



DC Cooperative Housing Coalition

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Co-ops 101

Cooperative Housing Ownership
in Washington, DC



A C K N O W L E D G M E N T S



Much of the information in this document has been drawn from a publication entitled *Co-operatively Speaking*, prepared and distributed by the Edmund J. Flynn Company, Washington, D.C., co-op specialists since 1920. That publication is an excellent resource for additional, detailed information and may be obtained from them at edmundjflynn.com.

This document was prepared by members of the DC Cooperative Housing Coalition Board of Directors: Arthur Leabman (1870 Wyoming Avenue, NW, Inc.) — committee chair, Stephen McKeivitt (The Beverly Court Cooperative, Inc.), Paul St. Hilaire (Tiber Island Cooperative Homes, Inc.), and Sue Stephens (The Porter, Inc.). Other members of the Coalition Board of Directors were Fred Dyda (Tilden Gardens, Inc.), Carl Gerber (The Cathedral Avenue Cooperative, Inc.) — President of the Coalition, Jill Golden (3028 Porter Street, NW, Inc.), Mike O'Dell (Harbour Square Owners, Inc.), Ray Olson (River Park Mutual Homes, Inc.), Russ Rader (Westmoreland Cooperative), Nancy Skinkle (Broadmoor Cooperative Apartments, Inc.), and JoAnn Wells (Potomac Plaza Apartments Cooperative, Inc.).

Photographs of just a few of Washington's many cooperatives are included in this document. They are indicative, however, of a wide range in size, structure, location, and architectural style.

ON THE COVER

The Ontario + 2853 Ontario Road, NW + 120 units

Watergate East part of the Watergate complex + 2500 Virginia Avenue, NW + 231 units

3020 Tilden Street, NW + 20 units

Ponce de Leon + 4514 Connecticut Avenue, NW + 52 units

Harbour Square + 500 N Street, SW + 447 units



3024 Porter, 1925

Cooperative housing ownership in Washington, D.C.

In 1920, several rental apartment buildings in Washington, D.C., converted to cooperative ownership. Since then, many others either have converted to cooperative ownership or were built and formed as cooperatives at the start. Washington is second only to New York City in the concentration of this type of home ownership.

Cooperatives are located throughout the city and include many buildings of historical and architectural significance. They range in size from some as small as four units to others numbering in the hundreds. They also vary in the type of structures and number of buildings which they may include.



The Presidential
1026 16th Street, NW
44 units

Some cooperatives are contained within a single, multiple-unit building; others include any number of buildings. Moreover, cooperatives may include a variety of structures, e.g., high-rise apartment buildings, garden-style apartments, town houses, and detached houses.

Despite their popularity and long history in Washington, cooperatives are not always well understood as a form of residential home ownership; nor is there always a clear understanding of how they differ from condominiums.

This document has been prepared to provide a brief overview of cooperatives and should be of interest to several different audiences:

- ◆ Persons considering the purchase of a cooperative unit
- ◆ Real estate agents involved in the sale and purchase of cooperative units
- ◆ Owners of cooperative units
- ◆ Cooperative Boards of Directors
- ◆ Persons involved in the operation and management of cooperatives
- ◆ Loan officers involved in financing cooperative units

The overview is intended to address several fundamental questions:

- ✦ How does ownership in a cooperative differ from condominium ownership?
- ✦ How do cooperatives operate?
- ✦ What is included in a cooperative's monthly fees and assessments?
- ✦ What is involved in purchasing a cooperative unit?
- ✦ What kind of financing is available?
- ✦ What is the role of the cooperative's Board of Directors?
- ✦ What is involved in settlement and transfer of cooperative ownership?
- ✦ What are some specific benefits of owning and living in a cooperative unit?
- ✦ What are some common misconceptions about cooperatives?



Potomac Plaza Apartments
2475 Virginia Avenue, NW
274 units

How cooperative ownership differs from condominium ownership

A housing cooperative is a form of ownership in which a person purchases shares of stock, or some other form of membership, in a corporation that was specifically formed for the purpose of providing its members a place to live.

