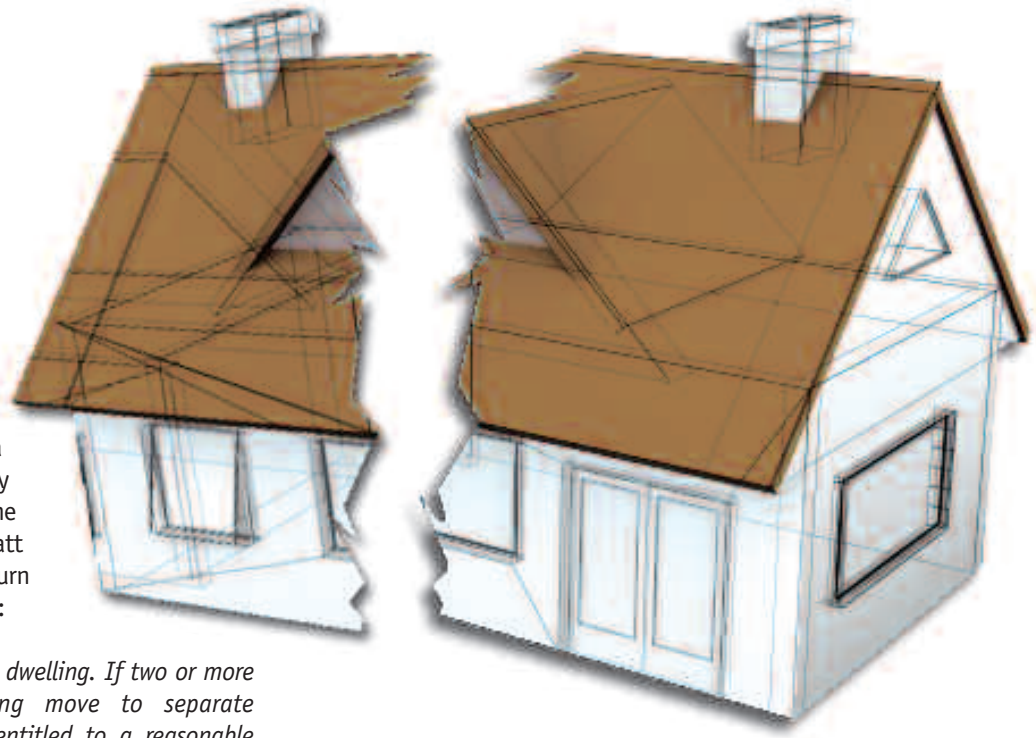
Working with multiple occupants who live in a single dwelling is frequently one of the more challenging aspects of relocation, as the Agency may have to decide whether they make up a single household or more than one household. If it is determined that there is only one household, the occupants are eligible for one replacement housing payment, which would be prorated if the occupants choose to move separately. If more than one household exists in the same dwelling, however, then the occupants are eligible for separate replacement housing payments. So the key question is: What effect will that decision have on the occupants and their eligibility for relocation benefits?

To demonstrate the effects of such decisions, I've outlined some typical scenarios. We will tag along with Matt, a relocation agent, as he encounters several relocations involving multiple occupants.

During this process, we will observe how he collects information, analyzes it and decides, along with his Agency, how many households actually exist.

The Roommates - Scenario #1

Matt is conducting a personal interview for Julia Thompson and Elizabeth Miller who will be displaced by a highway widening project. They have been roommates in a two bedroom, two bath house for the last 18 months and contribute equally to the cost of the rent and utilities. Each woman has her own bedroom and they share the common areas of the living room, dining room and kitchen. Although they buy their own food, they often share meals together. They explain that they will not be moving together, as Julia has been offered a promotion with her company that will require her to move to Chicago in a few months. Matt is fairly new in relocation, so he isn't sure whether that will make any difference to their relocation benefits or not. When he gets back to the office, he updates his supervisor, Tina, about the plans of Julia and Elizabeth.



Tina has been working in relocation for a good while and she knows that the best way to learn it is to do it. She sees this as the perfect teaching opportunity and asks Matt to get out his copy of 49 CFR Part 24 and turn to §24.403(a)(5). This is what Matt reads:

(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. However, if the Agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

Matt realizes that they must make a decision about Julia and Elizabeth – specifically, do they have one household (and therefore share prorated payments when they move) or do they maintain separate households (and receive separate payments)? However, he recognizes the need to obtain more information before determining how many households exist.

