A Guide for Residents Purchasing Their Mobilehome Park

Answers To Residents' Questions

Department of Real Estate

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PREFACE

Due to rental costs, many residents in mobilehome parks are pursuing the idea of forming a nonprofit corporation to purchase and own their park (in order to keep space rents affordable) or owning rather than renting the space their mobilehome occupies. You too might be considering this option. Or if others in your park have been investigating the possibility of purchasing the park, you may be feeling that you also must get involved. Converting a rental mobilehome park to resident ownership can be rewarding and beneficial to the residents. It is also a major undertaking likely to include problems for which solutions must be found.

This booklet describes generally the steps involved in resident purchase of a mobilehome park, points out some problems common to resident purchase and provides information which is designed to help you understand your role in the process. This booklet also offers some solutions to problems that may arise during the conversion process which may be useful to you as an individual and as a member of a resident organization.

This booklet does not attempt to present all of the possible problems you might encounter during the conversion process, nor is it a source of all possible solutions to the situations. It does, however, emphasize the need to obtain appropriate professional assistance when circumstances suggest that park residents, by themselves, will not be able to conduct some phase of the conversion.

PART I

BASIC INFORMATION ABOUT RENTAL PARK CONVERSIONS TO RESIDENT OWNERSHIP

Part I describes a park conversion, the jurisdiction of the Department of Real Estate and, generally, the arrangements suitable for owning and managing a mobilehome park after conversion.

What is a park conversion?

In this booklet, the term conversion refers to the various aspects of a mobilehome park purchase by the residents. Conversion can involve transformation of a park to a type of common interest development where residents obtain title to, or some right of exclusive use of, their mobilehome spaces.

What is a common interest development?

In a common interest development, an individual owns or leases a separate lot, unit or interest together with an undivided interest or membership interest in the common area. The common area is usually governed and maintained by a homeowners' association of which each individual owner is a member. If a mobilehome park is sold or leased with the intention of creating separate interests for the residents, a common interest development will result. See Part IV for a discussion of common interest developments.

What is the role of the Department of Real Estate?

The Department of Real Estate (DRE) regulates California real estate brokers and salespeople and the marketing and sale of subdivided real property in California. Basically, DRE's issuance of a final subdivision public report must precede the offering for sale or lease of lots or interests in a subdivision of five or more lots or interests. (Although the subdivider can advertise and accept refundable deposits for reservations pursuant to a preliminary subdivision public report.)

If a representation is made to residents that they will receive a lot or other separate real property interest in their mobilehome park as part of their participation in a park purchase program, a subdivision will be created.

What is a public report and what is its purpose?

A public report is a document which discloses to prospective purchasers significant aspects of a subdivision offering. Before DRE issues a public report, the subdivider must meet certain standards to safeguard buyers' purchase money, complete on-site and off-site improvements and, for a common interest development, produce governing instruments which address specific features of the project's operation and management.

Disclosures Regarding Tentative Prices

Prior to filing a notice of intention (to sell or lease subdivided lands), the subdivider of a mobilehome park that is proposed to be converted to resident ownership must, by written notice, disclose to the homeowners and residents of the park the tentative price of the subdivided interest proposed to be sold or leased.

The notice must indicate that the price is not binding and may change, without any liability on the part of the subdivider, due to unanticipated expenses: conditions imposed for approval of the conversion, increased financing costs, etc.

The subdivider must obtain a preliminary public report from DRE before distributing the tentative price disclosure notice.

Nonprofit Corporation's Exemption

Business and Professions Code Section 11010.8 exempts from the notice of intention/public report requirement a nonprofit corporation's purchase of a mobilehome park, provided:

1. The nonprofit corporation obtains a permit from the Department of Corporations.
2. All shareholders of the nonprofit corporation are residents of the mobilehome park.
3. A majority of the shareholders constitute a majority of the persons who own mobilehomes within the park.
4. A majority of the governing body of the nonprofit corporation own mobilehomes within the park.
5. All funds of mobilehome park tenants for purchase of the

mobilehome park are deposited in escrow until title to the park passes to the nonprofit corporation.

Is subdivision of the park a necessary part of conversion?

It is not necessary for park residents to subdivide a mobilehome park in order to own and assume control of it. Indeed, subdividing a park during conversion may result in untimely delays while the subdivider satisfies local, city or county requirements and completes the information and documentation required to obtain a public report.