How is this form of ownership different from condominium ownership? A basic difference is that while ownership of a condominium unit constitutes direct ownership of real property, ownership in a cooperative constitutes a share of ownership in a corporation. It is the corporation that has ownership (fee simple title) of the entire property (building/s and land). The ownership interest of the members in their own residence is an ownership in personal property.

The specific instrument of ownership varies among different cooperatives. Some cooperatives issue shares of stock and a proprietary lease. Others do not issue stock but instead offer some form of ownership contract. In either case, the purchaser becomes a member of the cooperative and, as such, gains exclusive occupancy rights to a particular unit, as well as the use and enjoyment of the cooperative's common elements.

Condominium ownership, in contrast, combines real property (fee simple) ownership of an individual condominium unit with an undivided interest, as “tenants in common,” in all the common areas and facilities of the association (e.g., land, hallways, basement areas, pools, roof decks, etc.). Each unit owner's interest in the common areas and elements is undivided and indistinguishable from any other unit owner's interest.

OWNERSHIP

Cooperative	Condominium
<p>The corporation owns the entire cooperative property.</p> <p>Members own a proportionate share in the corporation and thus have occupancy rights to a particular unit.</p>	<p>Each unit is separately titled and owned by the individual owner(s).</p> <p>Common areas and facilities are owned collectively by unit owners as tenants in common, with each unit owner having an undivided interest.</p>

Another major difference between cooperatives and condominiums is how real estate taxes are assessed and paid. For cooperatives, taxes are assessed on the entire cooperative as a whole, not on individual units. The tax is paid by the corporation but the proportionate share for each unit is passed on to the individual unit owner as part of the monthly fees. For condominiums, the local government assesses and bills each unit individually, and unit owners pay the assessed tax directly to the government.

REAL ESTATE TAXES

Cooperative	Condominium
<p>The real estate tax on the entire cooperative is paid by the corporation. Members pay their proportionate share as part of the cooperative's monthly assessment fees.</p>	<p>The real estate tax on each individual condominium unit and its undivided interest in the common elements is paid directly by each unit owner to the taxing agency. It is not included as part of the condominium association's monthly fees.</p>

Governing documents

A cooperative is governed by its Certificate or Articles of Incorporation, Bylaws, and House Rules. As provided in the Bylaws, there is an annual meeting at which the membership elects members to serve on the Board of Directors. The annual meeting also provides an opportunity for members to discuss and, when required, to vote upon various financial and other matters. In addition, cooperatives may sometimes hold special meetings called either by the Board of Directors or by the membership at large to address specific concerns that may arise.

Unlike cooperatives, condominium associations are not incorporated but are created by a declaration. Like cooperatives, however, they are also governed by a set of Bylaws as well as various rules and regulations established by the condominium association.

GOVERNING DOCUMENTS

Cooperative	Condominium
Articles of Incorporation	Declaration
Bylaws	Bylaws
House Rules	Rules and Regulations
Proprietary/Ownership documents	Property Deed for individual unit

How cooperatives operate

Despite differences in the form of ownership and how real estate taxes are assessed and paid, the day-to-day operation of cooperatives and condominium associations are similar in many ways.

The cooperative's Board of Directors is charged with directing the operation and business affairs of the cooperative. For instance, the Board adopts an annual budget to meet the estimated expenses for the coming year, including the real estate taxes which are assessed on the entire cooperative. The Board also has the authority to establish, amend, and enforce the cooperative's House Rules that, together with the Bylaws and the Proprietary Lease or other Ownership Documents, govern a member's use and occupancy of the property.

Although some cooperatives may be entirely self-managed, many, if not most, contract with a property management firm or in-house professional manager to handle such matters as maintenance and repair of the common property, hiring and supervision of staff (e.g., desk staff and custodial staff), collecting monthly assessments or other fees due to the cooperative, paying bills, etc.

In addition to participating and voting in annual and special meetings, electing persons to the Board of Directors, and serving on the Board (if elected), members of the cooperative can participate in its operation of the cooperative in other ways, such as serving on standing or ad hoc committees.