Tina explains that, as a general rule of thumb, all of the occupants of a single dwelling are considered a single household. This concept is sometimes called the “one roof, one household” approach for single family and apartment units. If a household is living in a single family dwelling, they can be moved to another single family dwelling. She refers him to the Uniform Act “Frequently Asked Questions” at the Federal Highway Administration’s Realty website (www.fhwa.dot.gov/realestate/us/uafaqs) to help him with his research. Matt finds the following information about multiple occupants:

107. §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.

Tina also advises Matt that their Agency operating procedures outlines some of the factors to consider when making the decision. These include:

1. Who pays for household expenses?
2. Are those living in the acquired dwelling generally held to be a single family unit?
3. Are the people residing in the dwelling related?
4. Is there an area of the residence that could be considered a distinct, separate living unit (e.g., walkout basement with kitchen area)
5. Is there separate ingress and egress for the occupants?
6. Is the current arrangement legal?

Matt reviews this list in his procedures manual and compares it to Julia and Elizabeth’s situation. They are sharing the household expenses equally. Although they are not related, he believes they could be held as a single family unit.

Matt figures that a definition of “household” could really shed some light on his puzzle. The dictionary, Merriam-Webster Online, defines it as “a social unit composed of those living together in the same dwelling.” The American Heritage Dictionary online version defines it as “a domestic unit consisting of the members of a family who live together along with non-relatives such as servants,” as well as “a person or group of people occupying a single dwelling.” At the Wikipedia site, Matt found, “the term refers to all individuals who live in the same house.” His last resource was The Dictionary of Real Estate Appraisal, Ninth Edition, which defined household as “a number of related or unrelated people who live in one housing unit; all the persons occupying a group of rooms or a single room that constitutes one housing unit. A single person, a couple, or more than one family living in a single housing unit may make up a household.”

Based on these definitions, it appears that unrelated persons can constitute one household. Since there is not an area used as a separate living unit in the house by either Julia or Elizabeth, and neither of them have separate ingress and egress to the house, these factors don’t add to a separate household determination. As far as Matt can tell, these roommates maintain one household, and they are entitled to one rental assistance payment. He takes his analysis to Tina, who compliments him on his thorough research and tells him that she agrees with his opinion.

Matt’s next step is to determine the amount of relocation payments Julia and Elizabeth will receive if they move separately. He confirms they are paying a total of \$1,000 per month in rent and utilities. Their verified household income indicates that they do not meet the low income criteria under the URA limits. The comparable replacement dwelling currently rents for \$1,100 per month, including utilities. The maximum rental assistance payment is computed as follows:

Comparable Replacement Dwelling	\$1,100
Displacement Dwelling	<u>\$1,000</u>
Monthly Rent Differential	\$ 100
	x 42 months
Maximum Rental Assistance Payment	\$4,200

Each displacee is eligible for her prorated share of this payment, or one half, which is \$2,100. To claim this maximum amount, each must rent and occupy a decent, safe and sanitary replacement dwelling that costs at least \$550 per month (one half of \$1,100), including utilities. So if Elizabeth finds a new roommate when Julia moves to Chicago and they rent an apartment for \$1,075 per month, including utilities, her rental assistance payment would be reduced to \$1,575. (She had been paying \$500 per month previously and now she will be paying \$537.50 per month. Her additional cost over

Alternate Solution: Roommates as Separate Households

What if the Agency had considered Julia and Elizabeth as separate households, eligible for separate payments? What effect would this have on the method of computing the payment for each occupant, as well as the total amount of the rental assistance eligibility?