Instead, park residents may use a two-step approach to conversion. First, the park is purchased as a single property by a resident organization which, in a majority of cases, is a nonprofit corporation created for this purpose. Participating residents become shareholders or members of this corporation. Later, the corporation subdivides the park, obtains a public report, and sells (or leases) the subdivided interests to the residents.

What is the value in creating a nonprofit corporation?

Park residents need a legal entity to purchase their park. A nonprofit mutual benefit corporation is well suited to this purpose.

In general, the nonprofit corporation makes an offer of participation to the residents. Residents who decide to participate become shareholders or members in the corporation. As residents purchase shares or memberships in the corporation, cash is accumulated for the downpayment required to purchase the park. The officers of the corporation, elected by the members and acting on their behalf, negotiate with the seller to purchase the park and solve problems relating to conversion. After conversion, the corporation may manage the park.

Legal Advice

Inasmuch as memberships in a nonprofit corporation are subject to the requirements of the Corporations Code, competent legal advice should be sought prior to formation of a corporation. Unless an exemption is available, a permit from the Department of Corporations (DOC) is generally a necessary prerequisite to issuance of memberships in a nonprofit corporation. It is also recommended that incorporation of the residents' organization be handled by legal professionals. A standard corporation or a general or limited partnership are alternatives to a nonprofit corporation. Before committing to any type of organizational form, the residents should explore the advantages and disadvantages and obtain legal advice.

Exemption from DOC and DRE Jurisdiction

In order to preserve the stock of affordable housing, government financing and subsidies are sometimes used in conjunction with conventional financing to purchase a park with few amenities and generally low-income residents. Ownership of the park is by a nonprofit corporation which typically does not issue stock or memberships. The residents' organization should contact the DOC and DRE to determine if this arrangement is exempt from the jurisdiction of either or both of those agencies.

PART II

ISSUES FOR RESIDENTS THINKING ABOUT THE PURCHASE OF THEIR PARK

This part discusses issues involved in purchasing a park and what may happen if you choose not to participate.

Should I participate in the purchase of my park?

Many mobilehome park residents are living on fixed or limited incomes. Increases in rent for mobilehome spaces and related services have motivated many residents to join together to purchase and convert their parks to resident ownership.

While the cost of owning may at first be higher than renting, the gap is likely to close and turn positive in a relatively short period of time.

Impending eviction and park closure are also strong motivating factors for conversion. While it is true that state and local government agencies are committed to fostering an adequate supply of affordable housing, displacement is still a very real threat and a strong consideration in residents' decision to purchase and convert their parks.

No matter what the reason for conversion, ***your*** decision to participate should be based on ***your*** personal needs and financial situation, not part of a "group decision" made under pressure from fellow residents.

How do I assess my financial situation?

The most important question is, "Can I afford to participate in the purchase?"

Whether alone or with the help of a financial advisor, you should consider the following factors:

- **Your personal income sources and their stability.** Are increased costs of living causing you to withdraw from savings in order to meet monthly expenses? Has the investment capital which generates your income decreased, resulting in a reduction of income? Have interest rates dropped, decreasing your income?

- **Trends in your nonhousing domestic expenditures.** Review checkbooks and payment records in order to estimate your costs for food, clothing, medical care, insurance, entertainment, and other expenses. Review your credit reports for negative information (e.g., late payments; too much debt).

- **The projected "bottom line" dollar amount for participation in the park purchase.** Compare your estimated housing cost after conversion to the portion of your monthly income available for housing. The commonly used affordability standard is 25 to 30 percent of monthly income for housing-related expenses. However, this may not be applicable to many retirees living in mobilehome parks. For example, residents who rely solely on Social Security are frequently paying as much as 40 to 50 percent of their income for housing.

What happens if I feel I am financially unable to participate?

It is common in park conversions to include rental or lease arrangements for residents who cannot afford to participate in the purchase. These arrangements may be open-ended or for a specified term and space rental may be expected to increase over the term of the agreement. Typically, there can be no sale of the mobilehome in place during the term of the rental or lease arrangement and at termination the resident must become an owner or remove the mobilehome from the park.

If a rental or lease arrangement is not available and "involuntary displacement" is expected due to a conversion, various government agencies may require that an impact report be filed. However, the law does not presently require relocation benefits or relief measures for a displaced resident, except in some cases where public funds have been utilized in the conversion.

What other choices do I have?