Fees & assessments

Monthly assessment fees for each cooperative unit are calculated to cover that unit's proportionate share of the cooperative's expenses, as based on the number of shares of stock or the percentage of ownership otherwise associated with that unit. These shares or percentages are set at the time the cooperative is established and remain fixed. Included in monthly fees are costs for operating and maintaining the cooperative, management company fees, the cooperative association's insurance, underlying mortgage (if any), contributions to reserves, and real estate taxes.

Occasionally, additional (special) assessments may be required to meet an expense that cannot be met through the regular monthly assessments or drawing from reserve funds. Whether such special assessments are needed or used varies among cooperatives.

In comparing fees among various cooperatives, as well as comparable condominiums, it should be noted that there are variations in the kinds of services (e.g., desk staff, on premises management or maintenance staff) and facilities (e.g., gyms, pools, laundry rooms) that are provided. There are also variations in whether various utilities (e.g., gas, electric, cable) for individual units are charged to and paid for by the cooperative as a whole, or are charged to the individual unit owners. Some cooperatives, for instance, may have only one (master) meter for gas or electricity; others may have individual meters for each unit.

While the fees to the cooperative include maintenance and repairs to the cooperative’s common elements, individual owners are responsible for the maintenance, repair, and renovation of their own units. They are also responsible for obtaining individual homeowner’s insurance for their units.

It is important to consider that the monthly assessment fee for a cooperative unit includes the member’s proportionate share of the real estate tax that is paid by the cooperative association. The monthly fees for condominium units, however, do not include real estate taxes, since condominium units are assessed and taxed individually by the local government taxing agency and the owners pay their real estate taxes directly to that agency. This difference in how real estate taxes are assessed and paid sometimes misleads prospective purchasers for cooperative units to believe that the fees for a cooperative are higher than those for a comparable condominium.

M O N T H L Y F E E S & A S S E S S M E N T S

Cooperative	Condominium
<p>Various costs associated with the operation and management of the cooperative as well as maintenance and repair of common elements.</p> <p>The member’s proportionate share of the real estate tax paid by the cooperative.</p> <p>Corporate/Blanket Mortgage allocation, if any.</p>	<p>Various costs associated with the operation and management of the condominium association as well as maintenance and repair of common elements.</p> <p>Real estate taxes are not included, since they are paid directly by the owner to the local taxing agency.</p>



1725 T Street, NW

6 units



Tiber Island

429 N Street, SW

389 units



The Westchester

4000 Cathedral Avenue, NW

520 units



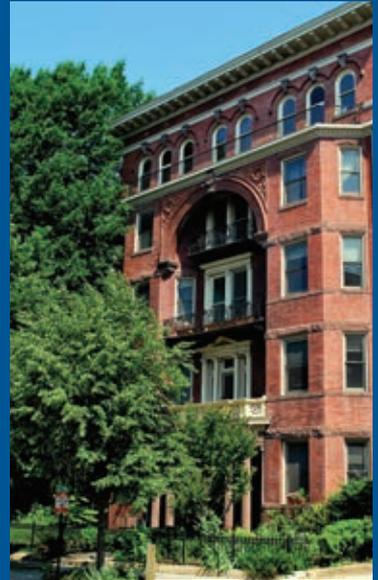
Van Ness North Cooperative

3001 Veazey Terrace, NW

461 units



River Park Mutual Homes
1301 Delaware Avenue, SW
518 units



The Hawarden
1419 R Street, NW
20 units



3024 Porter Street, NW
12 units



The Porter
3600 Connecticut Avenue, NW
28 units

Purchasing a cooperative unit

Financing. Prior to 1979, banks in Washington, D.C., were not authorized to loan money secured by a pledge of a borrower's ownership interest in a cooperative, and payment to the seller was often in the form of an amortized note. This restriction adversely affected the value and marketability of cooperatives in Washington (in contrast to New York City) and was a factor in the growth of condominium ownership as an alternative form of ownership. That situation changed in 1979, when the Federal Home Loan Bank Board authorized federal savings and loan associations to make loans on individual cooperative units. Soon thereafter, with the introduction of Recognition Agreements, loans became available as well from major banks and lending institutions.