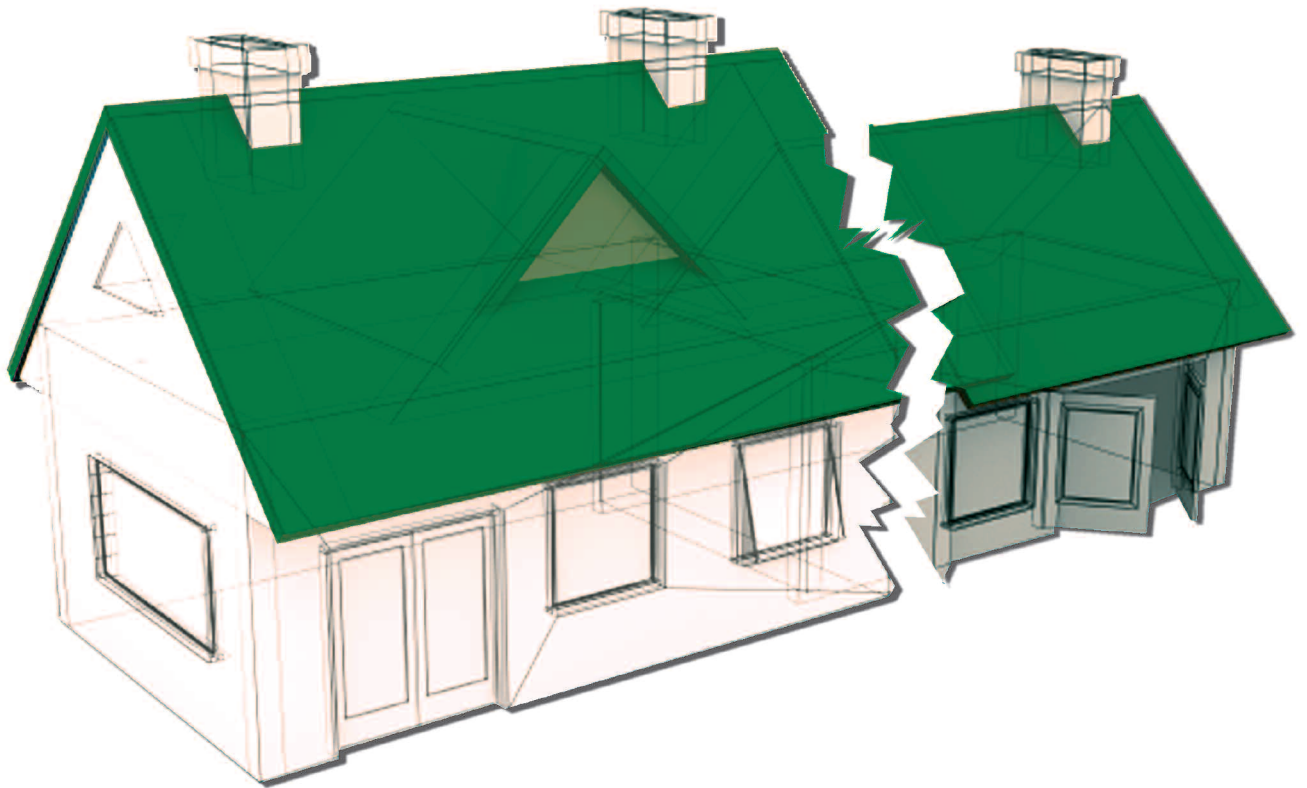
First, the computation would be based on the part of the displacement dwelling each roommate occupies, along with the shared space, so each person would basically have a one bedroom, one bath house. Next, based on the information from the Uniform Act FAQ, an attempt should be made to find a similar comparable, i.e., a one bedroom, one bath house. The base monthly rental for each roommate is \$550. Assuming the monthly rent and utilities for a comparable one bedroom, one bath house are \$800, the rental assistance payment for each woman would be computed as follows:

Comparable Replacement Dwelling	\$800
Less Base Monthly Rental	<u>\$550</u>
Monthly Rent Differential	\$250
	x 42 months
Maximum Rental Assistance Payment	\$10,500

This computation results in a total payment of \$21,000, rather than the \$4,200 computed for the single household determination.

42 months will be \$1,575.) If Julia and Elizabeth elect a schedule move, they are each eligible for one half of the amount available under the schedule.

Julia and Elizabeth may also convert their rental assistance payment eligibility to downpayment assistance. If the Agency’s policy limits the downpayment assistance to the calculated rental assistance payment, they would each be eligible for \$2,100. If the Agency allows the downpayment amount to increase to \$5,250, then each would be eligible for one-half, or \$2,625. Once they have made the decision to move separately, they can use the payments differently, i.e., one can rent a replacement dwelling and the other can purchase.