If, after reviewing all the terms and conditions of the purchase/conversion, you are not interested in participating (and a rental or lease arrangement is not available), relocation to another park or to a lot will be necessary. This may be profitable because a mobilehome in a park which is to be converted frequently commands a higher price. Therefore, you should not be in a hurry to leave, as delaying your move as long as possible may give you more leverage in the sale of your mobilehome.

What if the park owner is not interested in selling?

If the owner is not interested in selling, the residents' organization may attempt to stabilize space rents by negotiating a lease for the entire mobilehome park. A lease may transfer management and control to the residents' organization without disturbing prior leasing or financing agreements entered into by the owner.

A subdivision will be created and the residents' organization will need a public report from the Department of Real Estate if:

- the resident organization intends to lease to residents five or more parcels or spaces;
- the term of the leases is more than five years; and
- the lease arrangement is a mandatory condition of tenancy within the park. Mandatory leasing arrangements should be discussed with the local planning agency prior to implementation for purposes of determining requirements under the Subdivision Map Act.

A residents' organization considering a park lease should seek legal advice if there is any uncertainty as to compliance with related laws.

What have we learned from successful park conversions?

A park conversion is a difficult process, requiring long-term group cooperation and aggressive resolution of problems.

Problems to be solved may include:

- an unanticipated and lengthy educational campaign necessary to explain the conversion and its financing to everyone's satisfaction;
- discussions and debates by dissenting groups of residents, taking necessary attention away from the group of residents interested in purchasing;
- some residents claiming support of the purchase in the beginning, but balking and refusing to participate in the end;
- disagreement by park residents over the form of ownership to which the park should be converted;
- inability of residents to agree on the selection and hiring of consultants necessary to complete the conversion process; and
- difficulty some residents may have in qualifying for loans to purchase their interests in the park.

Residents must be made aware of the magnitude and difficulty of the task their representatives must undertake in attempting to organize the park for purchase and management. Residents must recognize the energy required of these persons, the stresses and physical demands placed on them, and the possibility that replacements may be necessary.

Formal involvement of as many residents as possible should lead to a positive community atmosphere in which park residents look out for one another and assist in explaining different aspects of the conversion to fellow residents. This "grassroots" support will help the residents and representatives keep the long-term goal, ownership, always in sight.

PART III

THE CONVERSION AND MANAGEMENT OF A PARK

Converting a rental park to resident ownership is a logical process. At some stages of the process, professional assistance may be necessary.

The conversion process can generally be divided into three phases.

1. In the first phase, the park purchase committee is organized. The committee tests the level of resident interest and financial capability and considers the organizational structure most appropriate for ownership and management of the park.

2. The second phase is the actual purchase. After appraisal, an offer is made and accepted (perhaps after one or more counteroffers), and financing is arranged.

3. The final phase is conveyance of the park and commencement of resident operation and management.

What is a park purchase committee and how is it formed?

This committee of park residents is elected by residents or appointed by the residents' organization (if already formed) to study the possibility of a park purchase. While perhaps satisfying a need for representation, election may result in exclusion of many highly capable individuals who would have been chosen in an appointment process.

There are advantages and disadvantages to large and small committees. A professional hired to assist residents with the conversion process may prefer working with a small committee which makes decisions quickly. But a small committee may promote elitism and inhibit effective feedback of information to park residents. A large committee may mean a higher level of representation but its members may debate continuously over details, losing sight of the larger goals and objectives.

A committee of five to seven members should be sufficient.

What is the role of the park purchase committee?

At first, the committee acts as a clearinghouse for information on the proposed purchase and its effects on the individual residents and the park as a whole. The committee educates residents as to the feasibility of a purchase and the actual steps involved in converting the park. It also solicits residents' opinions and evaluates residents' enthusiasm for the park purchase.

Throughout the conversion process, the committee is responsible for consulting with various professionals (lawyers, local officials, bankers, appraisers, surveyors, engineers, and title officers) who are involved in different aspects of the conversion process. In some cases, the committee's role is expanded to that of supervising the agent of the residents in negotiations to purchase the park.

The park purchase committee can also serve as the governing and managing body after conversion. Committee work is good training for park management, because it familiarizes members with the park's operational needs.

Effective Use of Resident Talent

Certain members of the park purchase committee may be called upon to perform special tasks. It is very important that the committee match the special talents and personalities of committee members with the types of jobs to be performed. For example, a committee member supervising the park purchase negotiations should be knowledgeable and skilled in real estate. Likewise, members selected to meet with governmental agencies should be familiar with pertinent laws.