A **recognition agreement** is a legal document in which the cooperative association recognizes the lender as having a security interest in the borrower's unit and establishes the steps that either the lender or the cooperative will take should the borrower default to either the lender or the cooperative association. The terms of the Recognition Agreement must be mutually agreed to by the cooperative and the lender prior to any loan closing. There are several major lenders that already have Recognition Agreements with various cooperative associations or, if not, may be willing to enter into an agreement. Except for the required Recognition Agreement, applications for loans on the purchase of a cooperative unit are underwritten in essentially the same manner as applications for any residential loan.

It should be noted that banks and lending institutions always check on the financial health of a cooperative before extending a loan. While some may view this as an obstacle, it can in fact serve as reassurance to the prospective buyer of a cooperative unit.

Approval by the Board of Directors. The sale and transfer of a cooperative unit to a new owner requires the cooperative's approval of the prospective buyer for membership and occupancy. No sale or settlement can occur without formal, written approval by the Board of Directors.

To obtain approval, the prospective buyer must complete an application to the cooperative for resident membership. Specific procedures may vary among cooperatives, but the application process typically seeks financial information, such as income, assets, and liabilities, so that the Board of Directors can assess the applicant's ability to handle the financial obligations associated with ownership. Verification of employment, a consumer credit report, and letters of personal reference are also usually part of the application package. If a lender is involved, there must be a Recognition Agreement between the lender and the cooperative.

Upon receipt of an application, most cooperative Boards of Directors schedule an interview. The interview provides an opportunity to meet prospective owners, obtain additional information that might be needed, and answer questions that prospective owners might have about the cooperative's operation, Bylaws, and House Rules.



Capitol Hill Tower

1000 New Jersey Avenue, SE
344 units



1870 Wyoming Avenue, NW

28 units



3001 Porter Street, NW

13 units



The Cathedral Avenue Cooperative

4101 Cathedral Avenue, NW
145 units



Rutland Court
17th Street, NW
79 units



The DeSoto
1300 Massachusetts Avenue, NW
31 units



2101 Connecticut Avenue, NW
64 units



Beverly Court
1736 Columbia Road, NW
39 units

Photo by M.V. Jantzen

Settlement and transfer of ownership

As explained in the previous section, no sale and transfer of a cooperative unit can occur without the prior approval of the cooperative's Board of Directors. Once that has been obtained, the transfer of ownership for cooperative units is similar to a standard real estate transaction, but in some ways a bit simpler.

As with any sale involving a substantial amount of money and property, the process starts with the seller preparing for the transaction by ensuring that the appropriate ownership documents are in order. Many, if not most, cooperatives have a "sales packet" or set of procedures to guide both the buyer and the seller. Good communication with the cooperative's Board of Directors is important, so that any questions can be resolved, and Board approval obtained prior to settlement.

All the standard sales issues should be resolved prior to the settlement. These include an agreement on price and payment arrangements, including an agreed upon down payment. If financing is involved, a Recognition Agreement must be in place between the lender and the cooperative. For the purchaser, the process also includes notation of the monthly cooperative fees that are currently being assessed on the unit being transferred.



Tilden Gardens
3000 Tilden Street, NW
170 units

Most cooperatives are affiliated with a Transfer Agent or Real Estate company which will handle the settlement and transfer, and which is also the repository of the cooperative's corporate documents regarding ownership. Typically, the cooperative will issue new ownership documents through its Transfer Agent. Since ownership in a cooperative is by possession of a proportionate share in the cooperative's property, the transaction is a transfer of that share, with an accompanying proprietary/occupancy agreement which entitles the new owner to occupancy of the particular unit being transferred.

The closing which completes the sale is similar to a real estate closing, with the necessary documents (both lender and cooperative) fully prepared, and then signed by seller and purchaser. As of October 2009, a DC recordation tax is paid by the seller and purchaser at settlement. At settlement, this fairly simple transfer procedure results in closing costs that are somewhat lower than those in a real estate transaction, since no title search or title insurance is needed.

Benefits of cooperative ownership

A community of home owners. Because cooperatives generally place great emphasis on owner occupancy, there is typically a higher percentage of owner occupancy in cooperatives as compared to many condominiums. Consequently, there is generally a high level of membership interest and involvement in the operation of the cooperative.

