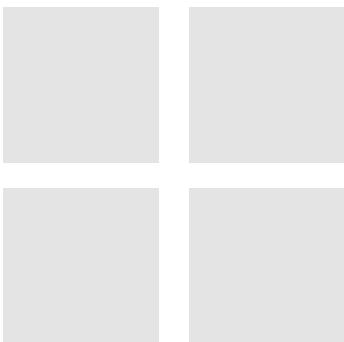




# REPLACEMENT HOUSING

Relocation assistance for atypical owner-occupants

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**F**or projects requiring residential relocation, the subject of replacement housing payments can be complex, especially when multiple people own partial interests in the home.

## Qualifying as an Owner

We often think of an owner as the person who holds exclusive fee simple title to a 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. How does this definition impact an agency’s relocation program?



**...talking to the displacees early in the process and providing good advisory services can help to mitigate the impact on property owners.”**

For the purposes of relocation assistance, an owner-occupant is anyone with a real property interest who occupies the property as their permanent or customary and usual residence, according to local law or custom. So what happens when there are other property owners who are entitled to part of the proceeds but don't live there?

**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. In most cases, these “atypical” owner-occupants will 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. The challenge is determining how to compute the eligibility payment and providing advisory services so the person being relocated can claim the maximum amount.

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 how should the agency compute the maximum price differential payment?

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 minus \$150,000).

**Cost of Replacement Dwelling**

Usually, an owner-occupant must purchase a replacement dwelling that costs at least as much as the comparable the agency offers in

order 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 will Mitch, the owner-occupant, need to spend on a replacement dwelling so that he can claim the \$15,000 price differential?

With a one-third interest in the property valued at \$150,000, his share equates to \$50,000. Therefore, he must purchase a replacement dwelling that costs at least \$65,000, which is computed by adding his \$50,000 share with the \$15,000 price differential payment. Note that the replacement dwelling must meet decent, safe and sanitary standards.

**Facing a Deficit**

The primary challenge in working with partial interest owner-occupants is obvious. Since the non-occupant owners will not likely be reinvesting their shares of the proceeds in a replacement dwelling, it becomes difficult for the occupant to have enough funds to purchase one. 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? According to the Uniform Act regulations, 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.” This indicates that the calculation and assistance for a partial interest owner should be the same as that for a full owner. Fortunately for Mitch, the regulations also include a solution by stating, “If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.” This provides flexibility for addressing the issues associated with situations like this one.

One possible solution would be for Mitch 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 original dwelling, it would be permissible and appropriate to reimburse these expenses for Mitch. In the event that Mitch is unable to obtain financing for the comparable dwelling, the Federal Highway Administration has provided guidance in the Uniform Act Frequently Asked Questions for those circumstances.

### Other Assistance Options

So what happens if you need to relocate a partial owner-occupant who cannot afford to finance a replacement dwelling? 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 Appendix §24.404(c) if other financing is not available to the person, in addition to the computed replacement housing payment. Also, 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 the agency broad latitude in resolving the relocation of partial interest owner-occupants

### Example 4 - Bill and Tom Inherit a Home



Bill and Tom are brothers who inherited their parent’s home after the death of their parents. They each hold a one-half interest in the home, although only Tom lives in the dwelling.

#### Impact on Relocation:

1. They are both entitled to a share of the acquisition funds.
2. Only Tom is eligible for replacement housing benefits as an owner-occupant.

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Calculating relocation benefits when only one of the owners occupies the dwelling is covered in the IRWA online Course 520 - Special Topics in Replacement Housing.

by opening up the provisions of Housing of Last Resort. Note that these provisions are not mandatory. Also, it’s important to keep in mind that when the agency displaced this person, they were not a 100 percent 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. For a partial interest owner who is unable to purchase comparable replacement housing, some agencies may elect to relocate them as a tenant.

There may be other solutions available for our owner, Mitch. He may be able to find a suitable replacement dwelling for \$65,000, which is the amount he has from his acquisition proceeds and the price differential payment. Or he 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 most relocation situations, talking to the displacees early in the process and providing good advisory services can help to mitigate the

impact on property owners.

This topic is covered in the IRWA online Course 520 - Special Topics in Replacement Housing, developed by O. R. Colan Associates, LLC/ ORC Training through its licensing agreement with IRWA. Some of the other topics in this course include multiple occupants of a dwelling unit, persons not legally present in the U. S., and incidental expenses. Visit the IRWA Online University at [www.irwauniversity.org](http://www.irwauniversity.org) to register! ★



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