Should specialized assistance be used?

As park purchases by residents become more commonplace in California, professionals, including real estate brokers, are establishing themselves as specialists in park conversions. Some of the skills offered include:

- negotiating, and preparing legal documents related to the sale, financing and transfer of ownership of the property;
- performing financial analyses and assisting with the completion

of loan applications;

- complying with local government land use and planning requirements;
- conducting socioeconomic surveys of park residents;
- forming subdivisions, corporations or partnerships;
- creating the governing documents by which the owners' association will operate and manage the park; and
- surveying and engineering.
- Before hiring any specialist, the resident organization should make the appropriate inquiries and background checks.

Entering Into a Contract For Services

There are two general types of contracts a resident organization might enter into with a conversion specialist:

1. A **phased contract** is like a series of single contracts for the various activities necessary to complete the conversion. The specialist is paid at the completion of each phase of the contract. A phased contract usually allows either party to terminate the agreement upon completion of any phase.

2. A **through-to-completion contract** calls for a variety of services to be performed by the contractor. This "total package" contract is completed, and the contractor paid, when all the services contracted for have been performed. This type of contract may have complex and costly provisions for amendment or termination prior to completion, making it difficult to change contractors or add additional services to the contract.

Resident Experts

Park residents with backgrounds in business, finance, management, real estate and the law can often be called upon to provide skills necessary to the conversion. Using residents' skills can be both economical and a way of gaining resident support for the project. Potential leaders, officers and possibly future park managers can also be identified through use of resident expertise.

The potential drawback to relying heavily on volunteer services by resident experts is the lack of control over the quality and performance of the service. The park purchase committee must set standards of performance and be ready to terminate a volunteer for inadequacy just as readily as they would a paid contractor. This can be difficult because of the social environment of the park. A possible solution to the problem of using resident experts is for the park purchase committee to enter into a paid contract with the resident expert. (A resident, whether volunteer or paid contractor, who performs professional services for the park should be aware that he/she may assume considerable personal liability for his/her actions. Before entering into any arrangement with the park purchase committee, the resident should discuss the matter with his/her attorney and insurance agent.)

Is resident ownership feasible?

Once the park purchase committee has determined that there is sufficient interest, the next step is collecting financial information on the residents' ability to participate and the need for any special financial arrangements.

Assessing Financial Feasibility

The park purchase committee must gather financial data and compile a financial feasibility study which includes:

- improvements which must be made to the park and an estimate of cost for the work;
- maintenance costs for operating the park;
- financing available for the park purchase;
- approximate down payment necessary and whether or not it is affordable;
- approximate monthly payment necessary and whether or not it is affordable; and
- kinds of financial assistance needed for residents who could not otherwise participate in the purchase.

An important part of the financial feasibility study is the development of a tentative operating budget for the park. The tentative budget should be provided to residents as part of the feasibility survey and should include the following:

- amount of mortgage payments on the park (if applicable);
- required park repairs and improvements;
- park operating and management costs;
- reserve account required for future replacement of major park components; and
- inflationary factors for the various cost categories (to estimate future costs).

The Department of Real Estate's *Operating Cost Manual for Homeowner Associations* is a helpful tool for preparation of a homeowners' association budget.

The purchase agreement should require that the owner provide the park purchase committee with operating budgets (income/expense statements) and rent rolls for the preceding three years.

The feasibility study should also provide information on the cash flow the association can expect from the homeowners' association membership dues. This estimated cash flow must cover all the maintenance and operating expenses and any required park improvements or repairs. If revenue will not be sufficient, the conversion is not feasible.

Based on the operating budget and the estimated cash flow, the park purchase committee should also be able to determine the amount and type of financing required to purchase the park, and the amount of down payment or price of a share required of each resident.

The park purchase committee must carefully analyze all of the information obtained in the feasibility study. Usually, if the data indicates that there are problems which cast serious doubt on the success of the park purchase, the committee must abandon efforts to purchase the park. Whether or not the purchase effort proceeds, the committee must communicate the contents of the feasibility study to the residents.

Appraisal of the Park

It is important to recognize that an appraisal is an opinion or estimate of value based on an analysis of relevant information about a property. The park purchase committee and the park owner may each obtain appraisals, and those appraisals may vary as to a value conclusion. While an appraisal will not necessarily give the residents bargaining power, it will serve as a starting point for negotiating a fair price and as a basis for making various other decisions concerning the purchase. Indeed, the park purchase committee may deem it prudent to insist on a contract provision specifying that the purchase is contingent on the (residents') appraised value equaling or exceeding the purchase price.