Annie and Her Lodger – Scenario #2

Matt now has several more residential relocations behind him and is feeling more comfortable with the Federal Regulations and his Agency's procedures. One of his new relocation parcels is owned by Annie Parker, who has a three bedroom, two bath house. When Matt conducts the personal interview, Annie tells him that she rents out one of the bedrooms to Jay Shipley. He pays her \$350 per month, which includes all utilities. The bedroom has its own bath, and Annie had an exterior door installed last year to give Jay some privacy. He also has kitchen privileges. Annie and Jay share meals a few times a week, as well as watch some favorite television programs together.

Matt also interviews Jay Shipley, who confirms the information that Annie provided. During the interview, he confides in Matt that, while he has enjoyed living with Annie, he would really like his own place with more room. A one bedroom apartment in an apartment complex where he could meet some new people would be ideal. Matt realizes that he has another multiple occupant situation – is this one household or separate households?

Matt recognizes that this situation is different from some of his previous relocations. Since Annie owns the house and Jay is a tenant, does that automatically mean they have separate households? Before Matt speaks with his supervisor Tina, he decides

to review the list of factors provided in the procedures manual to see how they apply to this situation.

As far as the household expenses are concerned, they are not really shared, given that Jay is paying Annie rent. He checks with the review appraiser and finds out that \$350 per month is market rent. Annie is responsible for the mortgage payment, taxes, insurance, utilities and maintenance. Annie and Jay are not related and, while they may fall under the definition of "household" that Matt found previously, it is doubtful they would be viewed as a family unit because of the landlord/tenant relationship. Jay's bedroom is not a separate living unit within the house, but he does have separate ingress and egress through the exterior door. Matt also confirms that Annie's rental of the room is legally permissible.

Matt is pretty confident and makes his case to Tina that Annie and Jay have separate households - Annie is a 180-day owner eligible for a price differential payment, and Jay is a 90-day tenant eligible for a rental assistance payment. Tina considers his reasoning and tells him he is beginning to make a pretty good relocation agent. She asks him about his search for comparable replacement dwellings. Now that Annie and Jay will be moving separately, what will be comparable for each of them? Thinking this might be too easy, Matt tells Tina he thinks Annie should get a three bedroom, two bath replacement and Jay needs a one bedroom apartment. (Didn't she read the personal interview he completed?) Upon

"A single person, a couple, or more than one family living in a single housing unit may make up a household."

hearing his assessment, Tina suggests he review that FAQ from the FHWA website again.

After Matt reads the FAQ, he realizes why Tina suggested he review the question again. One section reads, "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."

Matt realizes that Annie's household is using two bedrooms and one bath, as well as the common areas of the dwelling, so a similar comparable would be a two bedroom, one bath house. This proves to be a bit confusing, as he had never heard about offering someone a smaller house. He isn't quite sure about Jay's one bedroom, one bath situation, with the shared common areas. A one bedroom apartment doesn't really seem comparable. Maybe he should look for someone renting a one bedroom, one bath, with a shared kitchen and other living space, but that might be hard to find. By the time he visits Tina's office to discuss what he has learned, Matt finds himself having second thoughts about relocation.

Once again, Tina assures him that he is a good relocation agent in the making because he is thinking about all the different possibilities. She explains that, since Annie is renting out one of her bedrooms, it is not part of her household or dwelling that the Agency must replace. They will "carve-out" the bedroom and bath that she is renting to Jay from the acquisition payment when computing the price differential payment, as described in 49 CFR §24.403(a)(7). Tina also tells Matt that some Agencies do not do this "carve-out" and would offer Annie a three bedroom, two bath replacement. Tina and Matt work out the following computation of the price differential payment for Annie:

Approved Appraisal for Annie's House	\$250,000
Value of Portion Rented to Jay (from review appraiser)	\$ 25,000
Adjusted Value of Displacement Dwelling	\$225,000
Price of Comparable Replacement Dwelling (2 BR)	\$235,000
Less Adjusted Value of Displacement Dwelling	<u>\$225,000</u>
Maximum Price Differential Payment	\$ 10,000

Annie still receives \$250,000 for the displacement dwelling, and if she spends at least \$235,000 for the DSS replacement dwelling, then she is eligible for the \$10,000 price differential payment. Of course, she can purchase a three bedroom DSS replacement dwelling if she chooses.