Having a say in the decision-making and operation of the cooperative. As provided in the cooperative's Bylaws, members of the cooperative have a voice and vote in the operation and affairs of the cooperative. In addition to electing the Board of Directors, members are called upon to vote on various important matters at annual or special meetings. They can also participate more directly in the affairs of the cooperative by serving on the Board of Directors and on standing or ad hoc committees.

Tax benefits. Cooperative owners enjoy all the same tax benefits associated with real estate ownership. The real estate taxes and interest on underlying mortgages (also known as blanket loans) that are paid by the cooperative and passed on to owners can be deducted on their federal, state and local income forms. Owners can also deduct the interest on the financing for their individual units.

In addition, because the cooperative is assessed in its entirety, real estate taxes for cooperative units may be somewhat lower relative to condominiums of comparable size

and quality. Moreover, a condominium sale results in the real estate tax being based on the sale price. For Washington, D.C., where there is currently a capped assessment formula, this means that the buyer of a condominium does not assume the capped assessment that was applicable for the seller. The buyer of a cooperative unit, however, comes in at the entire cooperative's capped assessment.

The cooperative's ability to obtain an underlying mortgage. Should a cooperative need a large sum of money for major capital improvements and renovations (e.g., replacing windows, elevators, roofs), it may be able to obtain an underlying mortgage (blanket loan) rather than to impose a special assessment on owners. As noted in the preceding section (Tax Benefits), the cooperative owner's share of the interest on the underlying mortgage is tax deductible. Condominium associations, on the other hand, typically must apply special assessments for such major work, thus requiring the individual condominium owners to find their own method to pay the assessment. If they need to borrow money to pay the assessment, they may (unless they can obtain refinancing) need to take out a personal loan that is not tax deductible.

Ability to limit rentals. Many condominiums have shifted over time from majority owner-occupied units to majority renter-occupied as owners convert their units to investment rentals. Non-resident owners may not necessarily have the same level of interest in the day to day affairs of the entire condominium community. Moreover, as the number of rental units increases, the ability to obtain federally-ensured mortgages may be more difficult. Cooperatives, on the other hand, have generally put great emphasis on ensuring owner occupancy. Rentals typically are subject to Board

approval, and many cooperatives have Bylaws that (a) limit the conditions under which a unit may be rented, e.g., when an owner is temporarily transferred out of the Washington area; (b) impose limits on how long a unit can be rented (e.g., one or two years); and (c) in some cases limit the total number of units that can be rented during the same time period.

Ability to interview prospective owners and renters. Condominium associations typically do not interview prospective owners and renters and may not always be aware of who is moving in. Most cooperatives, on the other hand, have an interview process where expectations can be set, Bylaws and House Rules can be underscored, questions can be raised and answered, and a greater sense of involvement and community can be established. The application process and interview also provide a means to ensure that prospective owners are financially able to afford the costs associated with ownership.

The Avondale
1734 P Street, NW
39 units





2707 Adams Mill Road, NW
entrance and roof deck
50 units

By interviewing prospective renters, the Board of Directors has an opportunity to welcome them into the cooperative community and to ensure that they have a full understanding of house rules.

A simpler transfer process and lower settlement costs. The sale and transfer of a cooperative unit is simpler than that for other types of residential transfers. The cooperative documents (shares of a stock and a proprietary lease, a cooperative ownership contract, or other documents) are transferred by the Board of Directors, and settlement is generally handled by a settlement attorney or company familiar with cooperative transfers. A recordation tax is paid by seller and purchaser at settlement. No title search or title insurance is required; nor are real estate tax escrows required.

No personal liability. Underlying mortgages (blanket loans), if any, or any other liens are the direct obligation of the Corporation, and not of the individual owners. Hence, an owner is personally liable only for the owner's share of the underlying mortgage.

Common misconceptions

That cooperative fees are high. Cooperative fees are generally no higher than the fees in any comparable condominium providing the same level of service. Monthly fees are set by the Board of Directors annually to cover operating, maintenance, and management costs, as well as to set aside money in reserves (for long term capital improvements). In addition, a cooperative's fees include the owner's share of the real estate taxes that are paid by the cooperative.