What sources of financing are available?

Before drafting an offer to purchase, the committee should identify sources of loans for the different types of financing needed:

- short term - to pay costs associated with the conversion and, if necessary, the down payment on the purchase;
- long term - to finance the purchase of the park; and
- for individual residents to purchase shares in the resident corporation or individual spaces in the park.

Conventional Lending Institutions

There appears to be a growing awareness on the part of conventional lenders (insurance companies, mortgage bankers, savings and loans, etc.) of the financial needs of residents desiring ownership of their parks, so that park financing guidelines are being developed.

Residents who choose to subdivide their park should find a conventional lender who is willing to treat their mobilehome park subdivision as they would a conventional residential subdivision. On the other hand, residents choosing to take title to the park in the name of a corporation may find that there are more financing opportunities open to them. The fact that title to the park is held by one corporation as opposed to many individuals can make the loan more secure from the lender's perspective.

Seller Financing

Seller financing is frequently used because of the large amount of money required and difficulty in obtaining conventional financing. Seller financing may include a lower interest rate and more favorable terms and conditions.

Clues as to the seller's financial position should be gained during the early stages of negotiations and seller financing should be pursued if there are indications that this would be agreeable.

Some Possible Loan Terms and Conditions

If the park purchase committee is considering financing for the park purchase, it must review and understand all the terms and conditions in order to explain the financing to the residents. Here are four provisions with which the committee should be familiar.

- A **balloon payment**. When installment payments do not pay off a loan, a significantly larger payment than the regular installment payment is required. This is usually a final payment for payoff.

- An **acceleration clause** gives the lender the right to demand full payment of a loan upon delinquency in loan payments, sale of the property, failure to maintain the property, or borrower's violation of some other term of the loan.

- A **subordination clause** provides that present or future liens take precedence over an earlier lien recorded against the property.

- A **blanket encumbrance** is a lien covering more than one parcel of real property. If the loan does not contain provisions so that individual parcels can be released upon purchase, it may be extremely difficult to convert the park to a subdivision.

Public Financing

Public financing may be available for the purchase of a mobilehome park and for loans to individual residents.

Many residents in mobilehome parks under conversion are in need of financial assistance to make down payments, finance the purchase of a space, or pay their share of conversion costs. Certain of these residents may qualify for government sponsored subsidies. The California Department of Housing and Community Development (HCD) provides technical and financial assistance for these mobilehome park residents. HCD coordinates financial subsidy programs for residents who have varying financial needs. HCD also makes referrals to other public agencies serving the needs of mobilehome park residents.

Two financing programs in which HCD is involved are the Mobilehome Park Resident Ownership Program (MPROP) and the Home Investment Partnerships Program (HOME).

The MPROP provides financial and technical assistance for a park conversion if there is at least one low-income (i.e., at or below 80% of the county median income) household involved and the converted project will meet the minimum standards of the Mobilehome Parks Act. At least 2/3 of the residents must participate in the park purchase and the resident organization, representing at least 2/3 of the households in the park, must, for the *conversion* and *blanket* loans described below, apply as co-applicant with a local public entity (city, county, housing authority, redevelopment agency, or community development commission). There are three types of MPROP loans:

- A **conversion loan** to the resident organization as interim financing covers costs such as acquisition of the park; loan origination fees and other financing costs; legal and professional fees; and rehabilitation expenses. Payments are interest-only, with repayment required upon completion of the conversion.
- A **blanket loan** to the resident organization is long-term (usually 30-year) financing for conversion costs (rent subsidies for residents whose income is at or below 80% of the county median; internal loans; etc.) attributable to low-income spaces.

- A 30-year **individual loan** will enable a low-income (i.e., at or below 80% of the county median income and unable to qualify for a conventional or other private sector mortgage) resident to purchase a lot or other individual interest in the park. Alternative repayment schedules can include interest-only payments or deferral of all principal and interest payments for the full term of the loan. The loan is also due upon sale, transfer, or non-occupancy of the lot by the owner/borrower.

Through the HOME program, HCD acts as a conduit for federal funds used by cities and counties to provide direct loans or grants to persons/ families or blanket loans or grants to mobilehome park resident organizations. HOME funds must be used to help make affordable the housing costs of low-income persons/families.