Tina concurs with Matt's concerns about offering Jay a one bedroom apartment as a comparable replacement dwelling. A more appropriate comparable would be the "sleeping room" type of arrangement, however, they need to be careful that it offers Jay similar access to a kitchen and other common areas. If that is not currently available, then a one bedroom apartment could be offered. Once the comparable replacement dwelling is located, a rental assistance payment will be computed based on the difference between the comparable rent and utilities and the base monthly rental of the displacement dwelling over a period of 42 months.

Conclusion

The resolution for any situation involving multiple occupants in one displacement dwelling depends on many factors. The "one roof, one household" approach is a good place to start and from there, weigh the issues that may contribute to a finding of a single household or separate households.

The best method for clarifying the key issues is to reference the requirements of the Federal Regulations, review the guidance from the FHWA's Frequently Asked Questions and examine the information contained in an Agency's procedures manual. Of course, we always encourage agents to talk with their fellow relocation professionals and get their input – they may not all agree, but they will provide valuable insight into one of the more interesting areas of relocation.



Relocating Multiple Occupants: An Agency Perspective

Recognizing that right of way professionals work on various types of projects (highways, airports, transit, etc.), I wanted to hear how some of our Federal agency representatives would make a determination. Using the occupancy scenario below, I asked each Agency to indicate whether they would consider the multiple occupants to be a single household or separate households. Their responses may enlighten you.

-Lisa Barnes, SR/WA, R/W-RAC

Occupancy Scenario

A husband and wife, Richard and Renee Sullivan, are the fee owners of a dwelling that has three bedrooms and two baths in the main part of the house. The basement was legally converted to a separate apartment 10 years ago and has its own ingress and egress. However, there is not a separate utility meter for the apartment.

The Sullivan's rent the basement apartment to their son, Tim, who is a professional gambler and also earns income as a house painter. His income is sporadic and because it is in cash, it cannot be verified independently. Richard and Renee provided cash receipts showing that Tim paid rent of \$400 per month for the last six months, but the receipts are questionable, since the amount of income Tim is claiming does not support a rental payment of \$400. The market rent for the basement apartment is \$500 per month.

Single Household or Separate: Would you consider Tim a 90-day tenant entitled to a separate rental assistance payment or part of the Sullivan's household and therefore not eligible for a separate payment?

Note: The Agencies were not asked to respond to issues related to income verification, the use of actual rent vs. market rent or the application of hardship provisions, although these items would be a consideration in the computation of the appropriate payment eligibility.

AGENCY PERSPECTIVE:

Federal Transit Administration



Ron Fannin
Real Estate Manager

In this case, I would leave it up to the homeowners. I would explain the options to them and let them decide which way they want it. Outlined below are the options that I would provide to Richard and Renee.

Option #1: We will consider your son as a tenant and compute a rent supplement for him, provided he is able to supply us with the necessary information. However, if we do this, we will carve from your house the rented rooms to include any bathrooms in the basement.

Option #2: We will consider your son as part of the family, and your comparable will be based on HLS of the entire house to include the habitable rooms and bath in the basement.

AGENCY PERSPECTIVE:

Federal Aviation Administration



Rick Etter
Airports Acquisition Specialist

The information indicates that Tim occupies a separate apartment and is apparently living independently. Tim is over 18 (legally gambles) and earns income as a house painter. Tim claims his current rent \$400 and his parents concur that is what he has paid (at least a few times, but he is a good boy).

In order to make a determination on a separate household, we would first review the relocation interview/questionnaire and the agent contact record. How old is Tim and how long has he lived in the apartment? Do the agent's notes verify that the apartment is occupied at the time of interview or is there some doubt (e.g. the apartment had furniture, clothes, food in the refrigerator, laundry facilities, working plumbing etc; or the place looked like it had been closed up a while, stale air, no sign of much recent use of kitchen, etc.). Tim's age may be important, given the basement apartment was built about 10 years ago. If Tim is in his early 20's, I don't think it was built for Tim, and a question to ask (maybe on the interview) would be why the Sullivan's had the apartment built. Had anyone else ever lived there? If Tim is in his 30's or older, then maybe it was built to give Tim a home base for his wandering ways.