The fact that the monthly fee includes money for the real estate tax may cause the fee to look higher than that for a comparable condominium (for which real estate taxes are paid by the owner in addition to the monthly condominium fees).

For comparison purposes, prospective purchasers should also look to see what specific costs are included in the monthly assessment fees. For instance, are monies set aside in reserves? Are there individual meters for various utilities such as gas or electricity or just a single meter for the entire cooperative? Is there a blanket mortgage (principal and interest) included in the fee?

That cooperative units are difficult to sell. Owners in market equity cooperatives can sell their units in the same fashion that condominiums are normally sold: i.e., to find a purchaser who is willing to pay the price. (Limited-equity cooperatives may sometimes limit the amount a unit owner can make in profit.) There are a number of real estate agents who are particularly knowledgeable about the cooperative market in Washington, D.C., and owners are free to use any realtor they choose.

Prior to 1979, financing was a significant difference between cooperatives and condominiums in Washington, D.C., because Federally chartered banks were not allowed to loan money secured by a pledge of a borrower's ownership interest in a cooperative. This is no longer the case, however, and prospective purchasers can now obtain financing through lenders that have, or will enter into, a Recognition Agreement with the cooperative. That agreement recognizes the mutual rights of the lender and of the cooperative in case of later default by the purchaser, either to the lender or to the cooperative. Whether in the heyday of home sales several years ago or currently, the number of cooperating lenders has increased significantly.

That cooperatives have too many rules. Just as condominium associations establish various rules and regulations, cooperatives establish House Rules to ensure a pleasant living environment and the orderly conduct of the cooperative's daily operation. For both cooperatives and condominium associations, such rules are generally based on common sense and typically address such matters as noise, pets, subleasing, trash disposal, move-ins, maintenance and repairs, and the use of common areas, roof decks, and other available amenities.



The Westmoreland Cooperative
2122 California Street, NW
60 units

That owners get stuck with another owner's unpaid fees.

The ability of a cooperative to deal with defaults in a practical manner is an advantage that many condominiums may not have. If an owner defaults on a mortgage, the lender, as provided in the Recognition Agreement with the cooperative, is obligated to pay the monthly cooperative fees in order to remain in good standing with the cooperative and to be able to resell the apartment. If no lender is involved, but the owner has defaulted on fees owed to the cooperative, the cooperative can take legal action and sell the unit. When the unit is sold, all costs and outstanding fees and obligations owed to the cooperative are deducted from the proceeds and paid to the cooperative; the remaining amount is then refunded to the defaulting owner.

That one doesn't really own anything. If one were the sole stockholder in a corporation that owns a building, then that person would own the entire building. Similarly, cooperative unit owners are co-owners in a corporation that owns the cooperative's building(s) and land.



3407-9-11 29th Street, NW
24 units

A B O U T T H E C O A L I T I O N



Since 1984, the DC Cooperative Housing Coalition (DC/CHC) has been the premier organization devoted to advancing and protecting the interests of the owners of more than 100 cooperatives comprising approximately 15,000 cooperative units in the District of Columbia.

The Coalition exists both to advance the common interests of cooperative housing associations in the District of Columbia and to promote cooperative housing as a desirable form of home ownership. It is therefore both an advocacy organization that articulates the interests of members before government officials and regulatory agencies and a service organization that provides information and education to members. Among the services the Coalition provides are:

- ✦ a website, coopsdc.org, which provides information both to its members and others interested in cooperative living and includes descriptions of individual cooperatives and a list of organizations that provide services to cooperatives;
- ✦ a periodic newsletter that goes to all its member cooperatives and provides an update on activities of interest to coalition members;
- ✦ periodic seminars on topics of interest to Coalition members such as planning for capital projects, energy conservation, DC taxes, role and responsibility of cooperative boards; and
- ✦ a chance to poll other members regarding specific issues such as rental procedures, pet rules, etc. and to meet other cooperative owners at an annual meeting.

A volunteer board of directors, elected by member cooperative at the annual meeting, governs the Coalition. Activities are financed through annual dues based on the number of units in a cooperative.

More information is available at CoopsDC.org.



**DC Cooperative
Housing Coalition**

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**Co-ops 101:
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