Information on current mobilehome park programs may be obtained by contacting:

Department of Housing and Community Development
P.O. Box 952054, MS - 390 - 5
Sacramento, CA 94252-2054

The park purchase committee should also contact the local housing authority and redevelopment agency.

How To Make An Offer To Purchase

After determining that the park purchase is feasible and of interest to the residents, the park purchase committee must put together an offer to purchase. A real estate broker or attorney will usually be engaged under contract to represent the park residents in the purchase negotiations. It is important that the representative be given specific written instructions in order to conduct the negotiations in the manner desired by the residents.

Dealing with the Owner

After years of tenancy, residents' perceptions of the "landlord" may pose problems in dealing with the owner. Some other factors that may hinder attempts to approach an owner with an offer include:

- Residents see the park as their home; the owner sees it as an investment.

- An owner of a profitable park may have no interest in selling.
- The owner is firm in his price and will not bargain.
- Residents, out of touch with real estate values, may find it hard to equate the value of their space with the price they received for their home 15 or 20 years ago.

Throughout negotiations, the park purchase committee and/or its representative must be prepared to react positively and make the best of what sometimes appears to be an unfavorable situation. For example, if the owner refuses to bargain on price, the committee may be able to obtain more favorable terms.

Enhancing Negotiations

The negotiating agent may find the following tactics useful:

- Presenting a well prepared and reasonable offer to the seller in order to assess the seller's priorities.
- Offering terms of sale to the seller which assure ease and speed of transfer of the property.
- Determining whether the owner will carry the financing, eliminating the need to approach other sources of capital.
- Attempting to negotiate a discounted purchase price with the seller in exchange for immediate participation by the residents. (However, although the possibility of a discount may stimulate resident interest in participation, the "immediate participation" aspect may put extreme pressure on residents struggling with the uncertainties of their personal finances.)

What are the principal factors impacting the length of time it takes to complete a conversion?

The fastest way for park residents to gain ownership is purchase by a nonprofit corporation of which the residents are members or shareholders. Remember, this method of ownership does not necessarily include the formation of a subdivision. Subdividing, obtaining a public report, and conveying separate interests is a process independent of incorporation and can be undertaken after the corporation purchases the park.

If creation of a subdivision prior to transfer of title is a condition of the park purchase contract, the conversion process will usually take considerably longer. The condition and size of the park, as well as the percentage of residents required to participate are major factors in determining the time required to complete the subdivision process. The competency of consultants and professionals doing the conversion and local government agencies' familiarity with mobilehome park conversions also have a direct bearing on the time needed to complete the conversion process.

How do we manage the park after conversion?

Resident owners must decide if they will employ professional management, manage the park themselves, or some combination of the two.

Professional Management

Professional management companies generally provide a full range of services, from collection of homeowners' fees to disbursal of the funds to operate and maintain common areas in the park. Professional management is usually an expensive option. A management contract must provide for a level of management suitable to residents' needs and ability to pay.

Many lenders will require, prior to funding, approval authority over the management agent and contract. This is intended to ensure accountability and successful operation.

The management company is an employee of the residents' organization and should submit operating budgets to the residents' organization and, if required, to the lender. The final decision regarding major expenditures must rest with the residents' organization.

Resident Management

Management by the residents can be an economically attractive option. It encourages residents to get involved and gives them an outlet to express interest and pride in the park. However, disputes can arise about the amount of work required from each resident and services can suffer from a lack of professional expertise.

Combination

A good compromise between professional and resident management is a professional onsite manager responsible to the homeowners' association for overall park operation, assisted by residents or park employees hired to perform certain jobs at the park.

Do I have long-term security in my purchase?

If the park is converted to a common interest development and the purchaser continues to pay the mortgage payment, park assessments, and taxes on the individual interest, he/she is assured of remaining in the park.

If ownership of the park is through a corporation, the security of a purchaser's investment is greatly influenced by the financial performance of the corporation and its members. If the corporation is not able to make its payments on the purchase money loan, foreclosure of the entire mobilehome park is possible. To prevent foreclosure, a reserve fund may be established by the homeowners' association. All shareholders pay into this reserve account, in part to cover any nonpayment of dues by corporation members or shareholders.