With the above information accepted as accurate and verified by the agent, we would accept an agency determination that there are indeed two separate households. In such a case, we would accept the agency providing a three bedroom, two bath comparable replacement dwelling, with a carve-out for the rental apartment for the homeowner. (Or, if available at reasonable cost, homes with "mother-in-law/ late bloomer" apartments without a carve-out). For Tim, we would accept the agency providing a one bedroom apartment in a home or in a smaller complex. There may be some trade-offs in square footage for functional floor plan, etc. and the agency might even consider studios in complexes with some amenities, but that depends on what is available now to compute the eligibility. We would accept \$400 per month as the base rent for Tim. The agency could then issue the

90-day notices and proceed to take title and possession. Actual relocation claims would be accepted based on meeting eligibility requirements.

On the face of it, and with the agent's recommendation/verification/documentation that the situation is true and reasonable, I don't see much room for a single household determination. This case appears to be (and may be documented as) a typical living situation where the comparable housing need looks pretty normal and straightforward for separate households. Other conditions that might change the FAA acceptance of separate households would be whether or not the initial interview by the agent indicated anything on Tim, or if it was noted that the downstairs apartment appeared not to be in use, and if Tim was not in town or if it appeared that he was actually living upstairs. Otherwise, if the agent can confirm and document that it appears realistic that Tim lives independently in the apartment, then the agent should say so in the file documentation and proceed with the correct relocation eligibility determinations and offers.

Federal Highway Administration



Arnold Feldman
Team Leader, Program Development
Office of Real Estate Services

Based on the information provided, I believe that it is safe to assume that an agency could determine that two separate households were present. I believe that the lack of a separate utility meter for the apartment in and of itself is not determinative of whether the apartment is a separate unit. I also believe that the agency should attempt to further verify and document that, in fact, the son is a tenant in the unit. Proof of tenancy could include a written and signed lease, possibly utility bills (in this case cable, phone or internet bills may be useful), which have the tenants name and unit address on them, and/or an affirmative written and signed statement from both parties as to the rental arrangement.

Department of Housing and Urban Development



Joan Morgan
Director, Relocation and Real Estate Division

We polled our field personnel for their responses and had planned to draw a conclusion based on those responses. However, because of the familial relationship of the residents, we did not feel that there was enough information about the situation to give adequate direction. We would need to address the following questions before coming to a determination:

- Is the son an adult who could lease a unit on the private market on his own?
- Can he provide last year's tax return to support his income?
- Has he been renting from the parents longer than the six months for which they can produce receipts?
- We need to know more about the configuration of the apartment he rents (bedrooms, baths, etc.) and whether or not utilities are included.
- Is this really a rental situation or just the son contributing to the household expenses for the opportunity to stay at home?
- Have the parents rented the apartment at a market rate to a non-family member prior to the son's occupancy and can they verify that with tax returns and leases?
- Do the three residents plan to move as a family or separately?

Additional observations/comments include:

- If the son and his parents state that he will move separately (and he is legally capable of executing a lease), in the absence of verifiable income, we would advise the grantee to use rent to rent to determine his RHP.

- Because HUD grantees are prohibited by statute from paying an RHP in a lump sum (except for downpayment assistance), we would advise the grantee to set up a periodic payment plan for the son.
- If the son moves separately, the grantee could determine the comparable for the parents based on the space they actually occupy (e.g., "carve out" the finished basement to determine their RHP).

U.S. Army Corp of Engineers, Mobile District



Willie Patterson
Chief, Real Estate Division, Mobile District

I typically address the questions of multiple occupants of a single family dwelling by using a simple formula I devised years ago to serve as a guide:

A-B-C Determination:

Access: I look for separate access to the home. Tim has a basement apartment, so I would look to see how he accesses the apartment in the basement.

Bedrooms: Next, I look at the location of the bedrooms. In this case, his bedroom is located within a separate apartment in the basement.

Common Area: Then I look at the bathrooms and kitchen. I am more comfortable with separate kitchens and bathrooms. I would hope in this case he has a bathroom and kitchen in the basement.

Based on my assessment, he "appears" to be eligible for 90-day tenant benefits, but I would not use the 30% rule on him, as he is clearly making more money than he is "validating" to avoid tax consequences. The market rent would be the basis of my comparable rental unit.