Before entering into any contract to purchase, residents should be knowledgeable of exactly what they are purchasing and the possible risks involved. In parks where a subdivision is formed, purchasers must receive a copy of the public report before committing themselves to a purchase. As discussed earlier, a public report discloses consumer information and alerts prospective purchasers to significant aspects and possible risks involved in the purchase. In parks where a subdivision is not formed, prospective purchasers must gather sufficient information to make an informed decision, perhaps with the help of the park purchase committee.

PART IV

If we decide to subdivide, what are our options?

If residents decide that they wish to convert their park to a subdivision, a choice must be made as to what type of subdivision is most suitable to their needs. There are three main types of common interest developments to which a park might be converted: condominium, planned development, or stock cooperative.

Condominium

A condominium consists of:

- a separate interest in space; and
- an undivided interest in common in real property (the common area).

The separate interest or the common area may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to the land except by easements for access and support. A condominium is especially adaptable to mobilehome park subdivisions because the separate interest may consist of a cubicle of air space without reference to a structure.

Typically, an owner's interest in a condominium is evidenced by a deed conveying both the separate air space and an undivided interest in the common area. The boundaries of the air space and common area are described on the recorded final map or condominium plan for the project. The owner may obtain title insurance on the interest.

As is the case in all common interest developments, an elected governing board manages the common area on behalf of all the owners. The declaration of restrictions requires that each owner be a member of the homeowners' association and that the association has the power to assess owners for their share of the operational costs of the common area. Generally, assessments are secured by the power to place a lien against an owner's interest.

Before agreeing to finance a condominium project or make individual loans secured by condominium interests, institutional lenders usually require assurances that the lien securing assessments of the owners' association will be subordinated (junior) to the lender's deed of trust or mortgage. However, the lender must agree to be bound by the declaration of restrictions for the project.

Planned Development

A planned development consists of:

- parcels of land owned separately by residents;
- other parcels (common area) held in common by all residents or, more typically, deeded to an association of homeowners; and
- an association of owners with the power to assess residents for maintenance and repair of the common areas. The assessment may become a lien on the separately owned parcel of a nonpaying owner. The lien may be foreclosed upon and the property sold by the homeowners' association in a manner prescribed by law.

Stock Cooperative

In a stock cooperative, a corporation is formed to hold title to real property in fee simple or for a term of years. Each shareholder of the corporation receives an exclusive right to occupy a portion of the real property and a share of stock or a certificate of membership. The right of occupancy is transferable only with concurrent transfer of the membership or share of stock.

As a general rule, the Department of Real Estate will not issue a public report on a stock cooperative if a blanket loan covering the entire park is proposed, unless the lender agrees to subordinate the loan to the governing instruments of the project. The lender must also agree not to foreclose against nondelinquent members or shareholders of the stock cooperative even if the corporation holding title to the park is unable to make its payment to the lender.

Problems may be encountered in financing the purchase of a share in a stock cooperative because the loan may not qualify as a real property loan and different lending criteria may apply. Publicly assisted financing programs have helped to reduce this financing difficulty.

In the case of a housing assistance contract, special provisions can made for a stock cooperative, subject to a regulatory agreement with the Secretary of Housing and Urban Development.

A Limited Equity Housing Cooperative (LEHC) is a nonprofit public benefit corporation, a form of stock cooperative, with a specific set of requirements. The articles of incorporation and bylaws governing an LEHC require the purchase and sale of a membership interest at no more than a specified “transfer value.” This value is equal to the initial price of the membership plus an increase in value determined by the board of directors of the corporation, not to exceed ten percent per year. The intent in creating an LEHC is to maintain affordable housing by reducing speculative pressures on value and minimizing the cost of conversion. Certain exemptions from the public report requirement are available for this type of subdivision, provided a regulatory agreement is entered into with a specified federal or state agency.

Note: *Do not confuse a Stock Cooperative Subdivision with ownership of the park by a nonprofit corporation formed for the purpose of holding title, as previously discussed.*

Department of Real Estate Subdivision Offices

The Department of Real Estate maintains subdivision offices in Los Angeles and Sacramento. The offices process applications for public reports for projects in certain counties as indicated below.

Los Angeles

Subdivisions Office South
320 West 4th Street, Suite 350
Los Angeles, CA 90013-1105
(213) 576-6983

Counties

Imperial, Los Angeles, Orange,
Riverside, San Bernardino,
San Diego, Santa Barbara,
and Ventura.

Sacramento

Subdivisions Office North
651 Bannon Street, STE 507
Sacramento, CA 95811
(877) 373-4542

Counties

All Other Counties